

COMBATING HATE CRIMES IN THE OSCE REGION:

An Overview of Statistics,
Legislation, and National Initiatives



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This report covers information received by participating States in response to a series of five *Notes Verbales* sent by the ODIHR in 2004, requesting relevant information relating to hate crimes, including statistics, legislation, and national initiatives.

The information reflected in the report covers that which was submitted prior to the OSCE Conference on Anti-Semitism and Other Forms of Intolerance held in Cordoba in June 2005. Information received after this point will be incorporated into a subsequent report on hate crimes to be released in spring 2006.

The report in no way purports to provide a comprehensive overview of all relevant national initiatives or data on hate crimes collected by states at the national level; rather, it provides an overview of information provided by participating States to the ODIHR.

Information on initiatives to monitor and combat hate crimes, if not included as a response to the *Notes Verbales*, will not be found in this report. Subsequently, the report serves to illustrate the limited availability and quality of data submitted by participating States to the ODIHR and the continuing need for states to provide the necessary updated information on a periodic basis. The submission of information on national initiatives is especially important in the context of the ODIHR's database on tolerance and non-discrimination, which will be used as a vehicle to disseminate lessons learned and best practices on combating hate crimes.

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Foreword

At the 11th Ministerial Council meeting held in Maastricht in December 2003, the foreign ministers of the 55 OSCE participating States reaffirmed their commitment to promote tolerance and combat discrimination, including all manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism, and violent extremism in OSCE participating States. Participating States were urged to continue to condemn publicly, at the appropriate level and in the appropriate manner, violent acts motivated by discrimination and intolerance.

Hate crimes represent the most insidious manifestation of intolerance and discrimination, based on race, sex, language, religion or belief, national or social origin, sexual orientation, disability, or other similar grounds. The violent expression of these biases may take the form of assault, murder, threats, or property damage, such as arson, desecration, or vandalism. The term *hate crime* raises additional conceptual issues in an area of study – tolerance and non-discrimination – that is already complex. The term is used here to encompass violent manifestations of intolerance and discrimination that harm individuals, their property, and the group with which they identify themselves, whether they are Muslims, Jews, African or Arab immigrants, Roma, gay or lesbian, or members of any other group. The term is broad enough to cover a range of manifestations of intolerance from incitement to commit international crimes, such as persecution, to persistent “low-level” violence motivated by bias, such as the desecration of cemeteries. From a legal point of view, the focus is on criminal law, but preventive efforts need to approach the phenomenon of hate crime from sociological, historical, and country-specific perspectives. Due to the trans-border nature of hate crimes, efforts also need to be undertaken at a regional level in order to effectively combat the spread of hate crimes and ideologies throughout the OSCE region.

The Decision on Tolerance and Non-Discrimination (No. 4/03) that was adopted at the Maastricht meeting encourages all participating States “to collect and keep records on reliable information and statistics on hate crimes, including on violent manifestations of racism, xenophobia, discrimination, and anti-Semitism”. The OSCE’s Office for Democratic Institutions and Human Rights (ODIHR) was tasked by the Ministerial Council to serve as a collection point for information and statistics collected by participating States and, in doing so, to work in close co-operation with the United Nations Committee on the Elimination of Racial Discrimination (UNCERD), the European Commission against Racism and Intolerance (ECRI), and the European Monitoring Centre on Racism and Xenophobia (EUMC). In addition to providing information and statistics, participating States were encouraged to inform the ODIHR about existing legislation regarding crimes fuelled by intolerance and discrimination. The ODIHR was further tasked to report regularly on its findings.

Subsequent OSCE conferences in Berlin, Paris, Brussels, and Cordoba reinforced the commitments of participating States to combat hate crimes, including in the form of attacks against places of worship or hate-motivated propaganda in the media and on the Internet. Participating States reiterated their commitments to maintain reliable information and statistics on hate crimes, to make such information available to the public, and to send such information periodically to the ODIHR to enable it to fulfill its task of reporting on these findings. At the 12th meeting of the OSCE Ministerial Council in Sofia in 2004, the OSCE Chairman-in-Office emphasized that combating intolerance and discrimination was an integral part of the OSCE's comprehensive concept of security, and OSCE participating States resolved to combat hate crimes, including manifestations of aggressive nationalism, racism, chauvinism, xenophobia, discrimination, anti-Semitism, intolerance, and discrimination against Christians, Muslims, and members of other faiths, as well as other forms of intolerance.

The ODIHR has compiled this report in order to provide a preliminary overview of the types of information submitted by participating States, including an assessment of where information was deficient or inconsistent. Since only 30 participating States provided raw statistics as opposed to general information relating to hate crimes and violent manifestations of intolerance, the lack of data precludes this report from specifically addressing cases or incidents of hate crimes within OSCE states, or from providing analysis on general trends related to hate crimes. The focus of the report, rather, is to provide an overview of the statistical and legislative frameworks used by states to report and measure hate crimes.

This first report aims to provide OSCE participating States with concrete recommendations, as well as specific tools and programmes (including templates for police to use when recording hate crimes and the ODIHR's Law Enforcement Officer Programme on Combating Hate Crime) in order to support their efforts to further strengthen mechanisms to combat hate crimes. In its ongoing work, the ODIHR will continue to co-operate with other intergovernmental organizations and civil society and request information on reporting cycles from all OSCE participating States. This will assist the ODIHR in its requests for information from states and with the development of further reports on hate crimes. The ODIHR hopes that this report will contribute to the further implementation of OSCE commitments in the area of tolerance and non-discrimination and, in particular, to a strengthened response by government and civil society to crimes of hatred throughout the OSCE region.

Ambassador Christian Strohal
ODIHR Director

1. Introduction

1.1 Background and Purpose of the Report

In response to its tasks under the Maastricht Ministerial Council Decision, the ODIHR sent out a series of **five** *Notes Verbales*, the first on 28 January 2004,¹ requesting that states provide the following information:

- All pertinent and reliable information, including statistics where available, on hate crimes, including violent manifestations of racism, xenophobia, anti-Semitism, and other forms of intolerance and discrimination;
- Information concerning existing relevant criminal legislation – in particular which type of racist acts are defined as criminal offences;
- Information on national initiatives and best practices to combat racist, xenophobic, and anti-Semitic violence and crimes;
- The name of a designated authority responsible for the collection and provision of information to the ODIHR.

Throughout 2004, the Director of the Office for Democratic Institutions and Human Rights provided updates to the Permanent Council on information, statistics, and legislation submitted by participating States and reminded all states to submit their data by the end of 2004 in order to enable the ODIHR to undertake a preliminary analysis of the information collected.

In light of participating States' commitments to maintain reliable information and to provide such information to the ODIHR on a periodic basis, this first report relies primarily on information submitted directly to the ODIHR by OSCE participating States.

To improve the quality of information in future reporting, the ODIHR will develop guidelines for participating States regarding the provision of information and statistics to the ODIHR. In addition, the ODIHR will undertake measures to identify and include supplementary information from unofficial bodies such as NGOs and other community-based organizations.

¹ Given the limited responses of participating States to the ODIHR's initial *Note Verbale*, subsequent *Notes Verbales* were sent on 1 April 2004, 21 April 2004, 28 May 2004, and 4 October 2004.

Given the disparities in the information received, as well as the complete absence of information from 13 participating States, the ODIHR is not in a position to provide a comprehensive overview of racist, xenophobic, anti-Semitic, and other related crimes and incidents within the OSCE area. The ODIHR is able to provide only an overview of the types of information available from participating States, and to compile a picture of national efforts to combat violent manifestations of racism, xenophobia, and other forms of discrimination in the OSCE region.

There has been little systematic research to date about the nature and incidence of hate crimes within the OSCE area, although such crimes continue to pose a serious problem.² This report identifies a significant information deficit across the 55 participating States resulting from ineffectual data collection and reporting; it proposes recommendations on how to strengthen national and collective efforts in this respect.

Data on the occurrence of hate crime is critical to the development of effective policies and programmes to combat hate crimes. This report aims to enhance understanding of the nature and extent of hate crime across the OSCE participating States and to identify tools and practices that will assist participating States in improving their data collection. The report stresses the importance of developing effective data-collection mechanisms and reporting processes. In addition, the report focuses on legislation related to hate crimes and examples of practical initiatives to improve responses to hate crimes. Ultimately, the report is intended to serve as a catalyst in improving collective efforts to monitor and respond effectively to hate crimes at the national and international levels.

1.2 The Concept of Hate Crime

One of the problems surrounding the collection and interpretation of official data on hate crimes is the use of the term *hate crime* itself. Certainly, its adoption and use are open to criticism, especially from states that are unfamiliar with this terminology. Nonetheless, it represents the language used at the Maastricht Ministerial Council, where the foreign ministers of all 55 OSCE participating States committed themselves to maintaining information and statistics on "hate crimes" and to reporting such information to the ODIHR on a periodic basis. Thus, participating States expressly chose this language, which provides a compelling reason for the ODIHR to conceptualize the term *hate crime* in a manner that enables it to respond effectively to its tasks, taking into account the diversity of 55 states. In accordance with the language used within the Maastricht Ministerial Council Decision, for the purpose of this report, the ODIHR will use the term *hate crimes* and address the specific application of this terminology in relation to statistics and legislation in those respective sections.

Hate crimes are crimes in which the perpetrator is motivated by a characteristic of the victim that identifies the victim as a member of a group towards which the perpetrator feels some animos-

² While the European Union Monitoring Centre (EUMC) report *Racist Violence in 15 EU Member States: A Comparative Overview of Findings from the RAXEN National Focal Points Reports 2001-2004* (April 2005) provides a comprehensive study of the nature and incidence of racist violence in 15 EU member states, the only report that offers information on hate crimes in the OSCE region is the preliminary report prepared by the non-governmental organization Human Rights First, *Everyday Fears: Hate Crimes and the Information Deficit* (September 2004).

ity. Because perpetrators are motivated to act against an individual or his/her property, in whole or in part, because of a real or perceived membership of a group, hate crimes communicate a message to a wider group or community: Hate crimes symbolize a unique form of aggression, as the violence constitutes a threat of more violence to members of minority groups. It has been said that the “perpetrators of hate crimes have in common a hatred of the ‘other’ whose ‘difference’ becomes their target. At their most extreme, hate crimes involve genocide, ethnic cleansing and serial killing. In their lesser yet nevertheless insidious forms they can include assaults, rape and/or the many ‘lower level’ incidents of name calling, harassment or vandalism which threaten and degrade the quality of life of victims”.³ Thus, the term *hate crime* is used to describe a wide variety of behaviour, ranging from international human rights violations to the dissemination of far-right-wing propaganda. The label can apply to criminal offences such as assault and murder and also reflect acts of low-level violence such as vandalism. Violence need not only be physical violence against persons or property but can include words, threats, and incitement to hatred.⁴

The advantage of hate crime terminology is that it allows a departure from the traditional focus on racism to “the targeting of, and crimes against, those who are ‘different’, such as ethnic groups, gay and lesbian communities, different religious groups and those, such as travelers, who live lifestyles perceived to be different”, in addition to “outsiders” such as asylum-seekers.⁵ Thus, the term hate crime is inclusive in that it captures offences motivated by a potentially open-ended list of bias categories. It may include offences committed on grounds of the victim’s religion, ethnicity, gender, disability, sexual orientation, or another identifying characteristic.

It is worth mentioning that race and ethnicity constitute categories that are open to various interpretations, and the term *race* has been discredited in recent years, while ethnicity is seen as a more acceptable term, referring to a dynamic, as opposed to a fixed, identity.⁶ For the purposes of this report, it is not necessary to elaborate on the debate surrounding the definition of specific bias categories, except to note that some states define racism broadly, along the lines of the ECRI’s General Policy Recommendation No. 7, which defines racism as “the belief that a ground such as race, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or group of persons”.

It should be emphasized that the ODIHR is not advocating a uniform definition of hate crimes for the purpose of creating new criminal legislation; however, it does promote a common approach or framework to facilitate the collection of meaningful and comparable data.

The concept of hate crime has its roots in various disciplines, including history, sociology, criminology, and law, and it is influenced both by domestic experience and international attempts to identify and codify common threads. States do not necessarily have to enact specific legislation on hate crimes to record and respond to hate crimes, and existing legal frameworks may provide an adequate foundation. Theoretically, a framework for collecting data on hate

³ H. Croall and D. Wall, Editorial, *Criminal Justice Matters*, No. 48 (2002), 3.

⁴ See the EUMC report on *Racist Violence in 15 EU Member States* for an analysis of the meaning of *violence and racist violence*.

⁵ *Ibid.*

⁶ *Ibid.*, 29-31.

crimes could be established in the 55 OSCE states without changing any criminal laws. It could be simply a matter of modifying procedures whereby the police take notice when recording any crime where the victims were selected because of their real or perceived identification with a particular group.

A working definition on hate crimes was developed by the ODIHR, with input from law enforcement experts from seven OSCE participating States for use within the curriculum of the pilot Law Enforcement Officer Programme on Combating Hate Crime conducted in Hungary and Spain. This working definition takes national differences into account, such as differences in legislation, resources, approach, and needs, and thus allows each state to amend the definition as it sees fit.

ODIHR Working Definition of Hate Crime

A hate crime can be defined as:

(A) Any criminal offence, including offences against persons or property, where the victim, premises, or target of the offence are selected because of their real or perceived connection, attachment, affiliation, support, or membership of a group as defined in Part B.

(B) A group may be based upon a characteristic common to its members, such as real or perceived race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or other similar factor.

1.3 The Impact of Hate Crime

Hate crimes are liable to inflict considerably greater emotional and psychological distress upon their victims than similar non-bias offences. Victims of hate crimes may experience higher levels of anxiety, anger, intense fear, and isolation and feelings of vulnerability and depression. For many victims, this emotional degradation leaves deeper scars than physical injury.⁷

The fear and anxiety generated by hate crimes extend beyond individuals, however, and affect the family and wider community to which the individual is perceived to belong. Members of the same group feel victimized, while members of other commonly targeted groups are also reminded of their vulnerability to similar attacks. The behaviour and actions of victims and communities may also be impacted. Victims of hate crimes, and the groups to which they belong, may avoid particular businesses or streets and adjust their daily routines, clothing, and appearance for fear of being targeted. In sum, hate crimes have detrimental effects on social order, peace, and the quality of community life, in addition to impacting individual lives.

⁷ A report issued by the American Psychological Association entitled *Hate Crimes Today* likened the symptoms exhibited by victims of hate crimes to those exhibited by individuals suffering from post-traumatic stress disorder. Like other victims of post-traumatic stress, victims of hate crimes may heal more quickly when appropriate support and resources are made available soon after the incident occurs.

Hate Crimes Hurt More:⁸ A Collection of Victim Impact Testimonies

"If somebody jumps me and beats me up and while they're beating me up they're calling me a faggot and they say, 'We know what you are', first of all, that's certainly going to victimize me and my friends and my family. But for people who read about that and hear about that who are gay, it's going to send them a clear message that that could have been them. [It] tells them that they're a potential victim."

"On many occasions, victims are more damaged than equal crimes ... Why? Because there is no way that someone can no longer be black and therefore protect themselves from the vulnerability that led to their prior attack. And generally hate crimes are for a characteristic that someone can't change."

"It scars the victim far more deeply. It is much more difficult, I think, as a victim to say I was put in the hospital because I'm gay or because I'm Hispanic, or because I'm a woman ... you are beaten or hurt because of who you are. It is a direct and deliberate and focused crime, and it is a violation of, really, a person's essence ... you can't change who you [are] ... And it's much more difficult to deal with ... Because what a hate crime says to a victim is, 'You're not fit to live in this society with me. I don't believe that you have the same rights as I do ... you are second to me. I am superior to you.'"

"It's affected the whole family. No one walks alone at night. If he walks home from synagogue, he puts on a street hat and has someone come with him ... Jewish parents are telling their kids not to wear yarmulkas on the street, to tuck in their Star of David necklaces"

"I didn't report it because I did not believe anyone would care. No one would have done anything anyhow."

"The police told me nothing could be done, to forget it. 'Move on', they said. Two simple words, but I cannot put it out of my mind."

⁸ Selected victim impact statements and testimonies excerpted from Paul Iganski's article "Hate Crimes Hurt More", in B. Perry (ed.), *Hate and Bias Crime: A reader* (2003), and the 2003 report of the League for Human Rights of B'nai Brith Canada, *Audit of Antisemitic Incidents: Patterns of Prejudice in Canada*.

1.4 The Need for Data on Hate Crime

Poor data collection means that hate crimes, to a large extent, remain hidden from public view. In addition, insufficient information on the nature and extent of hate crimes means that law enforcement and criminal justice agencies, as well as communities, are not armed with the information needed to take the necessary steps to combat such crimes. In order to respond effectively to the problem of hate crimes, it is necessary to determine the nature and extent of the problem in the OSCE region. Therefore, adequate statistics are needed to show what is happening, where, and to whom. This will enable states to assess the magnitude of the problem of hate crime; identify trends, emerging issues, and groups involved in hate crimes; and determine which groups are most vulnerable. At a practical level, statistics on the scale and distribution of hate crimes allows for effective resource allocation to the areas of greatest need, support for groups and communities in managing the occurrence and effects of hate crime, and the development of appropriate policy responses in the sphere of criminal justice. The importance of collecting accurate data on crimes motivated by hatred is already well recognized by certain specialized bodies and NGOs as forming a cornerstone of success in reducing hate crime and its effects.

While the lack of information on hate crimes makes it impossible to assess how widespread the phenomenon is internationally, the following statistical examples from those participating States that already have a capacity for national data collection and analysis in this field are indicative of the extent of the problem:

- In 2001-2002, Canadian police forces in 12 locations reported a total of 928 hate incidents. In 2004, the Toronto police force alone recorded a total of 163 occurrences of hate crimes within their jurisdiction, representing a 9 per cent increase within the city from the previous year;
- In 2002, 7,462 hate incidents were reported in the United States. Nearly half of all incidents were motivated by racial bias. A total of 1,659 incidents were manifestations of religious bias, of which more than 65 per cent were anti-Semitic. Another 1,464 incidents were motivated by sexual-orientation bias.
- In 2001-2002, a total of 3,728 cases for prosecution were received in relation to racist incidents in the United Kingdom.

Reference to Canada, the United Kingdom, and the United States in the above examples is not intended to suggest that hate crimes are a specific problem in these states but rather that reliable and comprehensive statistics are available within these jurisdictions. High levels of statistics on hate crimes often indicate accurate and consistent data-collection methodologies, as well as a recognition of hate crimes as a social and criminal justice problem. A recent report by the EUMC⁹ on racist violence in EU member states also found that higher levels of statistics on hate crimes correlated with effective and efficient data-collection systems, and conversely that very low or non-existent raw official data on racist crime and violence might reflect ineffective data-collection mechanisms rather than actual low levels of racist crime and violence.

⁹ *Op. cit.*, Note 2, *Racist Violence in 15 EU Member States*.

2. Overview of Responses by Participating States

Of the 55 OSCE participating States, 42 responded to the *Notes Verbales* and attempted to provide *some* information on statistics, legislation, and national initiatives relating to hate crimes. A total of 13 states (Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Iceland, Kyrgyzstan, Portugal, San Marino, Tajikistan, Turkmenistan, Uzbekistan, and the former Yugoslav Republic of Macedonia) provided no response to the *Notes Verbales*. In these states, it is unclear whether information and statistics on hate crimes are unavailable or whether they were merely not provided.

Many of the 42 responding states provided information on complaints of general discrimination and unequal treatment rather than on hate crimes per se. Specifically, many Nordic countries appear to collect data within a general discrimination framework as opposed to data on violent manifestations of prejudice and bias. Other states, such as Austria and Germany, collect and maintain information with regard to politically motivated crimes and “extreme” right-wing groups. In both cases, it is difficult to extract from the information provided which statistics or initiatives pertain exclusively to hate crimes against targeted groups.

Participating States’ responses to the ODIHR’s *Notes Verbales* were also problematic in that the information was often scarce, incomplete, and, more often than not, vague. Responses ranged from a few paragraphs of descriptive text to submissions of limited quantitative data. Many states referred the ODIHR to second-hand information provided in external reports¹⁰ or to websites that contained official reports rather than providing official data directly. Consequently, the figures below reflect an *approximation* of the information on hate crimes available across OSCE states.

2.1 Statistics

Among the 42 states that responded, 30 provided quantifiable information or raw statistics pertaining to hate crimes and violent manifestations of racism, xenophobia, anti-Semitism, and intolerance (see the table on the following pages for a list of these states). A total of five states, including Cyprus, Kazakhstan, Liechtenstein, Monaco, and Turkey, informed the ODIHR that no statistics on hate crimes were available. In the case of Liechtenstein, a research programme on the collection of statistical data is in progress, while Turkey advised that it did not have available information. However, Cyprus, Kazakhstan, and Monaco informed the ODIHR that they do not collect statistics due to the fact that there are “no reported hate crimes incidents” within their respective jurisdictions.

¹⁰ For instance, reports prepared by the ECRI, the EUMC, or the UNCERD.

2.2 Legislation

Of the 42 states that responded, 41 (all states with the exception of Ukraine) provided information relating to relevant legislation, including acts defined as criminal offences under national penal codes, and commitments to relevant international conventions.

2.3 National Initiatives

Thirty-four states provided some information relating to national initiatives undertaken to combat intolerance and discrimination, including practical initiatives in the areas of intercultural education, law enforcement training, the development of national action plans, and the creation of specialized bodies. Many of the initiatives pertained to general acts of intolerance and discrimination rather than specific initiatives to combat hate crimes.

2.4 Points of Contact for Information on Hate Crimes

Only 19 participating States provided the name of an authority responsible for the provision of information and statistics to the ODIHR.

The following table¹¹ illustrates the responses of the OSCE participating States in greater detail.

**PARTICIPATING STATES THAT RESPONDED
TO THE ODIHR's *NOTES VERBALES***

PARTICIPATING STATE	STATISTICS	LEGISLATION	NATIONAL INITIATIVES	NOMINATED CONTACT POINT
Albania	x	yes	x	x
Austria	yes	yes	yes	x
Belarus	yes	yes	yes	x
Belgium	yes	yes	yes	yes
Bulgaria	yes	yes	x	yes
Canada	yes	yes	yes	yes
Croatia	yes	yes	yes	yes

¹¹ The table indicates the scope of information submitted by each participating State in response to the ODIHR's *Notes Verbales*. Fields marked with an X denote that information was not provided. Concerning hate crime statistics, the information submitted ranged from 2002 onwards. Not all countries listed provided statistics for all years. Countries that submitted statistics for 2004 are indicated in bold. The availability of statistics does not necessarily mean that statistics are differentiated on the basis of racial, anti-Semitic, or faith-based intolerance or other grounds, including disability, etc. Fields marked by "not collected" denote that the participating State does not collect information/statistics on this issue.

Cyprus	not collected	yes	yes	x
Czech Republic	yes	yes	yes	yes
Denmark	yes	yes	yes	yes
Estonia	yes	yes	x	x
Finland	yes	yes	yes	x
France	yes	yes	yes	x
Germany	yes	yes	yes	yes
Greece	x	yes	x	x
Holy See	x	yes	yes	yes
Hungary	yes	yes	x	x
Ireland	yes	yes	yes	x
Italy	yes	yes	yes	x
Kazakhstan	x	yes	x	yes
Latvia	yes	yes	yes	yes
Liechtenstein	not collected	yes	yes	yes
Lithuania	yes	yes	yes	yes
Luxembourg	yes	yes	yes	yes
Malta	not collected	yes	yes	x
Moldova	yes	yes	x	x
Monaco	not collected	yes	yes	yes
Netherlands	yes	yes	yes	yes
Norway	yes	yes	yes	x
Poland	yes	yes	yes	x
Romania	x	yes	yes	x
Russian Federation	yes	yes	yes	x
Serbia and Montenegro	yes	yes	yes	x
Slovak Republic	yes	yes	yes	x

Slovenia	x	yes	yes	x
Spain	yes	yes	yes	yes
Sweden	yes	yes	yes	yes
Switzerland	yes	yes	yes	yes
Turkey	not collected	yes	yes	yes
Ukraine	x	x	x	x
United Kingdom	yes	yes	yes	x
United States of America	yes	yes	yes	x

**PARTICIPATING STATES THAT HAVE NOT YET RESPONDED
TO THE ODIHR's *NOTES VERBALES***

Andorra	x	x	x	x
Armenia	x	x	x	x
Azerbaijan	x	x	x	x
Bosnia and Herzegovina	x	x	x	x
Georgia	x	x	x	x
Iceland	x	x	x	x
Kyrgyzstan	x	x	x	x
Portugal	x	x	x	x
San Marino	x	x	x	x
Tajikistan	x	x	x	x
Turkmenistan	x	x	x	x
Uzbekistan	x	x	x	x
Former Yugoslav Republic of Macedonia	x	x	x	x

While the majority of states were able to point to national legislation relevant to hate crimes or racially motivated violence, fewer were able to provide evidence of data collection on hate crimes. Certain countries, such as Albania, Bulgaria, Greece, Kazakhstan, and Romania, provided information on legislation relevant to hate-motivated offences, but they provided no evidence of, or information on, the compilation of statistics at the national level. The lack of data collection suggests that, while legislation to deal with hate crimes does exist, it is not necessarily implemented. It is unclear whether this relates to a lack of resources or capacity or to a lack of political recognition of the importance of collecting such data.

Only 19 states out of the 42 that responded nominated national contact points for the provision of information to the ODIHR. The lack or inadequacy of states' responses to the *Notes Verbales* may reflect the fact that requests for information did not reach the authorities responsible for the provision of such data. It is for this reason that, as a collection point for legislation, statistics, and national initiatives to combat hate-motivated crimes, the ODIHR requires direct access to a contact point in each participating State that is able to access and provide the requested information in a timely manner. Without such contact points in place, the ODIHR is clearly limited in the quality and quantity of information it is able to obtain and include within its reports. The ODIHR also recognizes that, in sending out its *Notes Verbales*, it did not provide specific templates or guidelines concerning the amount and nature of information required, which clearly contributed to the discrepancies in the types and format of information provided by states. To this end, the ODIHR will develop, in co-operation and consultation with the nominated contact points and relevant international organizations, a standardized template for participating States in relation to the provision of data to the ODIHR.

3. Overview of Statistics on Hate Crimes

OSCE commitments with respect to the collection of statistics and data on hate crimes

Decision No. 4 of the 2003 Maastricht Ministerial Council encouraged all participating States “to collect and keep records on reliable information and statistics on hate crimes, including on violent manifestations of racism, xenophobia, discrimination, and anti-Semitism” and tasked the ODIHR to serve as a collection point for information and statistics collected by participating States and to report regularly on the information received.

This section provides an in-depth look at the hate crimes statistics provided by participating States in order to assess the data-collection methodologies employed. The lack of sufficiently coherent or standardized statistics collected and provided by the participating States precludes a detailed analysis of the nature and extent of hate crimes within the OSCE region. As a result, this section will assess the types of information or statistics made available to the ODIHR.

Before reviewing the data submitted to the ODIHR by participating States, it is worth outlining some of the specific challenges and problems presented by the current state of data collection in the area of hate crimes.

3.1 Challenges in Data Collection

In order to better understand the strengths and limitations of data collection on crime in general and on hate crime in particular, one should have an appreciation for the “statistical perspective”. Unlike an “accounting perspective”, whereby errors are eschewed and there is an expectation that every cent will be counted, the statistical perspective accepts the fact that errors are probable and places a greater emphasis on understanding and measuring the extent of error in the system than in counting “every penny”. For example, in most national programmes for collecting data on crime, it is well understood that not all crimes are reported to the police. And even when they are reported, it is sometimes true that they are not recorded or properly filed. It is also a well-known fact that errors exist in the classification of those crimes that are recorded by the police. Still, errors notwithstanding, it has been determined (through empirical research) that national systems for collecting data on crime are valid measures of crime. Although they may not accurately measure the volume of crime in a particular jurisdiction in a given year, the fact that the processes involved in victim-reporting and police-recording of crimes remain stable over time makes the data a valid indicator of crime trends.

Statistics should be viewed cautiously for a number of reasons, the most important being the manner in which hate crimes are classified and recorded, and the fact that hate crimes are dramatically under-reported. Divergences in data-collection methodologies, definitions, and classification of hate crimes tend to preclude a useful comparison of hate crime statistics across different states. A high number of incidents recorded in a particular state do not necessarily indicate an epidemic of hate crime; rather, it may indicate comprehensive and accurate reporting. Similarly, low figures on reported hate crimes do not necessarily correlate with low incidences of hate crimes, but they may be indicative of weak and ineffectual data-collection efforts by state authorities. Two specific challenges concerning current data-collection procedures relate to: (1) the way in which hate crimes are classified; and (2) the phenomenon of under-reporting hate crimes. Again, from a statistical perspective, these issues can be easily overcome with very slight modifications in law enforcement reporting policies and practices. Recommendations for these modifications will be noted in a later section, but first a more detailed description of these challenges is presented below.

3.1.1 Classification of hate crimes

One of the problems surrounding the collection and interpretation of official hate crimes data relates to differences in the classification of hate-motivated incidents across participating States. As discussed already in the introductory section, the focus of this report is not about whether OSCE participating States employ a particular definition of *hate crime*, but rather about how states approach the idea of hate-motivated crimes and incidents conceptually.

At present, there is a wide divergence among states with respect to the scope of acts that are addressed and classified as hate-motivated crimes and incidents. For instance, states may employ a narrow or expansive approach to the bias categories addressed. In some cases, data is collected only on racially motivated incidents, whereas, in others, a more open-ended conception of hate crimes is employed to include offences committed on any number of grounds, including a person's religion, ethnicity, gender, disability, sexual orientation, or other identifying characteristic.

Statistics on hate crimes also vary greatly depending on how restrictively the motivation behind an act is viewed. For instance, some jurisdictions, both within and across states, classify a particular act as a hate-motivated offence only when, in the opinion of the investigating officer, the act was based solely on the victim's race, religion, nationality, sexual orientation, gender, disability, or other factor. Other jurisdictions, however, classify hate-motivated crimes or incidents as any act that is motivated in whole or in part by a particular bias.

Thus, depending on how incidents are defined and classified, states may show a disproportionately small or large number of hate-motivated incidents within their boundaries.

3.1.2 Under-reporting of hate crimes

According to some sources, only an estimated 10 per cent of hate-motivated incidents are ever reported, whether to human rights agencies, to law enforcement bodies, or other agencies.¹²

A central factor in the information deficit relative to hate crimes statistics is the fact that a significantly large number of hate crimes go unreported. Victims may choose not to report a crime for fear of retaliation, especially where the incident has been perpetrated by a gang or group of offenders. A second factor relates to concerns by victims that police will not take the complaint seriously enough and will fail to follow up on the incident. This is especially true for those victims who fear that the criminal justice system is biased towards the group to which the victim belongs. Other victims of hate crime choose not to report an incident to police for fear of an unsympathetic or hostile response and humiliation and shame at being victimized. An added factor is the fear of public disclosure and subsequent stigmatization or secondary victimization.¹³ Victims may also be reluctant to report hate crimes due to cultural and language barriers, or possibly, for irregular migrants, because of the fear of jeopardizing their immigration status or of being deported.

In dealing with the problem of under-reporting of hate crimes, it is not necessary to create new crime categories; data on hate crime can be obtained readily by collecting additional information about crimes that are already being recorded by police officers. If police officers were to slightly modify their crime-reporting procedures to make note of crimes where there is an indication that victims were selected based on their group membership, valid statistics on hate crime could be captured across the OSCE region without any new legislation on hate crime or changes in local definitions of hate crimes.

Finally, there is the problem of recognizing whether a crime was motivated by hatred as opposed to some other variable. It is vital that, in reporting procedures, law enforcement officers recognize the element of hatred as a motivating factor for a particular offence. The most salient factor in identifying and reporting hate crimes is probably the perception of the victim and/or witnesses. The United Kingdom provides an exemplary case of criminal justice authorities utilizing a victim's perception of the crime as opposed to the sole opinion of the investigating officer when classifying hate-based incidents. According to the police, the Crown Prosecution Service, and other criminal justice agencies, "a racist incident is any incident which is perceived to be racist by the victim or any other person".¹⁴ In Ireland, the police have also approved a definition of what constitutes a racist incident in accordance with the UK definition.

¹² As cited in the B'nai Brith Canada League for Human Rights report, *Audit of Antisemitic Incidents* (2003). The Toronto Police Service Hate Crime Unit's 2004 *Annual Hate/Bias Crime Statistical Report* also estimates that only 10-15 per cent of hate or bias crimes are reported. A report prepared for the Canadian Department of Justice refers to the "dark figure of incidents" never reported to police, a figure that approached 95 per cent in relation to certain crimes.

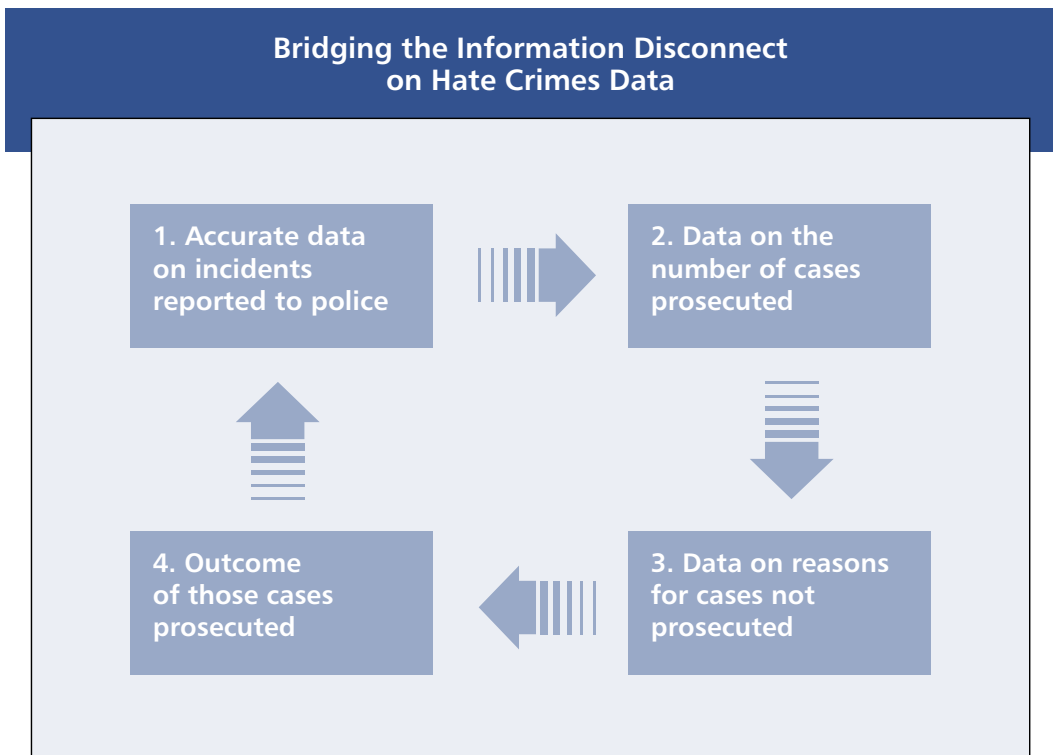
¹³ Particularly high rates of under-reporting are associated with hate crimes motivated by sexual-orientation bias, due to the fact that doing so would bring to light the victim's particular orientation.

¹⁴ The new definition of *racist incident* was adopted in accordance with the Stephen Lawrence Enquiry.

3.1.3 Information disconnect between police and prosecutorial agencies

Often an “information disconnect” exists in relation to the reporting or recording of hate crimes statistics between police officers and the legal system. While many states are able to point to data on reported hate crimes and incidents, as a rule, most do not record data on the follow-up to hate crimes, such as statistics on arrests, prosecutions, and the nature and terms of sentencing. A lack of information on the outcome of reported incidents means that it is impossible to ascertain state responses to hate crimes, such as the gravity with which these crimes are viewed, the seriousness of penalties meted out to perpetrators, and, subsequently, the message that states are sending to the public regarding the unacceptability of hate crimes within their jurisdiction.

Ideally, clear and accurate statistics would be available on hate crimes throughout all stages of the judicial process, including from when an initial report on a hate crime or incident is made to police to the follow-up and outcome of the particular reported case (as shown by the model below).



3.2 Overview of Statistics from Participating States

The information and statistics submitted by OSCE participating States varied significantly. Of the 30 states that did provide some form of quantifiable information or raw statistics on hate crimes, only seven (Bulgaria, the Czech Republic, Estonia, France, Ireland, Italy, and

Luxembourg) provided statistics for the partial year 2004. Sixteen states provided information up to and including 2003.¹⁵ The remaining states provided information for the years up to and preceding 2001-2002.¹⁶ The ODIHR recognizes that, due to the timing of the *Notes Verbales*, complete statistics for the full year 2004 were not yet available.

In order to assess the nature of hate crimes reporting and data collection among OSCE participating States and to identify where statistics fall short, this section will assess the statistics provided by states in relation to the following indicators:

- (1) Bias motivation:** is it possible to identify who the victims of hate crimes are?
- (2) Offence type:** are statistics available on the gravity of offences and on whether they were conducted against persons or property?
- (3) Official follow-up and outcome:** are statistics available on the outcome of reported hate crimes, such as prosecutions and sentencing?
- (4) Recording authority:** is it clear which authority is responsible for recording hate crimes?
- (5) Accessibility of statistics:** are statistics on hate crimes accessible?

Overall, the quantitative data submitted by states was limited and precluded meaningful analysis or mapping of general trends in hate crimes or incidents across a particular span of time. A small number of states did provide comprehensive statistics that were also disaggregated in a useful way. These states also tended to provide an analysis of their statistics, including an outline of general trends in incidents, such as increases or decreases in hate crimes in reference to particular groups.

3.2.1 Bias motivation

Bias motivation refers to occasions where an offender's *actions* are motivated, in whole or in part, by his or her bias. A bias is defined here as a preformed negative opinion or attitude towards a person or persons based on a real or perceived group identification. If a victim of a crime is intentionally selected on the basis of such a motivation, we can say that a hate crime has been committed. Perpetrators of hate crimes may be motivated by a range of biases, including those based on race, religion, ethnicity, national or social origin, sexual orientation, gender, and/or physical or mental disability. Hate crimes can also be said to be motivated by multiple or intersectional biases when two identity characteristics intersect, such as an assault on a person on the basis of religion and gender.

¹⁵ States that submitted statistics relevant for 2003 include Austria, Belarus, Denmark, Germany, Hungary, Latvia, Lithuania, the Netherlands, the Russian Federation, Serbia and Montenegro, Slovakia, Slovenia, and the UK.

¹⁶ This does not mean that more-up-to-date information is not available from each state but that such information was not submitted to the ODIHR at the time that the *Notes Verbales* were sent out. For this reason, it is important to establish a clear report-mapping cycle.

Why is bias reporting important? It is vital to be able to discern from statistics on hate crime which groups are increasingly vulnerable to being targeted in order to plan policy responses and resource allocation appropriately. Knowing who the victims of hate crimes are allows for the provision of victim-protection/-assistance programmes for affected individuals, as well as the design of effective community outreach for victimized communities. Swift and effective responses to hate crimes help allay community fears and insecurity, and encourage the reporting of incidents.

For instance, according to statistics from the US Federal Bureau of Investigation (FBI), out of 7,462 bias-motivated incidents that occurred in 2002, nearly half (49.8 per cent) were motivated by *racial* bias.¹⁷ Religious bias motivated approximately 19 per cent of incidents, and sexual-orientation bias provoked approximately 17 per cent of hate crimes.¹⁸ Certain bias factors, then, clearly account for a disproportionate number of hate crimes.

Overall, the information and statistics on hate crimes provided by participating States in their *Notes Verbales* varied widely and tended also to be limited in scope. A total of 28 participating States provided some information on bias motivation with regard to their statistics on hate crime.¹⁹ A significant number of states provided statistics in relation to racially motivated incidents only. Other states provided information and statistics on incidents motivated by xenophobia, ethnicity, or national origin. In these states, racially motivated incidents may have been captured in the above categories. The difference in classification of bias categories is wide-ranging across OSCE states, and this is particularly true in relation to racially motivated violence and incidents. For some states, so-called racially motivated hate crimes and incidents include those acts motivated by bias on the grounds of religion, ethnicity, and national origin, whereas other states separate some of these categories.

A number of states provided information and statistics on hate crimes resulting from religious bias. Again, a wide divergence was seen among states in relation to the classification of this category. Whereas some states provided statistics specifically in reference to anti-Semitic-motivated offences, other states capture anti-Semitic crimes within the category of religious bias.

Few states collect statistics on hate crimes motivated by other forms of intolerance, including those on the basis of sexual orientation or disability. Only five states (Canada, Denmark, the Netherlands, Norway, and the United States) capture hate crimes and incidents motivated on the basis of sexual-orientation bias. Incidents motivated by bias against persons with disabilities were even more heavily under-represented, with only two states – Canada and the US – recording statistics in this respect. In addition, only one state, Serbia and Montenegro, provided separate statistics on hate-motivated offences against Roma. It is unclear whether other states also collect data on Roma-related hate crimes or not, or whether such incidents are captured under the categories of race or ethnicity.

¹⁷ Of these racially motivated hate crimes, 67.2 per cent were victims of anti-black bias.

¹⁸ US Department of Justice, Federal Bureau of Investigation report, *Hate Crimes Statistics 2002*.

¹⁹ A large number of states provided statistics on hate crimes without disaggregating the numbers according to the different bias categories.

Overall, it appears that many states work within a limited definition of hate crimes and incidents, focusing primarily upon those incidents motivated by racial or ethnic bias. Many states also submitted total figures for hate crimes, without providing a breakdown of the statistics according to bias category, for instance the proportion of incidents resulting from racial, as opposed to religious or gender, bias. Data on hate crimes should be able to demonstrate how offences are distributed across the different bias categories in order to identify which individuals and groups are most at risk. In this respect, the information and statistics provided were inadequate and suggest that this is a potential area for improvement.

The following tables illustrate the bias motivations specified by each country and the wide divergence and degree of scope between states in classifying bias motivations. Whereas some states are shown as providing information on race and ethnicity as separate categories, others use only one category (race) to encompass race and ethnicity. The tables also show that some states collect data on incidents motivated by xenophobia. Countries such as France, Italy, and Switzerland provided data specifically on anti-Semitic hate crimes, whereas other states capture these statistics within the category of religious bias.

The first table refers to OSCE participating States that submitted statistics on hate crimes with an indication of the bias motivation, while the second table refers to states that specified that statistics were available on particular bias motivations.

STATES THAT PROVIDED STATISTICS ON BIAS MOTIVATION

Bias Motivation		
STATE	BIAS TYPE	DISAGGREGATION INTO BIAS SUB-CATEGORY
Belarus		• Anti-Semitic
Bulgaria	<ul style="list-style-type: none"> • National • Racial 	
Croatia	<ul style="list-style-type: none"> • Racial and other discrimination 	
Czech Republic	<ul style="list-style-type: none"> • Racially motivated crimes 	
Denmark	<ul style="list-style-type: none"> • Race • Colour • National or ethnic origin • Religion • Sexual orientation 	
Estonia	<ul style="list-style-type: none"> • Race • Colour • Sex • Language • Origin • Religion 	

	<ul style="list-style-type: none"> • Political conviction • Financial or social status 	
Finland	<ul style="list-style-type: none"> • Racially motivated crimes 	
France		<ul style="list-style-type: none"> • Anti-Semitic
Hungary	<ul style="list-style-type: none"> • National • Ethnic • Religious 	
Ireland	<ul style="list-style-type: none"> • Racially motivated incidents 	
Italy	<ul style="list-style-type: none"> • Racism • Xenophobia 	<ul style="list-style-type: none"> • Anti-Semitic
Latvia	<ul style="list-style-type: none"> • Violation of national or racial equality 	
Lithuania	<ul style="list-style-type: none"> • National • Racial • Ethnic • Religious • Other 	
Luxembourg	<ul style="list-style-type: none"> • Racial discrimination 	<ul style="list-style-type: none"> • German • Congolese • French • Luxembourgeoise • Nigerian • Portuguese
Netherlands		<ul style="list-style-type: none"> • Anti-Semitic • Anti-Islamic • Anti-refugee
Poland	<ul style="list-style-type: none"> • Race • Religion (including lack of religious denomination) • Ethnicity • National origin 	
Serbia and Montenegro	<ul style="list-style-type: none"> • Race • Religion • Linguistic • Other biases 	
Slovak Republic	<ul style="list-style-type: none"> • Racial • National • Other similar hatred 	
Slovenia	<ul style="list-style-type: none"> • Nationality • Race • Skin colour • Religion • Ethnic origin 	

	<ul style="list-style-type: none"> • Gender • Language • Political or other beliefs • Birth status • Education • Social status • Any other circumstance 	
Spain	<ul style="list-style-type: none"> • Racist • Xenophobic 	<ul style="list-style-type: none"> • Anti-Semitic
Sweden		<ul style="list-style-type: none"> • Anti-Semitic
Switzerland	<ul style="list-style-type: none"> • Racially motivated crimes and incidents 	<ul style="list-style-type: none"> • Anti-Semitic
UK	<ul style="list-style-type: none"> • Racially motivated grounds Religious bias 	
US	<ul style="list-style-type: none"> • Race • Religion • Sexual orientation • Ethnicity/national origin • Disability • Multiple-bias incidents 	<ul style="list-style-type: none"> • Anti-white • Anti-black • Anti-American Indian • Anti-Asian/Pacific Islander • Anti-multiple races, group • Anti-Jewish • Anti-Catholic • Anti-Protestant • Anti-Islamic • Anti-other religion • Anti-multiple religions, group • Anti-atheism/agnosticism, etc. • Anti-male homosexual • Anti-female homosexual • Anti-homosexual • Anti-heterosexual • Anti-bisexual • Anti-Hispanic • Anti-other ethnicity/national origin • Anti-physically disabled • Anti-mentally disabled

**STATES THAT PROVIDED INFORMATION ABOUT BIAS MOTIVATION
BUT NOT STATISTICS**

Bias Motivation		
STATE	BIAS TYPE	DISAGGREGATION INTO BIAS SUB-CATEGORY
Belgium	<ul style="list-style-type: none"> • Racial bias 	
Canada ²⁰	<ul style="list-style-type: none"> • Race/ethnicity • Religion • Sexual orientation • Language • Sex • Age • Disability • Other motivations • Unknown motivation 	<ul style="list-style-type: none"> • Black • South Asian • Multi-ethnic/multi-race • Arab/West Asian • Other race/ethnicity • East and Southeast Asian • White • Race/ethnicity unknown • Aboriginal • Jewish • Islam (Muslim) • Religion unknown • Other religion (including Protestant, Eastern Orthodox, Buddhist, Hindu, Sikh) • Catholic • No religion This refers to hate crimes where the motivation is not found in any previous category This refers to incidents where it is believed that there was a hate crime component, yet the actual motivation is unknown
Malta	<ul style="list-style-type: none"> • Racism 	
Norway	<ul style="list-style-type: none"> • Race • Colour • National or ethnic origin • Sexual orientation 	

²⁰ While Canada provided an excellent model of data collection for statistics on hate crimes, it is important to point out that the data pertains to a pilot survey of hate crimes incidents during 2001 and 2002. At present, Canada has no system in place for collecting data on hate crimes at the national level.

The above tables show that certain states, such as Canada, Luxembourg, the Netherlands, Spain, and the US, provided excellent data on the distribution of hate crimes across different groups and communities, such as incidents based on the grounds of race, religion, sexual orientation, and so forth. Switzerland also provided details relating to cases of racism, in addition to how many of these concerned anti-Semitic bias. The data-collection model submitted by Canada, while comprehensive, relates to a pilot survey of incidents of hate crimes during 2001 and 2002 only, as opposed to a systematic national data-collection process.

The tables also show how certain states, such as Canada, Luxembourg, the Netherlands, and the US, presented statistics on hate crimes that were further disaggregated into bias sub-categories. The methodologies employed show varying levels of sophistication and detail. In the case of the US and Canada, for instance, extensive bias sub-categories are employed; racially motivated crimes are disaggregated into those motivated by anti-Asian or anti-black bias. Religion-motivated hate crimes are disaggregated into those motivated by anti-Semitism or anti-Islamic bias. Breaking down bias categories in this manner provides extremely valuable information, as hate-motivated crimes and incidents may often be disproportionately targeted at particular groups or sub-sections of groups, such as the case of anti-Muslim hate crimes in recent years. To provide an example, FBI statistics showed that, for 2002, 49.8 per cent of all hate crimes were motivated by racial bias. Of the racially motivated offences, the overwhelming majority (67.2 per cent) resulted from an anti-black bias. Religious bias motivated approximately 19 per cent of all incidents of hate crimes (total of 1,659 offences). Of these religion-motivated incidents, 65.3 per cent were attributed to anti-Semitic bias and 10.5 per cent to anti-Islamic bias. Of crimes committed against individuals on the basis of sexual-orientation bias, the majority (65 per cent) were directed at male homosexuals.²¹

The Netherlands and the US have also adopted frameworks for collecting statistics that enable them to assess whether incidents have been based on several grounds or on multiple biases. An intersectional approach to collecting statistics on hate-motivated crimes is critical to understanding the complex ways in which various biases interact with and reinforce each other. Multiple biases must be considered in reporting on hate crimes in order to avoid neglecting, for instance, the racial dimensions of gender prejudice, and so on. It is also important to note that open-ended categories such as “other grounds” enable states to take stock of any incidents that may be motivated by bias types not previously mentioned.

3.2.2 Offence and perpetrator type

A clear association exists between the presence of hate motivation and the extent of injury inflicted against a person. For example, hate-motivated assaults are twice as likely to cause injury and four times as likely to require hospitalization when compared to assaults where hate is not a motivating factor.²² Hate crimes, as compared to offences and incidents with no hate motivation, are also more likely to involve multiple offenders, serial attacks, heightened risk of social disorder, and a greater expenditure of resources to resolve the consequences of the act.²³ For these reasons, statistics on the types of offences involved during hate-motivated acts are valuable.

²¹ *Op. cit.*, Note 18.

²² Canadian Centre for Justice Statistics Report, *Hate Crime in Canada: An Overview of Issues and Data Sources* (2001).

²³ *Ibid.*

Data on offence types also enables us to assess whether a relationship exists between the nature of the offence and the targeted group. For instance, hate crimes against individuals identified on the basis of race, ethnicity, and sexual orientation are more likely to involve violence, whereas anti-Semitic incidents are more likely to involve property damage, such as the desecration and/or defacing of gravesites, monuments, and synagogues.²⁴ Information on the types of hate-motivated offences also enables the differentiation of acts such as the painting of a swastika on a synagogue as distinct from other forms of “vandalism” or “mischief”, which may be interpreted as petty or insignificant.

Of the 30 states that provided some information and statistics on hate-motivated crimes and incidents, 13 provided information on the types of offences captured by reporting on hate crimes. In general, these included crimes against persons (assault, murder), as well as crimes against property (arson, desecration of graveyards).

However, many of the categories of offence type provided by participating States appear to be unclear and at times imprecise or misleading. For instance, it is unclear what is meant by the UK’s reference to “racially aggravated public order”, Ireland’s reference to “attention and complaints”, or the Netherlands’ reference to “sport” when listing types of hate crime offences. A lack of clarity over which offences are classified as a hate crime is problematic not only for the purposes of assessing the nature of hate crime offences but also for the purposes of comparing data across states.

STATE	STATISTICS ON TYPES OF HATE CRIME OFFENCES
Austria	<ul style="list-style-type: none"> • Incitement to hatred
Belarus	<ul style="list-style-type: none"> • Property damage, including monument and graveyard desecration
Canada	<ul style="list-style-type: none"> • Offences against a person <ul style="list-style-type: none"> • Mischief or vandalism • Physical assault • Uttering threats • Hate propaganda • Property offences • Other violations
Czech Republic	<ul style="list-style-type: none"> • Support and promotion of movements seeking to repress human rights and freedoms • Defaming a nation, ethnic group, race, or opinion • Violence against an individual or group • Causing bodily harm with racial intent

²⁴ Data from both the Uniform Crime Reporting section of the FBI and the Canadian Centre for Justice Statistics demonstrate this link between offence type and bias motivation.

France ²⁵	<ul style="list-style-type: none"> • Attacks on persons or property • Uttering threats and verbal assault
Germany	<ul style="list-style-type: none"> • “Extremist crimes” (right-wing, politically motivated) <ul style="list-style-type: none"> • Incitement to hatred • Crimes involving bodily injury or death (provided there is a racist or xenophobic motive) • Spreading of propaganda or symbols of unconstitutional organizations • Murder committed because of racist or xenophobic motives
Ireland	<ul style="list-style-type: none"> • Assault causing bodily harm • Minor assault • Sexual assault • Public mischief • Theft against an individual • Robbery against an individual • Manslaughter • Possession of a weapon • Public-order offence • Causing criminal damage • Incitement to hatred • Attention and complaints • Harassment • Burglary
Italy ²⁶	<ul style="list-style-type: none"> • Incendiary attack • Damages • Murder • Injuries • Insults/threats • Offences • Other offences • Dissemination of ideas • Participation in hate organizations with the purpose of instigating discrimination
Netherlands	<ul style="list-style-type: none"> • Targeted graffiti • Vandalism • Uttering threats • Using abusive language • Physical violence • Assault • Making bomb threats • Confrontation • Arson • Sports • Disseminating hate e-mail • Disseminating hate mail • Other

²⁵ Statistics were disaggregated by month and year.

²⁶ Statistics were disaggregated on a geographical basis (by region).

Spain	<ul style="list-style-type: none"> • Aggression and causing physical injury • Uttering threats and insults • Spreading propaganda • Arson • Other
Sweden	<ul style="list-style-type: none"> • Serious assault (including murder, attempted manslaughter) • Assault • Harassment • Slander • Vandalism • Graffiti • Incitement of racial hatred • Illegal discrimination • Other crimes
UK	<ul style="list-style-type: none"> • Racially aggravated assaults • Racially aggravated criminal damage • Racially aggravated public order • Racially aggravated harassment • Other assaults • Other criminal damage • Other public order • Other harassment • Theft • Homicide • Other
US	<ul style="list-style-type: none"> • Crimes against persons <ul style="list-style-type: none"> • Murder and non-negligent manslaughter • Forcible rape • Aggravated assault • Simple assault • Intimidation • Other • Crimes against property <ul style="list-style-type: none"> • Robbery • Burglary • Larceny-theft • Motor-vehicle theft • Arson • Destruction/damage/vandalism • Other

A limited number of states provided information on the perpetrators of hate crimes, such as whether the perpetrator was part of an organized hate group and/or a repeat offender. This aspect of data collection is important for criminal intelligence and for the purposes of monitoring and surveillance, as well as for targeting resources and outreach to potential/actual perpetrators. In addition, the information enables participating States or international organizations to tailor appropriate prevention campaigns, as well as education and training on hate crimes.

Some states provided information on whether perpetrators were members of organized hate groups, such as skinheads (Serbia and Montenegro, Spain) or members of right-wing or extremist groups (Germany). Switzerland provided information classifying perpetrators as anti-Semites, revisionists, or right-wing extremists. Luxembourg provided information on the nationality of perpetrators, and the US provided information on the race of perpetrators in addition to whether they were repeat offenders.

It is important to point out, in reference to the participating States that collect information on perpetrators' affiliations with right-wing, extremist, and "skinhead" groups, that the majority of hate crimes are not perpetrated by members of organized hate groups but are random events perpetrated by individual citizens. A large number of hate crime offenders are juveniles.²⁷ A smaller proportion of hate crime perpetrators can be termed thrill-seekers or copycats. Data collection that focuses on extremist crime is also unable to capture the reality of hate incidents, which encompass a wide spectrum of acts from low-level violence and anti-social behaviour to aggravated assaults and murder.

According to the American Psychological Association, "most hate crimes are carried out by otherwise law-abiding young people who see little wrong with their actions".

3.2.3 Follow-up to hate crimes and outcome

Of the 30 states that provided some form of statistics on hate crimes, 21 provided information on responses and follow-up. Again, the responses from states varied in the level of detail provided. Countries such as Austria, Belarus, the Czech Republic, Denmark, Estonia, Finland, France, Poland, Serbia and Montenegro, Switzerland, and the UK provided clear information and statistics on the outcome of reported cases of hate crime, such as the numbers of recorded convictions and sentences handed down. Statistics were also frequently provided for the number of acquittals or discontinued cases.

Other states, such as Bulgaria, Croatia, Italy, Latvia, Lithuania, Malta, the Russian Federation, Slovakia, and Slovenia, also provided information in relation to follow-up to reported hate crimes. In these instances, however, reference was made to cases of hate crime where perpetrators

²⁷ A US-based organization, Partners against Hate, reports that 33 per cent of all known hate crime offenders are under the age of 18. Concerning victims of hate crime, 30 per cent of all victims of bias-motivated aggravated assault are under the age of 18, and 34 per cent of all victims of simple assault are under 18.

were identified and arrested, as well as to those cases registered, investigated, or heard before the courts. It is unclear what these classifications entail in terms of outcomes of the respective cases.

Overall, many states did not provide sufficient data in relation to the outcome of cases pertaining to hate crimes or other violent manifestations of intolerance, such as prosecution, length of sentences, and other penalties.

The **information disconnect** between the initial **reporting** of a hate crime and the outcome must be bridged. Data on how hate crimes legislation is applied is vital to assessing how effectively OSCE participating States are responding to hate crimes.

A leading example in the provision of comprehensive and accurate data on follow-up to hate crimes is provided by the UK. The Crown Prosecution Service and Home Office provide statistics on the number of cases received for prosecution, analyse the increase or decrease from previous years, and cite the number of cases successfully prosecuted or discontinued, with a breakdown of reasons for the discontinuation of cases (such as failure of witnesses to appear in court).

In its response to the *Notes Verbales*, France provided qualitative information with regard to the punishment meted out to hate crimes perpetrators. France has dramatically increased the seriousness of penalties for hate crimes, demonstrating effectively to all would-be perpetrators that the state recognizes the gravity and harm of hate crimes and judges such offences accordingly. Following the adoption of the Lellouche Law, the minister of justice gave all public prosecutors firm instructions to severely punish the perpetrators of anti-Semitic acts and insults. For instance, six people who attempted to burn down a Jewish cemetery's oratory received prison sentences ranging from 18 months to three years. The Ministry of Justice in France has also created new procedures to enable speedier prosecutions of crimes relating to racism and xenophobia.

Stronger penalties show a recognition of the fact that hate-motivated crimes are morally reprehensible, inflict greater physical and psychological harm on their victims, and are uniquely destructive and divisive because they injure not only the immediate victim but also the community and sometimes the nation. When hate crimes go unpunished, those who commit them are emboldened, and the level of hate crime will likely increase. Information and statistics on the outcomes of reported hate crimes, including the nature of sentencing, send a strong message to society about the rigour with which hate crimes are prosecuted and the severity of penalties that are meted out to would-be perpetrators. In short, they send the message that hate crimes will not be tolerated.

3.2.4 Data-collection authorities

Of the 30 states that submitted statistics on hate crimes, 20 indicated the body responsible for recording and reporting hate crimes. Police agencies or governmental agencies such as the

Ministry of Justice or Ministry of Interior were often responsible for data collection. General exceptions include Denmark, where the Civil Security Service (PET) collects information on crimes motivated by bias, and the UK, where the Crown Prosecution Service records and provides public statistics on racially motivated crimes. In the case of Canada, Croatia, and Serbia and Montenegro, information is provided by the department or bureau of statistics within each respective state.

Overall, the information provided seems to indicate that law enforcement officers are the primary and initial point of contact for many victims of hate crime. Being on the front lines, so to speak, it is the police officer that responds to, and interacts with, the victim first. In terms of recording hate crimes, it is critical for police officers to:

- Understand how hate-motivated crimes differ from similar crimes that are not motivated by bias and to take such reports seriously; and to
- Understand how police/victim interaction can influence whether victims report hate crimes or not (due to fear of police, embarrassment, or concern that the incident will not be taken seriously).

Clearly, hate crime training for police is essential. Training for law enforcement officials and clear guidelines regarding the most effective and appropriate way to respond to bias-motivated crime could greatly increase positive interaction between police and victims and encourage reporting by victims of hate crime. Suggestions for improved reporting include training for front-line officers, the implementation of outreach programmes to improve police-community relations, and training in providing referrals for victim assistance and protection. The provision of appropriate tools such as a framework or model for reporting on hate crimes would also be beneficial. For example, the ability of training officers to recognize and report hate crimes for statistical and intelligence purposes, even when no specific local statute on hate crime exists, would clearly assist law enforcement and other government officials throughout the OSCE region to better understand the nature and extent of hate crime in the region so that effective strategies could be developed, implemented, and evaluated.

3.2.5 Accessibility of statistics

Through the publication of periodic public reports and the provision of data through online sources, states can help to bring hate crimes out into the open and generate public awareness of the issue. The availability of data is also critical to researchers, policy makers, and NGOs that hope to craft effective responses to hate crimes and provide assistance to victims and communities affected by hate crimes. Most importantly, the publication of statistics on hate crimes allows states, international bodies, and/or NGOs to map patterns and outline trends with regard to the nature and level of hate crimes within each respective state.

Only eight OSCE participating States provided information in relation to the documenting of statistics relevant to hate crimes. The table on the next page provides information on which states make data publicly available, the reporting format (i.e., whether the statistics relate to hate crimes specifically or to general incidents of discrimination), and the reporting cycle.

STATE	REPORTING BODY	REPORTING FORMAT	REPORTING CYCLE
Belgium	Centre for Equal Opportunities and Opposition to Racism (CEEOR)	The CEEOR provides details on general incidences of discrimination as opposed to specific statistics on hate crimes.	Annual
Canada	Canadian Centre for Justice Statistics	The report <i>Hate Crime in Canada: An Overview of Issues and Data Sources</i> refers to a pilot survey of hate crimes and incidents during 2001-2002.	Periodic
Finland	Ministry of Interior	The Ministry of Interior prepares a report on racist crime reported to the police.	Annual
	National Research Institute of Legal Policy	The report <i>Crime in Finland</i> includes an overview of crimes in relation to ethnicity, gender, and nationality.	Annual
Germany	Federal Criminal Police Office/State Police Authorities	The <i>Report of the Office for Protection of the Constitution</i> outlines statistics made available to the Federal Criminal Police Office by the state police authorities. The report covers "extremist crime" and politically motivated crimes as opposed to a focus on crimes committed on the basis of bias motivation against particular groups.	Annual
Serbia and Montenegro	Serbia and Montenegro Statistical Office of the Republic of Serbia	Statistics relating to prosecution and sentencing for hate crimes perpetrators are published in the <i>Statistical Yearbook of Serbia</i> .	Annual
Sweden	Swedish Security Police (Sapo)	Sapo compiles a formal index of anti-Semitic incidents.	Annual
	Protection of the Constitutional Branch of the National Police Board	Statistics on crimes with a bias motive are included in a report compiled by this body.	

UK	The Crown Prosecution Service	The report <i>Racist Incident Monitoring</i> contains information compiled on prosecution decisions and outcomes in all cases identified as racist incidents.	The annual report covers the period from 1 April to 31 March.
US	Department of Justice Federal Bureau of Investigation	The <i>Hate Crimes Statistics</i> report provides a comprehensive overview of hate crime offences, including bias motivations, offence types, and geographical distribution.	Annual

3.3 Conclusion

In conclusion, the information on hate crimes provided to the ODIHR suggests a general lack of standardized and systematic monitoring mechanisms to collect statistics, as well as a limited conceptualization within most OSCE participating States on what constitutes a hate crime. Based on the assessment of information and statistics submitted, adequate data on hate crimes is available from a very small number of participating States. Comprehensive and reliable national statistics were secured only from the Uniform Crime Reporting section of the FBI, the United Kingdom’s Crown Prosecution Service, and the Canadian Centre for Justice Statistics.²⁸ Unfortunately, many states provided descriptive or qualitative accounts of incidents only, or referred the ODIHR to second-hand (IGO) reports that referenced incitements motivated by intolerance.²⁹ The implication is that such states have not implemented methodologies or systems for consistent data collection and reporting and that some of the information provided was compiled only at the request of the ODIHR.

The data submitted by the participating States shows that information is not available on a sufficiently broad range of issues and target groups affected. Insufficient information on hate crimes has far-reaching implications, including deterring analysis on the following:

- 1) Identifying whether crimes motivated by intolerance and discrimination are increasing or decreasing in relation to previous years;
- 2) Identifying specific individuals or groups that are increasingly being targeted;
- 3) Identifying the nature and extent of crimes and types of target;
- 4) Identifying certain regions where hate crimes are increasing or decreasing;

²⁸ As noted previously, while Canada did provide statistics on hate crimes covering the period 2001-2002, this data was collected during a pilot study. In fact, aside from the pilot study, Canada does not have a consistent data-collection system or methodology in place at the national level.

²⁹ The Netherlands, for example, provided numerous references to various EUMC reports that document bias-related incidents rather than providing data first-hand.

- 5) Assessing the follow-up by governmental agencies to reported hate crimes, including the degree of success in the prosecution and sentencing of reported offenders; and
- 6) Assessing the impact of programmes and policies aimed at reducing the occurrence of hate crimes.

The OSCE participating States that informed the ODIHR that statistics on hate crimes are not collected on the grounds that no such incidents occur on their territory are reminded of PC Decisions No. 607 and No. 621, under which they committed themselves to collect and maintain reliable information and statistics on hate crimes, including on violent manifestations of racism, xenophobia, discrimination, and anti-Semitism. As OSCE participating States have recognized the need to act to combat hate crimes³⁰ and have undertaken commitments to this end, it follows that OSCE states have a corresponding obligation to maintain reliable information and statistics on hate crimes committed on their territory and to report such information periodically to the ODIHR. As the ODIHR itself was tasked with reporting these findings to the Permanent Council, at the Human Dimension Implementation Meeting, and to make these findings public, participating States must endeavour to provide the ODIHR with the appropriate resources it needs to accomplish these tasks.

3.4 Recommendations

Insufficient and inaccurate monitoring and reporting of hate crimes in OSCE participating States are problematic in terms of combating racism, xenophobia, anti-Semitism, and other forms of intolerance in the OSCE region. The documentation of incidents facilitates an understanding of the nature of hate crimes, their extent, the impact on victims, and implications for wider communities. This information enables us to devise effective strategies and tools to combat hate crimes. All participants of the high-level inter-agency meeting held between the ODIHR, the ECRI, the EUMC, and the UNCERD in September 2004 stressed the importance of data in effecting change and the need to ensure that data collection is used to support and advance the implementation of standards and policy.

Inconsistent data collection and reporting not only deny governments knowledge of the nature and distribution of hate crimes within their jurisdictions but also limit the capacity of law enforcement and justice agencies to effectively respond to incidents. Inconsistent reporting inhibits an analysis of hate crime trends and precludes the identification of where efforts or resources should be focused. It is therefore recommended that an OSCE standard for statistics on hate crime be developed that could then be applied within each of the participating States and serve to provide consistency across the OSCE region, thereby allowing comparable analysis across the region.

In this context, it is worth mentioning ECRI General Policy Recommendation No. 1 on combating racism, xenophobia, anti-Semitism and intolerance, which requires member states of the Council of Europe to "ensure that accurate data and statistics are collected and published on the number

³⁰ Commitments to combat hate crime were affirmed during the Maastricht Ministerial Council (2003) and subsequently reinforced in the Brussels Declaration (2003), Paris Declaration (2004), Berlin Declaration (2004), and at the Cordoba conference (2004).

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". It is also important to refer to the EUMC's Racism and Xenophobia Network (RAXEN) national focal points, which is one of the central tools used by the EUMC to provide the European Union and its member states with objective, reliable, and comparable data (including examples of, and models for, good practices) at the European level on the phenomena of racism, xenophobia, and anti-Semitism. The national focal points have been collecting data in the area of racist violence since 2002, which includes statistical data, descriptive and analytical information, and information on conferences and other events. It is therefore important that such a template be developed in close co-operation and co-ordination with the EUMC and its RAXEN national focal points.

A small number of NGOs have been instrumental in actively monitoring and recording incidents motivated by hatred. This is particularly true for Jewish non-governmental organizations.³¹ While this information does not diminish participating States' responsibility for monitoring and recording incidents, it does suggest a potential value in state-NGO collaboration in monitoring, recording, and responding to hate crimes and incidents. Unofficial reports also provide a valuable tool for cross-referencing official statistics and outlining where discrepancies such as under-reporting may lie, and the ODIHR will incorporate these sources into its subsequent reports.

³¹ The American Jewish Committee, the Anti-Defamation League, and the League for Human Rights are among the organizations that monitor and report on hate crimes.

4. Legislative Mechanisms to Combat Hate Crimes

4.1 The ODIHR's Mandate Regarding Hate Crime Legislation

Decision No. 4 of the 2003 Maastricht Ministerial Council meeting recognized the importance of legislation to combat hate crimes and urged participating States to inform the ODIHR about existing legislation regarding crimes fuelled by intolerance and discrimination and, where appropriate, to seek the ODIHR's assistance in the drafting and review of such legislation. States committed themselves to combating hate crime, including through their laws, in Permanent Council Decision No. 607 of 22 April 2004 and Decision No. 621 of 29 July 2004, whereby states undertook to: *"Consider enacting or strengthening...legislation that prohibits discrimination based on, or incitement to hate crimes motivated by, race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."* In Decision No. 633 on Promoting Tolerance and Media Freedom on the Internet, participating States were urged to *"study the effectiveness of laws and other measures regulating Internet content, specifically with regard to their effect on the rate of racist, xenophobic and anti-Semitic crimes"*. States endorsed their previous commitments and decided to intensify implementation efforts in the field of legislation in Decision No. 12/04 on Tolerance and Non-Discrimination.

4.2 International Sources of Obligations and Commitments

4.2.1 United Nations³²

All OSCE participating States, with the exception of Andorra, have ratified the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).³³ In accordance with Article 4 of this Convention, contracting parties undertake, *inter alia*, to declare as an offence punishable by law "all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination...acts of violence or incitement to such acts against any race or group

³² In addition to the International Convention on the Elimination of All Forms of Racial Discrimination, the following United Nations conventions and declarations are relevant: 1948 Convention on the Prevention and Punishment of the Crime of Genocide, Articles 1-3; 1948 Universal Declaration of Human Rights, Articles 2 and 7; 1966 International Covenant on Civil and Political Rights, Articles 19 and 20; 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid, Articles 1, 2, and 4; 1979 Convention on the Elimination of All Forms of Discrimination against Women, Articles 2 and 3; 1989 Convention on the Rights of the Child, Article 2; 1999 Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; 2001 Declaration of the World Conference against Racism, Racial Discrimination, Xenophobia and related Intolerance, Articles 13, 15, 28, 48, 54, 81, 82, 84, 106.

³³ UN General Assembly Resolution 2106 (XX), 21 December 1965, entered into force 4 January 1969. Andorra signed on 5 August 2002. All OSCE participating States, with the exception of the Holy See, have ratified or signed (Andorra and Kazakhstan) the International Covenant on Civil and Political Rights, General Assembly Resolution 2200A (XXI), 16 December 1966, entered into force 23 March 1976, which provides in Article 20(2) that any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence shall be prohibited by law.

of persons of another colour or ethnic origin”, and to declare illegal and prohibit organizations that promote and incite racial discrimination. The implementation of the Convention is carried out by the Committee on the Elimination of Racial Discrimination (UNCERD).

4.2.2 Council of Europe³⁴

The OSCE includes all 46 member states of the Council of Europe, which established the European Commission against Racism and Intolerance (ECRI) in 1993. ECRI General Policy Recommendation No. 1 urges states to define common offences that have a racist or xenophobic nature as specific offences, and to enable the racist or xenophobic motives of the offender to be specifically taken into account in sentencing.

In its General Policy Recommendation No. 7 of December 2002, the ECRI set out key components for legislation against racism, including, in Paragraph 18, the criminalization of eight specific acts when committed intentionally,³⁵ in addition to genocide. Uniquely, Recommendation No. 7 attempts to define racism as “the belief that a ground such as race, colour, language, religion, nationality, or national or ethnic origin justifies contempt for a person or group of persons, or the notion of superiority of a person or group of persons”. ECRI policy recommendations provide guidance to states but are not legally binding.

The First Additional Protocol to the Convention on Cybercrime of 2003 concerning the criminalization of acts of a racist or xenophobic nature committed through computer systems, which is not yet in force, provides that states parties shall adopt such legislative and other measures as may be necessary to establish as criminal offences under domestic law intentional conduct, including distributing, or otherwise making available, racist and xenophobic material to the public through a computer system.

4.2.3 European Union³⁶

Twenty-five members of the OSCE belong to the EU, which has, since the 1990s, recognized the need to harmonize anti-racism laws and to give legal backing to the slogan “racism is not

³⁴ In addition to ECRI policy recommendations, reference should be made to: the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms, Articles 9, 10, and 14; the 1995 Framework Convention for National Minorities, Article 6; the 2000 Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 1; the 2001 Convention on Cybercrime; the 2003 First Additional Protocol to the Convention on Cybercrime concerning the criminalization of acts of a racist or xenophobic nature committed through computer systems, Articles 2-6.

³⁵ These include: (a) public incitement to violence, hatred, or discrimination; (b) public insults and defamation; or (c) threats; (d) public expression, with a racist aim, of an ideology that claims the superiority of, or that depreciates or denigrates, a grouping of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin; (e) the public denial, trivialization, justification, or condoning, with a racist aim, of crimes of genocide, crimes against humanity, or war crimes; (f) the public dissemination or public distribution, or the production or storage aimed at public dissemination or public distribution, with a racist aim, of written, pictorial, or other material containing manifestations covered by Paragraph 18 (a), (b), (c), (d) or (e); (g) the creation of the leadership of a group that promotes racism; support for such a group; and participation in its activities with the intention of contributing to the offences covered by Paragraph 18 (a), (b), (c), (d), (e) and (f); (h) racial discrimination in the exercise of one’s public office or occupation.

³⁶ Reference may also be made to the 2000 Charter of Fundamental Rights, Articles 10, 11, and 21; the 2000 Racial Equality Directive, implementing the principle of equal treatment between persons irrespective of particular ethnic origin; and the 2000 Employment Equality Directive.

an opinion, it is a crime".³⁷ In 1997, the EU established the European Monitoring Centre on Racism and Xenophobia (EUMC). A proposal from the European Commission in 2001 for a Council Framework Decision on Combating Racism and Xenophobia designed to reinforce criminal law measures to tackle racist and xenophobic offences was tabled; however, indications are that the debate will be reopened.³⁸ At its 2,642nd meeting, the Council decided that, "In view of the importance and the added value of the instrument [...] to resume examination of the Framework Decision on combating racism and xenophobia as a matter of urgency."³⁹ The draft defines four offences when committed intentionally and directed against a group of persons or a member of such a group defined by reference to race, colour, religious conviction, descent, or national or ethnic origin: (a) public incitement to discrimination, violence, or hatred; (b) the commission of an act referred to in point (a) by public dissemination or distribution of tracts, pictures, or other material; (c) public condoning, denial, or gross trivialization of crimes of genocide, crimes against humanity, and war crimes; and (d) public denial or gross trivialization of the crimes defined in Article 6 of the Charter of the International Military Tribunal appended to the London Agreement of 8 April 1945. The draft goes on to describe modes of participation, sanctions, racist, and xenophobic motivation as an aggravating factor for ordinary offences, liability of legal persons, constitutional rules such as freedom of the press, grounds for excluding criminal liability, and jurisdictional reach.

4.2.4 OSCE

In terms of OSCE-specific political commitments, the participating States have reiterated their goal of eliminating discrimination in numerous documents, such as the 1999 Istanbul Summit Declaration.⁴⁰

In addition to, and independent from, the international framework, legislation relating to hate crime is shaped by national policies and experience.

4.3 Overview of Legislation in OSCE Participating States

The overview that follows is informed by material available from the ECRI and the EUMC, in particular the country reports produced by the ECRI.⁴¹ Reference has been made to countries' criminal codes, where available.

³⁷ See Preface to *European Strategies to Combat Racism and Xenophobia as a crime*, European Network Against Racism, April 2003.

³⁸ The proposed Framework Decision builds on the 1996 Joint Action to Combat Racism and Xenophobia with a view to creating a strong legally binding instrument.

³⁹ Press release, 2,642nd Council Meeting, Justice and Home Affairs, Brussels, 24 February 2005.

⁴⁰ Reference may also be made to: the 1975 Helsinki Final Act Declaration on Principles Guiding Relations between Participating States, Principle VII; the 1989 Concluding Document of Vienna, Questions relating to Security in Europe, para. 13.7; the 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, para. 5.9; the 1994 OSCE Budapest Summit Declaration, para. 7; the 2002 Decisions of the Tenth Meeting of the Ministerial Council, Porto, Decision on Tolerance and Non-Discrimination, condemning "in strongest terms all manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism, as well as hate speech and occurrences of discrimination based on religion or belief".

⁴¹ The ECRI's approach is to monitor phenomena of racism and racial discrimination by closely examining the situation in each of the member states of the Council of Europe and drawing up reports containing its analyses with recommendations as to how each country might deal with the problems identified.

The *Notes Verbales* requested information on criminal legislation relevant to hate crimes, including an indication of which types of racist act were defined as criminal offences. The majority of states that responded could point to at least some relevant provisions in their criminal laws, most commonly on incitement to hatred on one or more grounds, reflecting their obligations under Article 4(a) of the ICERD. For example, Section 151 of the Estonian Criminal Code prohibits activities that publicly incite to hatred or violence on the basis of nationality, race, colour, sex, language, origin, religion, political opinion, or financial or social status. Other examples include Italian Law No. 205/1993 prohibiting the dissemination of ideas based on superiority or racial and ethnic discrimination, as well as incitement to commit discriminatory acts for racial, ethnic, national, or religious reasons, and Article 164 of the Kazakh Criminal Code on “incitement to social, national, tribal, racial or religious enmity”. In general, it is a requirement that the incitement occur publicly (e.g., Austria, Belgium, Croatia, Cyprus, Estonia, Greece, Kazakhstan, Liechtenstein, Lithuania, Russia, Slovakia), but some laws do not specify the public nature of the offence (e.g., Azerbaijan, Belarus, Malta) or provide that public incitement is an aggravated form of the offence (e.g., Armenia).

Only Canada and the United States could be said to have a tradition of enacting hate crime legislation as such, although the term is increasingly used in the United Kingdom. The concept of hate crime is variously defined but in essence encompasses a criminal act against a person or property with a motive based on the victim’s real or perceived race, religion, nationality, or other identifying characteristic. The key difference between hate crimes and other crimes is the role played by these identifying characteristics in motivating the offender. Some states, e.g., Germany and Slovakia, indicated that their legal systems did not have a concept of hate crime but rather of crimes motivated by various forms of intolerance, and this seems to be the general pattern. Ireland stated that the term *hate crime* was not generally used but pointed to the 1989 Prohibition of Incitement to Hatred Act, which criminalizes deeds intended to stir up hatred and provides a definition of hatred in Section 1(1).⁴²

In Canada, Section 319 of the Criminal Code prohibits the incitement or promotion of hatred against an identifiable group. The question of balancing freedom of expression with the prohibition of incitement to hatred has been considered in case law, and Section 319 has been upheld. Section 718.2(a)(i) of the Code makes it an aggravating factor for sentencing purposes where there is evidence that the crime was motivated by bias, prejudice, or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any similar factor. In the United States, 46 states and the District of Columbia have statutory provisions on hate crimes, and nearly all states, adopting various approaches, have enacted legislation targeted specifically at such crimes.⁴³ In addition, many states provide for aggravated sentences in respect of crimes motivated by hatred. Notably, while in the United States *hate speech* is not prohibited due to the First Amendment to the Constitution, which guarantees the right to freedom of speech, in many other countries (e.g., Germany) it is illegal to promote Nazi ideology or to deny the reality of the Holocaust.

⁴² “The Act interprets hatred to be hatred against a group or persons in the State or elsewhere, on account of their race, colour, nationality, religion, ethnic or national origins, membership of traveling community or sexual orientation.”

⁴³ Links to hate crime statutes in all states can be found at: http://www.partnersagainsthate.org/hate_response_database/.

A number of criminal codes (e.g., those of Albania, Bosnia and Herzegovina, Estonia, Kazakhstan, and the Russian Federation) contain provisions on violations of the equality of citizens, which reflect constitutional guarantees and prohibit breaches of the rights and freedoms of citizens on the basis of nationality, race, sex, language, religion, or other status.

Some criminal codes (e.g., Spain, Ukraine, Italy, Azerbaijan) stipulate that the commission of any crime with an ethnic, racial, religious, or other similar motive constitutes a general aggravating factor for sentencing purposes, while others (e.g., France, Portugal, Sweden, Belgium) provide that such a motive may amount to an aggravating factor in relation to specific crimes such as murder. Still others (e.g., Belarus) contain both general and specific aggravating circumstances linked to discriminatory motives. Certain codes (e.g., Denmark, Germany) simply state very generally that the offender's motive may be taken into account when meting out punishment. Some codes (e.g., Estonia) are silent on the issue.

A significant number of states have enacted laws on genocide and crimes against humanity, including persecution on the basis of race, colour, nationality, ethnicity, religion, or other grounds. The 41 OSCE participating States that are parties to the Rome Statute for the International Criminal Court⁴⁴ are obliged to incorporate these offences and other international crimes into their domestic systems.

Other models that combine all or many of the features already mentioned include those of Armenia, where expertise in drafting the Criminal Code of 2003 was provided by the Council of Europe; Spain, which uniquely includes the crime of human cloning with the aim of selecting race; and the United Kingdom, where the 2004 Serious Organized Crime and Police Bill proposes the addition of incitement to religious hatred to the existing regulations.

The requirement under Article 4(b) of the ICERD that states declare illegal and prohibit organizations that promote and incite racial discrimination and make participation in such activities a criminal offence has been fulfilled in some criminal codes, e.g., those of Cyprus and Italy, but other countries, such as Denmark, do not prohibit racist and xenophobic organizations, and, in general, it seems that states have been slow to embrace criminal laws relating to organizations. The same holds true for the criminalization of acts of a racist or xenophobic nature committed through computer systems.

While racism may be defined broadly to include discriminatory grounds such as religion or ethnicity (see, e.g., Malta), many states refer to a broad range of bias types, and some leave this list open. The Swedish Criminal Code, for example, stipulates that aggravating circumstances include cases where a motive for the crime was to aggrieve a person, ethnic group, or some other similar group of people by reason of race, colour, national or ethnic origin, religious belief, or other similar circumstance.

⁴⁴ A/CONF.183/9, 17 July 1998, entered into force 1 July 2000. A list of states parties is available at: <http://www.icc-cpi.int/asp/statesparties.html>.

The EUMC has conducted a study on legal approaches to racist violence in 15 EU member states,⁴⁵ which identifies three dominant approaches within the EU. The first consists of laws to combat National Socialist, fascist, or neo-Nazi ideologies. The second focuses on the civil and legal protection of disadvantaged minorities, with intentional acts of discrimination being covered by criminal law. The third approximates to a hate crime approach, with broad bias categories and crimes motivated by any of these forms of hatred attracting a stiffer sentence.

The First Additional Protocol to the Convention on Cybercrime has so far been ratified by only two states (Albania and Slovenia).

4.4 Recommendations

What emerges from this brief overview is that hate crime, broadly understood, is to a greater or lesser extent a feature of all OSCE participating States' criminal laws even if the concept as such is not recognized. The ECRI notes that the provisions in place are rarely applied, with Section 261 of the Swiss Criminal Code, the implementation of which has been closely monitored, being a notable exception. Thus, one of the biggest challenges is to ensure the consistent implementation of legislation.

Decision No. 4 of the 2003 Maastricht Ministerial Council appears to treat the term *hate crimes* as being synonymous with crimes fuelled by intolerance and discrimination. Neither the Council of Europe nor the EU uses the term *hate crime* in connection with criminal laws concerning serious manifestations of intolerance and discrimination. The term is translated as, for example, *crimes inspirés par la haine*, *Hassdelikten*, or *delitos motivados por el odio*.⁴⁶ Use of the term in a legal, as opposed to a criminological or sociological, context may raise conceptual difficulties for states. This highlights the challenge of defining the concept of hate crime in a manner that is accessible to all states of different legal traditions. Indeed, it raises the question whether hate crime is the appropriate term to use. While it is useful shorthand, the definitional obstacles should not be allowed to detract from the main objective, which, from the ODIHR's perspective, must be to determine which aspects of combating intolerance and discrimination should be governed by criminal law or, more specifically, the special concept embodied by the term *hate crime*, and to assist in strengthening those laws, with a focus on effective implementation.

To achieve its objectives, the ODIHR should offer assistance to participating States in putting in place workable, accessible laws and procedures rather than a compendium of hate crimes, which may look good on the statute book but does not necessarily reflect societal realities or governmental interest in enforcement. It is, moreover, essential to take account of current trends, for example, the tendency to equate hate crime with extremism, and to ensure that legislation does not infringe fundamental freedoms.

⁴⁵ *Op. cit.*, Note 2, *Racist Violence in 15 EU Member States*. See also *Migrants, Minorities and Legislation: Documenting Legal Measures and Remedies against Discrimination in 15 Member States of the European Union*, report submitted by the International Centre for Migration Policy Development on behalf of the EUMC, December 2004.

⁴⁶ See the French, German, and Spanish versions of Ministerial Council Decision 4/03, para. 6.

While the ODIHR has developed an internal working definition of hate crime to facilitate its analysis of information received, the intent is not to attempt to persuade states to embrace a concept or terminology with which many of them are unfamiliar. The ICERD, which notably uses the word *hatred* in its Article 4(a), provides a common minimum standard, while the EU and the ECRI are working to push the boundaries forward to ensure better protection. The EU, and to some extent the ECRI, are aiming at a common criminal law approach to combating racism, racial discrimination, and xenophobia. The OSCE, given its broad membership, is not in a position to advocate a one-size-fits-all approach but is nevertheless uniquely placed to assist in ensuring synchronization of efforts by formulating guidelines for the review and strengthening of legislation.

5. Summary of National Initiatives to Combat Hate Crimes

The impact of hate crimes is devastating to individual victims, entire communities, and, indeed, to the nation as a whole. Hate crimes, however, are being challenged in countless ways ... by prosecutorial agencies, police departments, civil rights advocacy organizations, and others. It is only through the creativity, hard work, and passion of the dedicated individuals who work for these many institutions that we will conquer hate, bias and prejudice.

Nancy Gist
Director, US Bureau of Justice Assistance

This section highlights initiatives implemented on a national basis by OSCE participating States, including tools that promote the recognition, identification, and combating of hate crimes in order to promote good practices and to disseminate lessons learned in the fight against intolerance and discrimination.

5.1 Overview of National Initiatives

Within the ODIHR's *Notes Verbales*, OSCE participating States were requested to provide information on initiatives to combat racist and xenophobic violence at the national level. Thirty-two states provided examples of initiatives, including, *inter alia*, the promotion of multicultural awareness and training, public anti-discrimination campaigns, diversity management in the civil sector, and the establishment of working groups or bodies to investigate and respond to racism, human rights violations, and/or the elimination of discrimination. For the most part, many of these initiatives deal with broader claims of discrimination and inequality rather than the hate crimes dimension of intolerance. While states should take all necessary measures to prevent discrimination in all fields of social life and to provide effective remedies to victims of discrimination, this report highlights only those national initiatives (bodies, education, training) that are specifically targeted at combating hate crimes.

Similarly, many states also referred to the implementation of tolerance education and/or human-rights education within schools and the civil sector. While tolerance education is vital to fostering respect for diversity and to tackling prejudice and discrimination, again, the focus of this section will be on initiatives that deal directly with the hate crimes aspect of intolerance.

The following represents a selective list of practical initiatives aimed at combating hate crimes. The examples have been taken from the responses provided directly by the OSCE states and therefore may not be indicative of all practical initiatives that exist within each of the participating States.

The summary of national initiatives/best practices will be broken down into five categories:

- (1) Data collection, recording, and reporting;
- (2) Training and policy initiatives by law enforcement and judicial officials;
- (3) Specialized bodies/working groups;
- (4) Community outreach/victim protection and assistance; and
- (5) Education to prevent hate crimes.

5.1.1 Data collection, recording, and reporting

- In **Denmark**, the Civil Security Service (PET), in its capacity as the national security and intelligence service, aims to prevent, investigate, and counter operations and activities that pose or may pose a threat to the preservation of Denmark as a free, democratic, and safe country. The PET has been engaged in the development of a system of notification of crimes with potential racist motivation.
- In **France**, the Ministry of Interior and the NGO Conseil Représentatif des Institutions Juives de France, a national federation whose members include more than sixty French Jewish associations, are working together to collect statistics and establish common definitions in relation to violent incidents motivated by anti-Semitism.
- In **Germany**, the annual report of the Office for Protection of the German Constitution gives an overview of politically motivated crimes, under which hate crimes feature. Extensive information is provided on individual groups, organizations, and parties that pursue extremist activities, including through the Internet.
- The tasks of the Federal Commission against Racism in **Switzerland** include the maintenance of documentation on punishment in relation to violations of Art. 261(bis) of the Swiss Criminal Code.
- A Code of Practice on the reporting and recording of racist incidents in the **United Kingdom** sets out ways in which comprehensive systems can be put in place at the local level for this purpose. An evaluation of the impact of this Code of Practice was completed in early 2005.
- The **UK** also produces an annual report on *Racist Incident Monitoring*, which is compiled by the Crown Prosecution Service and contains information on prosecutorial decisions and outcomes in all cases identified as racist incidents.

- Also in the **UK**, the London Metropolitan Police website provides an online service for reporting hate crimes. The service can be used to notify the police of hate crimes or incidents committed in the UK. The information submitted online is sent to a police investigator, who responds to the service user within two working days. The online reporting service allows for the anonymous submission of reports on hate crimes and also provides for a broad and inclusive range of incidents and bias motivations, which are defined as follows:

Hate Crime	Any hate incident that constitutes a criminal offence and that is perceived by the victim or any other person as being motivated by prejudice or hate.
Hate Incident	Any incident, which may or may not constitute a criminal offence, that is perceived by the victim or any other person as being motivated by prejudice or hate.
Racist Incident	Any incident that is perceived to be racist by the victim or any other person.
Homophobic Incident	Any incident that is perceived to be homophobic by the victim or any other person.
Transphobic Incident	Any incident that is perceived to be transphobic by the victim or any other person.
Faith-Related Incident	Any incident that is perceived to be based on prejudice towards, or hatred of, the faith of the victim or so perceived by the victim or any other person.
Sectarian Incident	Any incident that is perceived to be sectarian by the victim or any other person.
Disablist Incident	Any incident that is perceived to be based upon prejudice towards, or hatred of, the victim because of their disability or so perceived by the victim or any other person.

- The **United States** has established a comprehensive database of hate crimes. The 1990 Hate Crimes Statistics Act (HCSA) requires the Department of Justice to acquire data and collect statistics on crimes that “manifest prejudice based on race, religion, sexual orientation or ethnicity” from law enforcement agencies across the country and to publish an annual summary of the findings. In the Violent Crime Control and Law Enforcement Act of 1994, the US Congress expanded coverage of the HCSA to require the Federal Bureau of Investigation to report on crimes based on disability. The HCSA report *Hate Crime Report for 2002* provides a nationwide picture of the extent of the problem of hate violence in the United States.⁴⁷

⁴⁷ The report is available at <http://www.fbi.gov/ucr/hatecrime2002.pdf>.

- Also in the **US**, law enforcement agencies have drafted specific protocols for responding to hate violence on the basis of studies showing that victims are more likely to report a hate crime if they know that a special reporting system has been established by public authorities. These protocols help officers to better identify, report, and respond to hate violence in the course of their activities. It allows them to track hate crimes and respond to them with a higher level of priority. A guide on how to report and respond to hate crime has been produced by the Los Angeles County District Attorney's Office.⁴⁸

5.1.2 Training and policy initiatives by law enforcement and judicial officials

- In **Germany**, the federal police co-operate with the US FBI in investigating extremist homepages in German that originate in the US (where the material is legal).
- In **Luxembourg**, human rights training seminars are provided for police, prison staff, and members of the judiciary especially on how to register and record crimes with a racist motive and on how to bring cases to court under the relevant legislation.
- In **Slovenia**, law enforcement officials have prepared informational tools and material to sensitize police to working within a multicultural society and to increase their knowledge about expressions of intolerance on banners, slogans, etc. at public events. Law enforcement authorities also participated in a Europol working group to prepare an application for exchange of data on seized xenophobic materials.
- In the **United Kingdom**, the UK Association of Chief Police Officers (ACPO) compiled a publication called *ACPO Guide to Identifying and Combating Hate Crime: Breaking the Power of Fear and Hate*, which draws together lessons learned from previous investigations and provides practical advice for front-line officers on how to deal with this form of crime. This document was first published in September 2000 and is now in the process of being updated. The ACPO has also produced an *Operational Guide for the Management of Inter-Ethnic Conflict*. The document encourages the formation of strong links between the police and minority communities in order to build up community intelligence and to provide communication links between the police and community to deal with community tension and reassurance. *A Racist Crime and Harassment Toolkit*, published on the Home Office Crime Reduction website, gives advice to practitioners on the handling of racist incidents. *A Crown Prosecution Manual and Code for Prosecutors* stresses the positive duty of prosecutors to bring evidence of racial motivation to the attention of the courts. Achievement is measured through the Crown Prosecution Service (CPS) scheme for monitoring racist incidents,

⁴⁸ The report is available in English and Spanish at: <http://da.co.la.ca.us/pdf/hatecrimes.pdf>.

which collects data on all racist incidents sent by the police to the CPS for prosecution.

- In July 2003, the **UK's** CPS published a public policy statement on how it tackles racist and religious crime, which makes a commitment to prosecute racist and religious crime fairly, firmly, and robustly. The statement describes how the law works, how decisions on prosecutions are made, and how cases are monitored by the CPS. The policy makes clear to the public that the CPS will not reduce the seriousness of an offence by accepting a guilty plea when there is evidence available to prove a racist or religious motive.
- In the **United States**, a manual on *Responding to Hate Crime: A Multidisciplinary Curriculum for Law Enforcement and Victim Assistance Professionals* for training law enforcement and victim-assistance professionals to deal with hate incidents was developed jointly by the National Center for Hate Crime Prevention, the Education Development Center, and the US Department of Justice Office for Victims of Crime. The manual includes information on recognizing bias crime, victim impact, bias-crime offenders, laws, the roles of law enforcement and victim-assistance professionals, and cultural issues and community strategies for dealing with bias crime. This training manual is targeted specifically at professionals.
- Also in the **US**, the FBI has developed and circulated training materials on how to identify, report, and respond to hate crime. The FBI's *Training Guide for Hate Crime Data Collection* is designed "to assist law enforcement agencies in the task of establishing a hate crime training program for their personnel. It provides suggested model reporting procedures, as well as training aids for sensitizing street officers to the hate crime problem".⁴⁹

5.1.3 Specialized bodies/working groups

OSCE Commitments Related to Specialized Bodies

Decision 621 of the OSCE Permanent Council commits participating States to "examine the possibility of establishing within countries appropriate bodies to promote tolerance and to combat racism, xenophobia, discrimination or related intolerance, including against Muslims, and anti-Semitism".

Of the 42 participating States that responded to the ODIHR's *Notes Verbales*, 22 specified the creation or existence of specialized bodies to monitor or respond to incidents motivated by intolerance. The ODIHR did not receive any information on similar national initiatives from other states.

⁴⁹ For more information, see <http://www.fbi.gov/ucr/trainingd99.pdf>.

Many countries have chosen existing bodies such as human rights commissions/offices and foreign ministries to deal with hate-motivated intolerance as part of their broader mandate of general anti-discrimination and equality issues. Ombudsman offices have been established by various states (Albania, Finland, Ireland, Lithuania, Norway, Slovakia, and Slovenia) as a mechanism to respond to and investigate complaints of rights violations, including those committed by state and other public authorities. Serbia and Montenegro has established a specific secretariat for Roma National Strategy (2003) in co-operation with the ODIHR.

Several OSCE participating States have established specialized bodies to deal directly and specifically with intolerance motivated by hate and bias, as opposed to general discrimination and equality issues:

- In the **Czech Republic**, an Inter-Ministerial Commission on the Fight Against Extremism, Racism and Xenophobia was established in 2001 as an advisory body to the interior minister. Planned activities include the establishment of a national hotline for Internet users to report websites with racist, anti-Semitic, or other hostile content and the organization of a workshop with experts from foreign police forces on the identification and prosecution of racist, anti-Semitic, and other hostile propaganda on the Internet.
- The Dutch National Bureau Against Racial Discrimination in the **Netherlands**, which, through its team of information advisors, documentation specialists, legal advisors, policy advisors, and researchers and its documentation and information centre, provides support to individuals and organizations.
- In **Ireland**, the Garda Racial and Intercultural Office is responsible for advising, monitoring, and co-ordinating police activity with respect to racial, ethnic, religious, and cultural diversity and is currently developing a recording mechanism to collect data concerning racially motivated incidents. The National Consultative Committee on Racism and Interculturalism (NCCRI) is an independent expert and partnership body providing advice and technical assistance to governmental and non-governmental organizations to enable them to implement anti-racism and intercultural strategies. The NCCRI also played a key role in the preparatory and consultative phases of the National Action Plan Against Racism for Ireland.
- In **Slovakia**, the Monitoring Centre for Racism and Xenophobia, within the structure of the Police Presidium, monitors criminal offences connected with extremism. In addition, the Commission for Co-ordination of the Procedure of Elimination of Racially Motivated Crimes, which is composed of representatives from the Interior Ministry and Police Corps, and representatives of the Public Prosecution Office and NGOs, has been mandated to exchange information on racially motivated crimes with a focus on all forms of violence, and co-ordinates action in eliminating all forms of racial discrimination.
- The Observatory for Racism and Xenophobia in **Spain** monitors the occurrence of racist and xenophobic incidents and the re-emergence

of discriminatory attitudes, especially towards Roma, North Africans, Muslims, and Latin Americans.

- The Permanent Special Commission against Racial Discrimination in **Luxembourg** is responsible for receiving and examining complaints by people who claim to have suffered racial discrimination and for developing projects and programmes particularly in the spheres of education, cultural and social activities, and public staff training, with a view to fostering mutual understanding among the various communities in Luxembourg.

Two examples of specialized bodies dealing with religious communities and intolerance issues were also cited in the responses to the *Notes Verbales*. In **Slovenia**, the Governmental Office for Minorities and Religious Communities deals with tolerance and non-discrimination issues, including anti-Semitism; **Sweden** has established a council for the different religious bodies in Sweden that meets five times a year.

Only a limited number of states have developed mechanisms for facilitating inter-agency collaboration that enable them to deal proactively with the phenomenon of hate crimes. Most notably, the **United States, France, and the United Kingdom** collect police statistics on incidents and violent manifestations of racism, xenophobia, and other forms of intolerance. Extensive data has been made available publicly, including breakdowns of incidents according to region, type of bias motivation, and perpetrator. The **US** Department of Justice provides an example of a comprehensive strategy to address hate crimes through funding an independent database on hate crimes; a Community Relations Service responsible for preventing and resolving community conflicts arising from differences of race, colour, and national origin; and policies for law enforcement agencies to address hate violence. In **France**, the Inter-Ministerial Committee to Combat Racism and Anti-Semitism has undertaken various initiatives to combat hate crimes, including the enactment of legislation that enables the disabling of satellite broadcasts whose content is vehemently anti-Semitic. Millions of euros have been spent on reinforcing the security of those sites that are vulnerable to violence: synagogues, schools, and other meeting places. A prosecutor-general has been assigned to monitor racist and anti-Semitic incidents and to inform victims and relevant associations about follow-up to such prosecutions. The **UK** also closely monitors racist incidents, including institutional racism, through the creation of several agencies within government departments that undertake targeted training for law enforcement and develop procedures for the handling and review of racist incidents. A Racist Incidents sub-group was set up under the Lawrence Steering Group, with membership from all the agencies with responsibility for handling racist incidents, as well as two independent members. The team is mandated to “review procedures for the handling of racist incidents to ensure that they meet the needs of victims, encourage reporting, and promote community cohesion”.

Overall, specialized bodies established to combat intolerance and incidents motivated by hate tend to consist of governmental agencies. Responses to combating intolerance could be improved through closer collaboration with civil society, such as in the case of **Ireland’s** National Consultative Committee on Racism and Interculturalism, which brings together both governmental and non-governmental organizations.

Many of these bodies perform reporting functions, deliver human rights reports, or examine human rights complaints. Other bodies conduct a combination of general public educational and awareness initiatives or targeted training for groups such as law enforcement and public officials.

Internet hate presents a relatively new area for monitoring, and exceptional practical initiatives in this area include the plans of the **Czech Republic's** Inter-Ministerial Commission on the Fight Against Extremism, Racism and Xenophobia to conduct workshops with foreign police experts on Internet hate and to create a hotline for Internet users to report websites with racist or hostile content, as well as the Complaints Bureau for Discrimination on the Internet in the **Netherlands**, which screens complaints about discriminatory expression based on a range of bias motivations, including ethnicity, colour, gender, and sexual orientation.

Overall, the data-collection activities being undertaken by specialized bodies are inadequate. Exceptions to this are the **US** and the **UK**, which collect extensive data through collaboration with police departments, and **Denmark**, where a system of notification to the Danish Civil Security Service has been set up regarding crimes with potential racist motivation. In addition to inadequate data-collection mechanisms, there appears to be an absence of specialized bodies mandated to oversee the implementation of legal obligations concerning intolerance and hate-motivated crimes.

5.1.4 Community outreach initiatives/victim protection and assistance

The Garda Victims Charter in **Ireland** outlines police commitments with regard to the victims of crime, which include the provision of free translation services for those unable to communicate fluently in English or Irish. In March 2002, the Racial and Intercultural Office announced that 145 Garda ethnic liaison officers were being appointed across the country and were being trained in how to deal with victims of racism. These officers will also be proactive in liaising with community and voluntary groups working closely with minority ethnic groups in their area. *Your Police Service in Intercultural Ireland* aims to provide a source of information for all minorities in Ireland in order to facilitate an understanding of the role of the police. The booklet gives a brief guide to the police service, those aspects of Irish law that affect people in their daily lives, what people can expect if they have a complaint to make, and what structures exist to deal with such complaints.

In the **UK**, the Lawrence Steering Group has developed a Community Involvement Strategy to communicate its work to minority ethnic communities and to get their input into policy formulation. Planned workshops cover a range of issues, including racist incidents.

In **Serbia and Montenegro**, the Ministry of Interior of the Republic of Serbia is co-operating with a public company in Belgrade that employs a large number of Roma in order to combat racist and skinhead activities aimed at the company's employees.

5.1.5 Education/prevention of hate crimes

In **France**, the Criminal Code provides that perpetrators of hate crimes may be assigned to undertake civic education workshops or internships at the sentencing judge's discretion. After the French

Government withdrew two educational publications from schools over concerns that the contents were likely to generate anti-Jewish attitudes among pupils, chief school inspectors were assigned to pay close attention to the content of all educational publications. A request has also been put forth for an internal review body to be set up among publishers of school textbooks.

Teachers in **Liechtenstein** are provided with a comprehensive catalogue of media material on racism and violence. The internal rules of various schools prohibit the wearing of racist emblems or clothing that promotes racist identification.

The **US** Department of Justice's Office of Juvenile Justice and Delinquency Prevention has been providing funding since 1992 for the development of programmes directed towards promoting outreach, public education, and training to combat hate crimes. These actions are part of each state's plan for preventing juvenile delinquency.

Partners Against Hate⁵⁰ is a programme created under the partnership of several organizations, including the Anti-Defamation League (ADL), the Centre for the Prevention of Hate Violence, and the Leadership Conference on Civil Rights Education. The programme is aimed at increasing public awareness; providing effective hate crime prevention and intervention strategies, training, and technical assistance for law enforcement agencies, educators, religious and community leaders, parents, and youth; and helping individuals working with youth to embrace the potential of advanced communications technologies. Partners Against Hate was established because "an alarming and disproportionately high percentage (33%) of both victims of hate violence and perpetrators are young people under 18 years of age". The website of the Partners Against Hate programme highlights four examples of effective programmes:

- (a) Peer Assistance Leadership Program;
- (b) Student Leaders Project;
- (c) The Maine Department of the Attorney General's Civil Rights Team Project; and
- (d) *A World of Difference* Institute Peer Leadership Program.

The **US** Department of Education includes, as a result of the Elementary and Secondary Education Act, an initiative for the prevention of hate crimes that promotes curriculum development and training and development for teachers and administrators on the cause, effects, and resolution of hate crime or hate-based conflicts. The Department of Education, through its Office of Civil Rights, published a guide for schools called *Protecting Students from Harassment and Hate Crimes: A Guide for Schools*.⁵¹ The guide aims to provide elementary and secondary schools with practical guidance to help protect students from harassment and violence based on race, colour, national origin, sex, or disability. The laws enforced by the US Department of Education protect students from discrimination on these bases. The guide may also be of assistance in protecting students from harassment based on sexual orientation, religion, or other grounds that are covered by state or local laws or that schools recognize as particularly damaging to their students.

⁵⁰ <http://www.partnersagainsthate.org>.

⁵¹ <http://www.ed.gov/offices/OCR/archives/Harassment/index.html>.

6. Strengthening the Response to Hate Crimes: ODIHR Activities in 2004-2005

This day [the 60th anniversary of the liberation of Auschwitz-Birkenau] is an important reminder to all of us to follow our commitment to combat anti-Semitism, racism, and all other forms of hate-motivated crimes and to strengthen civil society to assist in this task. I want to assure you of the ODIHR's devotion to this endeavour.

Address by Ambassador Christian Strohal to the 542nd Meeting
of the Permanent Council, Vienna, 27 January 2005

The ODIHR has been working to assist states in strengthening their response to hate crimes. During the course of 2004 and 2005, the ODIHR's Tolerance and Non-Discrimination Programme has focused its activities on three main areas:

- 1) Serving as a collection point for statistics, legislation, and best practices of OSCE states related to hate crimes, and reporting on participating States' efforts to combat hate crimes;
- 2) Strengthening international co-operation and co-ordination in collecting data on hate crimes; and
- 3) Developing specific programmes aimed at combating hate crimes.

6.1 Serving as a Collection Point for Statistics, Legislation, and Best Practices, and Reporting on Participating States' Efforts to Combat Hate Crimes

This report is a result of the ODIHR's requests for information on legislation, statistics, and national initiatives related to hate crimes from the 55 participating States of the OSCE. It aims to serve as a preliminary overview of the information and data received with a view to guiding the ODIHR's future reporting activities. The ability of the ODIHR to report on hate crimes is contingent upon the quality of the information it receives from the participating States. On the basis of the gaps and divergences in the information received, the ODIHR has formulated recommendations for participating States on how to improve data collection and reporting, and

it has also identified several priority areas where the ODIHR can assist states in this endeavour. These recommendations include the establishment of mechanisms to facilitate closer co-operation and co-ordination with nominated contact points in each of the OSCE participating States in order to establish sources of information. In addition, the ODIHR will develop a template in collaboration with the national contact points and international organizations, particularly the EUMC, to facilitate the collection of data that is consistent and standardized.

6.2 Strengthening International Co-operation and Co-ordination

Given the role of the European Commission against Racism and Intolerance (ECRI), the European Monitoring Centre on Racism and Xenophobia (EUMC), the UN Committee on the Elimination of Racial Discrimination (UNCERD), and the UN Office of the High Commissioner for Human Rights (UNOHCHR) in combating racism, xenophobia, anti-Semitism, and other forms of discrimination, a major focus of the ODIHR has been to identify ways to increase co-operation and information-sharing, particularly in the area of reporting.

During 2004, the ODIHR published a *Comparative Study on International Action Against Racism, Xenophobia, Anti-Semitism and Intolerance in the OSCE Region* in order to obtain a full understanding of the mandate and activities of the ECRI, EUMC, and UNCERD/UNOHCHR. The study explores ways in which the ODIHR can assume a role that does not unnecessarily duplicate the work already being done by others but that builds on existing efforts. The study examines the mandates and structures of each organization, their monitoring and reporting methodology, mechanisms for co-ordination with international organizations and NGOs, and the challenges they face. The study also considers the role and added value of the OSCE in the area of combating racism, xenophobia, anti-Semitism, and intolerance, and it makes recommendations regarding specific areas where the ODIHR can complement existing efforts and activities of the ECRI, the EUMC, and the UNCERD/UNOHCHR. The study was presented at the OSCE Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination on 13-14 September 2004 in Brussels.

In order to facilitate increased inter-agency co-operation, the ODIHR also conducted two different report-mapping exercises to obtain information on available ECRI, EUMC, and UNCERD/UNOHCHR reports and data for countries in the OSCE area and to prevent duplicative and overlapping requests for information with the other international organizations.

(i) **Scope of Reporting:** The first mapping exercise outlined the scope of reporting on the various states. At the time of this exercise, no reports existed for seven OSCE participating States, including Bosnia and Herzegovina,⁵² the Holy See, Kyrgyzstan, Latvia, Monaco, Turkmenistan, and Uzbekistan. In addition, the last reports for seven OSCE participating States, including Croatia, Cyprus, Estonia, Liechtenstein, Malta, Poland, and the Russian Federation, were published approximately 4-5 years ago. These findings suggest an under-reporting by specific states, particularly those states that are not members of the European Union.

⁵² Bosnia and Herzegovina has subsequently been covered in the ECRI's *Third Report on Racism, Xenophobia, anti-Semitism, and Intolerance*, along with Austria, France, Turkey, and the former Yugoslav Republic of Macedonia (15 February 2005).

(ii) **Reporting Cycles:** The second mapping exercise assessed the frequency of requests for information made to states by the ECRI, EUMC, UNCERD, and the UNOHCHR's Anti-Discrimination Unit, as well as the reporting cycles of the respective organizations (see the table below).

	ECRI	EUMC	UNCERD	OHCHR (ADU)
FREQUENCY OF REQUESTS	4-5 years	Annual	In principle, every 2 years; in practice, every 4-5 years	Every six months
TYPES OF INFORMATION	Country visit; state observations	Information and statistics from states via national focal points and Raxen	State reports; presence at examination of report	6-month update of implementation activities regarding the follow-up to the World Conference Against Racism
FREQUENCY OF REPORTS	4-5 years	Annual	In principle, every 2 years; in practice, every 4-5 years	Annual
NUMBER OF COUNTRIES	45	25	169	194

This exercise demonstrated that, **over a five-year period, states that are members of the three international organizations and that have ratified the UN International Convention on the Elimination of Racial Discrimination can expect to be asked to report or provide input at least 17 times and to participate in at least six country visits/roundtables.** The findings underlined the need for increased co-operation between the different international organizations in co-ordinating requests for information, reports, roundtables, and state visits. The need for OSCE participating States, particularly those that are members of the European Union and Council of Europe, to be proactive in providing all organizations with the same information was also highlighted.

On 3 September 2004, a high-level inter-agency meeting between the organizations was convened in Vienna, where the comparative study and results of the report-mapping exercises were presented and several concrete recommendations were made about ways to co-ordinate data collection among the different organizations. From the ODIHR's report-mapping exercises, it was clear that each organization requests different kinds of information, for different purposes, in different formats, with different levels of involvement from states. In order to improve the response rate and the quality of those responses, preliminary recommendations were made that highlighted the need to explore possible methods of:

- Streamlining or possibly co-ordinating requests for information and reports, roundtables, and state visits;
- Pooling raw information collected, where possible; and
- Gathering together, comparing and contrasting recommendations from the various bodies in order to use overlap to support implementation.

A high-level inter-agency follow-up meeting between the ODIHR, the ECRI, the EUMC, and the UNCERD/UNOHCHR took place in September 2005 in order to discuss how these recommendations could be operationalized.

6.3 Developing Specific Programmes and Tools Aimed at Combating Hate Crimes

The ODIHR is in the process of developing programmes to combat hate crimes in three key areas: (a) civil society capacity-building; (b) law enforcement training; and (c) legislative assistance. In addition to these programmes, the ODIHR is working with the three Personal Representatives of the CiO⁵³ who will use their high-profile role to bring greater attention and awareness to the issues surrounding hate-motivated crimes and incidents.

6.3.1 Civil society capacity-building

A key element in increasing data collection on hate crimes relates to civil society in particular. The ODIHR has developed a programme that is designed to increase the capacity of civil society within the OSCE region to monitor and report on hate crimes and violent manifestations of racism, xenophobia, anti-Semitism, and other forms of intolerance, including against Muslims. Manifestations of intolerance through media such as the Internet will also be addressed. The programme will contribute to the establishment of objective monitoring and credible reporting on incidents; co-operation of civil society at the local, regional, and national level in order to increase resources and knowledge; and the development of partnerships between civil society and state authorities. Another result of the programme will be the extension of the ODIHR's existing network of civil society actors to encompass a broader geographical and topical range so that it can draw upon non-governmental information sources in a balanced and credible way.

6.3.2 Law enforcement training

In 2004, the OSCE Permanent Council adopted Decisions No. 607 and 621, which committed OSCE participating States to consider establishing training programmes for law enforcement officials on legislation and enforcement of legislation relating to hate crimes and to encourage the development of informal exchanges among experts in appropriate fora on best practices and experiences in law enforcement. In order to support implementation of these commitments, the

⁵³ Three Personal Representatives of the OSCE Chairman-in-Office were appointed in December 2004. Professor Gert Weisskirchen was appointed as Personal Representative on Combating anti-Semitism; Ambassador Ömür Orhun was appointed as Personal Representative on Combating Intolerance and Discrimination against Muslims; and Ms. Anastasia Crickley was appointed as Personal Representative on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions.

ODIHR initiated the Law Enforcement Officer Programme on Combating Hate Crime with the National Public Safety Strategy Group and the American Jewish Committee.

The programme aims to increase the capacity of law enforcement officers to identify hate crimes and to be able to mobilize appropriate resources, including community and NGO resources to assist victims and victim communities. The programme was developed by and for law enforcement officials and was customized and adapted to the specific needs of the OSCE states where it was implemented. The programme consisted of four stages:

- 1) Comprehensive country-assessment visits consisting of roundtable discussions with government officials, senior command and front-line law enforcement officers, heads of training academies and civil society and community representatives in order to ensure that the training programme is customized and adapted to the needs of the police and affected communities;
- 2) Establishment of an expert cadre of law enforcement trainers in the area of hate crimes;
- 3) Development of an international curriculum for training enforcement officers on combating hate crimes; and
- 4) Implementation of pilot training in two OSCE participating States.

The first phase of the programme included the development of an electronic repository of good practices of officers, agencies, and organizations in response to hate crimes in the OSCE region, as well as policies and documentation solicited directly from law enforcement organizations. The final analysed version of good practices and tools will be made publicly available in the ODIHR's database on tolerance and non-discrimination. The database, which will be made available through the ODIHR website in late 2005, is a collection point for information from various resources and will serve as a tool for the ODIHR, OSCE participating States, and civil society to access relevant and reliable information. The database will provide access to:

- General information about tolerance and non-discrimination in the OSCE region, including NGO reports and information;
- Practical initiatives to promote tolerance and non-discrimination;
- Country profiles for OSCE participating States, with easy access to information about legislation, statistics, national specialized bodies, practical initiatives, etc.; and
- Existing statistics on hate crimes and other relevant resources.

Based on the identified good practices of OSCE participating States, an expert cadre of law enforcement officers from six states (Canada, France, Hungary, Spain, the United Kingdom, and the United States) specialized in hate crimes training was established. The officers participated in the development and delivery of the training curriculum for the pilot training implemented in Hungary and Spain in May 2005. The experts also participated in the development of a form for reporting incidents of hate crime, which was included as part of the training programme and which is annexed to this report. The incident report form is intended to facilitate the implementation of a consistent process for law enforcement officials to collect and disseminate data, which is crucial for identifying trends, emerging issues, and groups involved in hate crimes.

6.3.3 Hate crime reporting template for police officers

A template for reporting hate crimes has been developed for police officers by the implementing team of the ODIHR Law Enforcement Officer Programme (see Annex D). The incident reporting form, which was developed by law enforcement officers with expertise in collecting data on hate crimes, recognizes that if a police incident report does not record a bias element of a crime (should one be present), then the offence is unlikely to be classified as a hate crime. As such, the incident template has been developed for use by front-line officers and is recommended as a tool for improving the accuracy and comprehensiveness of reporting on hate crime.

6.3.4 Legislative assistance

A programme has been developed to support OSCE participating States in meeting their OSCE commitments and international obligations with respect to domestic legislation to combat hate crimes. The aim of the programme is to formulate and publish guidelines for reviewing legislation on hate crime to be followed by legislative reviews based on these guidelines. To that end, a network of legal specialists on hate crime will be identified. The programme will aim to address the following problems:

- 1) The fact that there is no common concept of hate crime among states of different legal traditions and therefore no consistency in terms of definitions or scope;
- 2) The trend to equate the fight against extremism with the fight against hate crime, which creates a risk that selective prosecutorial tools will be put in place that infringe fundamental freedoms such as expression, association, and assembly;
- 3) The fact that legislation related to hate crimes is insufficiently implemented; and
- 4) The fact that the burden of proof in hate crime cases is difficult to satisfy and therefore prosecutions are often unsuccessful.

The programme will support the Law Enforcement Officer Programme on Combating Hate Crime by ensuring a comprehensive approach to combating hate crime from the police through to lawyers and judges. Furthermore, the network of experts will provide a forum for discussing legislative developments and trends, as well as strategies for addressing them.

7. Conclusions and Recommendations

The following recommendations aim to provide OSCE participating States with suggestions and advice concerning their efforts to implement their commitments in the area of tolerance and non-discrimination. The recommendations are action-oriented in that they not only identify *what* measures need to be taken but also provide guidance in *how* such measures can be implemented. In this regard, the recommendations, particularly the identified areas for the ODIHR, point to tools and programmes that exist to support OSCE states in implementing their commitments. The recommendations target four key areas: (1) data collection; (2) legislation; (3) law enforcement; and (4) specialized bodies and civil society.

7.1 Data Collection

Recognizing that comprehensive data collection will enhance knowledge of the nature and extent of hate crimes and provide the necessary tools for participating States to develop targeted activities to prevent such crimes,

Emphasizing the key role of law enforcement officials in collecting data on hate crimes and incidents and underlining that a consistent data-collection and dissemination process for law enforcement officials is crucial in order for officials to identify trends, emerging issues, and groups involved in hate crimes,

Recalling the commitment of OSCE participating States under the Maastricht Ministerial Council Decision 4/03 *“to collect and keep records on reliable information and statistics on hate crimes, including on forms of violent manifestations of racism, xenophobia, discrimination, and anti-Semitism”*,

Recalling the task given to the ODIHR under the Maastricht and Sofia Ministerial Council Decisions *“to serve as a collection point for information and statistics collected by participating States, and with reporting regularly on its findings to the PC and HDIM and make its findings public”*,

The ODIHR recommends that participating States should:

- 1) Enact legislation requiring the relevant national criminal justice authorities to record and report on incidents motivated by hate or bias at the local and national level;

- 2) Utilize the template developed by the ODIHR's hate crimes experts in order to further strengthen the capacity of law enforcement officers to identify and report on hate crimes and incidents (see Annex D for the template);
- 3) Strengthen existing methodologies for identifying and monitoring hate crimes and incidents and for the collection of data on the types of crime or incident, perpetrators and victims, as well as the legal or other follow-up to the crime, including prosecution and length of sentences;
- 4) Develop a harmonized and consolidated approach to the collection of data on hate crimes by relevant local governmental authorities and bodies in order to facilitate the collection of data and statistics on hate crime at the national level;
- 5) Strengthen their efforts to establish specific mechanisms for registering, recording, and publicly reporting on hate crimes, including official databases and annual reports;
- 6) In order to enhance the quality of data, classify data according to:
 - i) Bias motivations (such as race, ethnicity, sex, religion, sexual orientation, disability, age, etc.);
 - ii) Target groups within each of the preceding categories (Muslims, Jews, Asians, etc.);
 - iii) Type of offence or incident (physical assault, murder, destruction of property, etc.);
- 7) Nominate appropriate national contact points to gather and send to the ODIHR updated and regular information on hate crime statistics and legislation and relevant national initiatives to combat hate crime, and to be available to respond to queries in relation to this information.

Activities for the ODIHR:

- 1) The ODIHR will organize a meeting with experts on the collection of data on hate crimes and with nominated contact points from OSCE participating States looking to improve their data-collection methodologies. Such a meeting will enable the exchange of good practices and aim to: (1) identify common criteria in hate crime data collection; (2) identify common language and terminology needed to build a coherent data-collection and dissemination process; and (3) identify opportunities that exist for a consistent data-collection process among participating States;
- 2) The ODIHR, in collaboration with the EUMC and the nominated national contact points, will develop a standardized template for use by OSCE states when submitting hate crimes statistics and good practices;

- 3) The ODIHR will arrange a meeting with the nominated contact points in order to discuss the standardized template and to develop general guidelines for the collection and provision of data on hate crimes to the ODIHR;
- 4) The ODIHR will hold a second high-level inter-agency meeting with the ECRI, the EUMC, and the UNCERD/UNOHCHR in order to further strengthen co-operation and co-ordination in data collection and to discuss joint efforts to support states in improving the quality and reliability of the data and statistics;
- 5) The ODIHR will work in co-operation with other international governmental organizations to develop common standards and indicators with regard to terminology (e.g., definitions of *good practice* and *incident*) in order to improve the consistency and comparability of data collected.

7.2 Legislation

Recognizing the specificities and different legal traditions and approaches of OSCE participating States in dealing with the concept of hate-motivated crimes,

Recalling the Maastricht Ministerial Council Decision 4/03, which *“recognized the importance of legislation to combat hate crimes and committed participating States to inform the ODIHR about existing legislation regarding crimes fuelled by intolerance and discrimination, and where appropriate, seek the ODIHR’s assistance in the drafting and review of such legislation”*,

The ODIHR recommends that participating States should:

- 1) Enact legislation requiring the relevant national criminal justice authorities to record and report on incidents motivated by hate or bias at the local and national level;
- 2) Provide the ODIHR with any missing or updated legislation with reference to the attached table to assist it in completing its tasks;
- 3) Implement ECRI Policy Recommendation No. 1 on combating racism, xenophobia, anti-Semitism and intolerance, and ECRI Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination;
- 4) Implement country-specific ECRI recommendations related to offences of a racist or xenophobic nature;
- 5) Seek the ODIHR’s assistance in the drafting and review of legislation. The Personal Representatives of the CiO will follow up with participating States that do not have adequate legislation to address hate-motivated crimes and will encourage them to seek the support of the ODIHR in drafting and reviewing their laws;

- 6) Following the re-opening of the process by the Luxembourg Presidency, EU member states are urged to continue efforts to negotiate and adopt the draft Framework Decision on Combating Racism and Xenophobia, which aims to harmonize criminal law across the EU and strengthen legal co-operation. Such a decision may also serve as a model for legislation in all OSCE participating States.

Activities for the ODIHR:

- 1) The ODIHR will organize a meeting of legal experts to hold a conceptual discussion on hate crime and the different approaches of participating States with a view to agreeing on a common OSCE conception of the phenomenon that needs to be addressed by legislation;
- 2) The ODIHR will undertake efforts to provide support to states in strengthening their legislation by producing guidelines for the review of legislation and by conducting legislative reviews;
- 3) The ODIHR will build upon the Law Enforcement Officer Programme on Combating Hate Crime by exploring the possibility of initiating training schemes for prosecutors and judges focused on the effective implementation of legislation on hate crime.

7.3 Law Enforcement

Recognizing the crucial role of law enforcement officers as often the first response to hate crimes and the need therefore for increased training in order to improve their capacity to effectively and accurately identify, investigate, respond to, and report on hate-motivated crime and to mobilize community and NGO resources to assist victims and victim communities,

Recognizing that hate crimes can be trans-border in nature and therefore require states, regional authorities, and organizations mandated to fight hate crime to understand the scope and magnitude of the problem in order to develop effective and collaborative approaches to combat the spread of hate crimes and ideologies throughout the OSCE region,

Recalling the commitment of OSCE participating States under the Maastricht and Sofia Ministerial Council Decisions *"to consider establishing training programmes for law enforcement and judicial officials on legislation and enforcement of legislation related to hate crimes and to encourage the development of informal exchanges among experts in appropriate fora on best practices and experiences in law enforcement"*,

Recalling the task given to the ODIHR under the Maastricht and Sofia Ministerial Council Decisions *"to offer advice to participating States in their efforts to fight racism, xenophobia, anti-Semitism, discrimination and other forms of intolerance, including against Muslims"*,

The ODIHR recommends that participating States should:

- 1) Make use of the curriculum developed by the ODIHR Law Enforcement Officer Programme on Combating Hate Crime and to determine whether their current activities address the full spectrum of hate crimes and activities of organized hate groups;
- 2) Use the ODIHR's Law Enforcement Officer Programme on Combating Hate Crime in order to strengthen the response of law enforcement authorities to hate-motivated crimes;
- 3) Use, where applicable, the template developed by law enforcement experts as part of the ODIHR's Law Enforcement Officer Programme on Combating Hate Crime (see Annex D for the template);
- 4) Encourage information- and knowledge-sharing, including the exchange of good practices, between their law enforcement agencies and other participating States within the OSCE on the issue of hate crime;
- 5) Encourage the engagement of NGOs in resolving community tension and in problem-solving as a partner with the law enforcement community.

Activities for the ODIHR:

- 1) The ODIHR will continue to implement its Law Enforcement Officer Programme on Combating Hate Crime in other OSCE participating States, where requested. The ability of the ODIHR to do so is contingent upon receiving additional extrabudgetary funds;
- 2) The ODIHR will facilitate the establishment of a task force on combating hate crimes, which would bring together the ODIHR's hate crimes law enforcement experts with other experts in related fields (legislation, education, data collection, judiciary, prosecutorial) in order to ensure a comprehensive, multi-dimensional, and trans-border approach to efforts to combat hate crimes across the OSCE region. Such a task force could serve as an expert advisory body to the ODIHR and the OSCE participating States.

7.4 Specialized Bodies and Civil Society

Recognizing the important role of specialized bodies and civil society in monitoring, reporting on, and following up hate-motivated incidents and underlining the importance of establishing close partnership with law enforcement and judicial officials and affected communities,

Recognizing the important role of civil society in supporting efforts to collect information on hate crimes and the need for further programmes to provide additional support to civil society in its efforts,

Recalling the commitment of OSCE participating States under the Sofia Ministerial Council Decisions *“to examine the possibility of establishing within countries appropriate bodies to promote tolerance and to combat racism, xenophobia, discrimination or related intolerance, including against Muslims and anti-Semitism”*,

Recalling the task given to the ODIHR under the Sofia Ministerial Council Decisions *“to support the ability of civil society and the development of partnerships to address racism, xenophobia, discrimination or related intolerance, including against Muslims and anti-Semitism,*

The ODIHR recommends that participating States should:

- 1) Implement ECRI Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination;
- 2) Consider the establishment of specialized bodies to respond specifically to cases of hate crime and provide support to affected communities in monitoring and investigating such cases;
- 3) Encourage existing bodies to work in close collaboration with law enforcement and judicial authorities and representatives of civil society, specifically those representing communities targeted by hate crime, in order to support effective response and follow-up to hate-motivated crimes;
- 4) Encourage specialized bodies to explore the possibility of undertaking activities to prevent hate crime through sensitization and awareness-raising programmes addressed to the wider public;
- 5) Explore collaboration with civil society as a method to improve recognition of, and responses to, hate crimes (community outreach and dialogue, joint monitoring bodies); and
- 6) Consider the possibility of providing sustainable support (political, financial, and structural) for institutions and organizations willing to establish complaints and monitoring offices for hate crimes.

Activities for the ODIHR:

- 1) Through its programme on Civil Society Capacity Building to combat hate crimes and violent manifestations of racism, xenophobia, anti-Semitism and other forms of intolerance, including against Muslims, the ODIHR will undertake efforts to:
 - i) Increase the capacity of civil society to establish sound monitoring and credible reporting capacities on hate-motivated incidents;

- ii) Promote co-operation within civil society on the local, regional, and national levels in order to increase their resources and knowledge and therefore improve the impact of their activities; and
 - iii) Support the efforts of civil society representatives to develop partnerships with state authorities in combating hate crimes.
- 2) The ODIHR will support the dissemination of the observations, findings, and practices of civil society representatives in the area of hate crimes by:
 - i) Offering a communication platform through the ODIHR's database on tolerance and non-discrimination; and
 - ii) Engaging in regular consultations between the three Personal Representatives of the Chairman-in-Office on tolerance and non-discrimination and representatives of civil society.

Annex A

ODIHR *Notes Verbales* to the OSCE Participating States

Note Verbale: 39/2004

ODIHR.GAL/5/04

28 January 2004

ENGLISH only



Office for Democratic Institutions and Human Rights

39/2004

Note Verbale

The OSCE Office for Democratic Institutions and Human Rights presents its compliments to the Delegations of the OSCE participating States and has the honor to draw to their attention Decision No. 4/03 on Tolerance and Non-Discrimination, adopted by the Ministerial Council in Maastricht on 2 December, 2003.

In this Decision the Ministerial Council “encourages all participating States to collect and keep records on reliable information and statistics on hate crimes, including on forms of violent manifestations of racism, xenophobia, discrimination and anti-Semitism....(para 6)” In addition, the Ministerial Council noted that “[r]ecognizing the importance of legislation to combat hate crimes, participating States will inform the ODIHR about existing legislation regarding crimes fuelled by intolerance and discrimination, and, where appropriate, seek the ODIHR’s assistance in the drafting and review of such legislation. (para 6)”

The Ministerial Council tasked the ODIHR, in full co-operation with the United Nations Committee on the Elimination of Racial Discrimination (UNCERD) the Council of Europe’s European Commission on Racism and Intolerance (ECRI), and the EU Monitoring Centre on Racism and Xenophobia (EUMC), as well as with relevant NGOs, with “serving as a collection point for information and statistics collected by participating States, and with reporting regularly on these issues...as a basis for deciding on priorities for future work.”

In order to begin implementation of its newly mandated tasks under this Decision, the ODIHR therefore invites participating States to forward as soon as possible all pertinent and reliable information, including statistics where available, on hate crimes. Information concerning existing relevant criminal legislation should be provided – in particular which type of racist acts are defined as criminal offences. In addition, the ODIHR would like to receive all the information collected on racist and xenophobic violence and crimes and on initiatives to combat them at the

national level. Delegations are also asked to indicate which authorities have the responsibility for collecting and transmitting that information.

The ODIHR would appreciate receiving initial information in time for making it available to the OSCE Conferences on Anti-Semitism and Racism, Xenophobia and Discrimination to be held later this year (Berlin, 28-29 April 2004 and Brussels, 13-14 September 2004).

Based on the initial information received, the ODIHR will examine - in consultation with the other agencies active in this field – what additional measures will have to be taken to further improve the collection and record keeping of information and statistics on hate crimes. The ODIHR will also, as tasked by the Ministerial Council decision, prepare to report on these issues (including in the format of the Human Dimension Implementation Meeting) and to promote best practices and disseminate lessons learnt in the fight against intolerance and discrimination

The ODIHR expresses its commitment to work constructively and comprehensively with all participating States in the implementation of these important mandates, and seizes this opportunity to renew the assurances of its highest consideration.



Warsaw, 28 January 2004

To the
Delegations of the
OSCE participating States

Note Verbale: 161/2004



Office for Democratic Institutions and Human Rights

161/2004

Note Verbale

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) presents its compliments to the Delegations of the OSCE participating States and has the honour to refer to its Note Verbale 39/2004 of 28 January 2004 relating to Ministerial Council Decision No. 4/03 on Tolerance and Non-Discrimination. The ODIHR would like to provide the enclosed information on responses from participating States received so far, as well as a communication from one relevant non-governmental organisation.

One month prior to the OSCE Conference on Anti-Semitism in Berlin, responses have been submitted by Croatia, Finland, Germany, the Holy See, Poland and Romania. Those responses are hereby attached for the information of all participating States.

The ODIHR expresses its commitment to work constructively and comprehensively with all participating States, as well as in full co-operation, *inter alia*, with the United Nations Committee on the Elimination of Racial Discrimination (UNCERD), the European Commission against Racism and Intolerance (ECRI) and the European Monitoring Center on Racism and Xenophobia (EUMC), as well as the relevant NGOs, in the implementation of these important mandates, and seizes the opportunity to renew the assurances of its highest consideration.

Warsaw, 1 April 2004



To the
Delegations of the OSCE participating States
Vienna

Note Verbale: 196/2004

ODIHR.GAL/23/04/Add.1

21 April 2004

ENGLISH only

**Office for Democratic Institutions and Human Rights**

196/2004

Note Verbale

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) presents its compliments to the Delegations of the OSCE participating States and has the honour to refer to its Notes Verbales 39/2004 of 28 January 2004 and 161/2004 of 1 April 2004 relating to Ministerial Council Decision No. 4/03 on Tolerance and Non-Discrimination. The ODIHR would like to provide an update on the responses from participating States.

Since Note Verbale 161/2004, and one week prior to the OSCE Conference on Anti-Semitism in Berlin, responses have been submitted by a further ten participating States, namely Albania, Bulgaria, Denmark, Latvia, Lithuania, Luxembourg, Malta, Moldova, Switzerland and the United States of America. Those responses are hereby attached for the information of all participating States. Responses had previously been received from Croatia, Finland, Germany, the Holy See, Poland and Romania, bringing the total number of responses to sixteen so far.

The Office for Democratic Institutions and Human Rights takes this opportunity to renew to the Delegations of the OSCE participating States the assurances of its highest consideration.

Warsaw, 21 April 2004

The Delegations
of the OSCE Participating States
Vienna



Note Verbale: 261/2004

ODIHR.GAL/36/04

28 May 2004

ENGLISH only



Office for Democratic Institutions and Human Rights

261/2004

Note Verbale

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) presents its compliments to the Delegations of the OSCE participating States and has the honor to refer to the 22 April 2004 Permanent Council Decision on Combating Anti-Semitism.

In this Decision, the ODIHR is tasked to "follow closely, in full co-operation with other OSCE institutions as well as the United Nations Committee on the Elimination of Racial Discrimination (UN-CERD), the European Commission against Racism and Intolerance (ECRI), the European Monitoring Centre on Racism and Xenophobia (EUMC) and other relevant international institutions and NGOs, anti-Semitic incidents in the OSCE area making use of all reliable information available."

Based on this new task assigned to the ODIHR, and given its previous taskings under the Maastricht Ministerial Decision to serve as a collection point for information and statistics collected by participating States, the ODIHR invites participating States to provide the ODIHR with an overview of anti-Semitic incidents in 2004 and the responses to these incidents. The ODIHR also invites participating States to continue to inform the ODIHR, on an ongoing basis, about such incidents as they arise.

The ODIHR is now in the process of collecting, compiling and analysing information already received from participating States and would therefore like to refer to its previous Notes Verbales whereby participating States were invited to forward all pertinent and reliable information on hate crimes, including violent manifestations of racism, xenophobia, discrimination and anti-Semitism. An updated summary chart of the responses is hereby attached for the information of all participating States. The ODIHR encourages all participating States who have not yet submitted the requested information, in particular the name of an appointed authority responsible for the collection and provision of the required information, to provide the ODIHR with this information by the end of June.

The ODIHR seizes this opportunity to renew the assurances of its highest consideration.

Warsaw, 28 May 2004



ODIHR.GAL/77/04

4 October 2004

ENGLISH only



Office for Democratic Institutions and Human Rights

535/2004

Note Verbale

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) presents its compliments to the Delegations of the OSCE participating States and has the honour to refer to its Note Verbale 39/2004 of 28 January 2004 which invited the OSCE participating States to provide the ODIHR with information, legislation and statistics on hate crimes and violent manifestations of racism, xenophobia and anti-Semitism. Since January, the ODIHR has undertaken efforts to remind participating States of its request, including its most recent Note Verbale of 21 April 2004 and its report to the Permanent Council on 15 July 2004. To date, responses have been received by thirty-five participating States, of which only nine have nominated an authority responsible for the collection and provision of information to the ODIHR. A summary chart of the responses received is hereby attached for the information of all participating States.

In order to ensure that the information collected by the ODIHR does not overlap with previous submissions of information by participating States to other international organizations, particularly the ECRI, EUMC and UN CERD/OHCHR, the ODIHR kindly requests that participating States provide the ODIHR with copies of information and data already submitted to these organizations in 2004.

Information supplied will be of great value to the ODIHR in fulfilling its taskings under the Ministerial Council Decision 4/03 and the Permanent Council Decisions No. 607 and 621 to serve as "a collection point for information and statistics collected by participating States" and to "report its findings to the Permanent Council and to the Human Dimension Implementation Meeting and make these findings public." Information should be sent directly to the ODIHR's Tolerance and Non-Discrimination Programme at tolerance@odihhr.pl

The ODIHR is grateful to all participating States for continuous and close co-operation. The ODIHR assures all OSCE participating states of its commitment to tasks they have given it in regard to assisting states in the efforts to document and combat discrimination and intolerance.

To the
Delegations of the
OSCE participating States



Annex B

2003 and 2004 OSCE Ministerial Council Decisions
on Tolerance and Non-Discrimination



**Organization for Security and Co-operation in Europe
Ministerial Council
Maastricht 2003**

MC.DEC/4/03
2 December 2003
Original: ENGLISH

2nd day of the Eleventh Meeting

MC(11) Journal No. 2, Agenda item 8

**DECISION No. 4/03
TOLERANCE AND NON-DISCRIMINATION**

The Ministerial Council,

Recognizing that respect for human rights and fundamental freedoms, democracy and the rule of law are at the core of the OSCE's comprehensive concept of security,

Recalling its commitments in the field of the human dimension, enshrined in the Helsinki Final Act, the Charter of Paris for a New Europe, the Charter for European Security (Istanbul Summit, 1999) and all other relevant OSCE documents and decisions,

Recalling Decision No. 6 on Tolerance and Non-discrimination, adopted at the Tenth Meeting of the Ministerial Council in Porto on 7 December 2002,

Reaffirming its commitment to promote tolerance and combat discrimination, and its concern about all manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism in all participating States, as well as discrimination based, *inter alia*, on race, color, sex, language, religion or belief, political or other opinion, national or social origin, property, birth or other status,

Urging the relevant authorities in all participating States to continue to condemn publicly, at the appropriate level and in the appropriate manner, violent acts motivated by discrimination and intolerance,

Affirming its commitment to increase its efforts for the promotion of tolerance and non-discrimination in all fields,

Welcoming the work done by the OSCE during 2003,

1. Commits itself to promote the implementation of the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area;
2. Decides to enhance the efforts being made to increase women's participation and the role of women in furthering democratization and economic development, and to consider integrating the provisions of the OSCE Action Plan on Gender Issues where applicable into national policies. Further decides to enhance its efforts to achieve gender balance at all levels within the OSCE, taking full account also in this respect of the principle of recruiting staff from all participating States on a fair basis. Reiterates that the OSCE encourages female candidates to apply for OSCE positions;
3. Decides to follow up the work started at the OSCE Conference on Anti-Semitism, held in Vienna on 19 and 20 June 2003 and welcomes the offer by Germany to host a second OSCE conference on this subject in Berlin on 28 and 29 April 2004;
4. Decides to follow up the work started at the OSCE Conference on Racism, Xenophobia and Discrimination, held in Vienna on 4 and 5 September 2003 and welcomes the offer by Belgium to host a second OSCE conference on this subject in Brussels in autumn 2004;
5. Tasks the Permanent Council to further discuss, in addition to the two above-mentioned conferences, ways and means of increasing the efforts of the OSCE and the participating States for the promotion of tolerance and non-discrimination in all fields;
6. Encourages all participating States to collect and keep records on reliable information and statistics on hate crimes, including on forms of violent manifestations of racism, xenophobia, discrimination, and anti-Semitism, as discussed and recommended in the above-mentioned conferences. Recognizing the importance of legislation to combat hate crimes, participating States will inform the ODIHR about existing legislation regarding crimes fuelled by intolerance and discrimination, and, where appropriate, seek the ODIHR's assistance in the drafting and review of such legislation;
7. Tasks the ODIHR, in full co-operation, inter alia, with the United Nations Committee on the Elimination of Racial Discrimination (UNCERD), the European Commission against Racism and Intolerance (ECRI) and the European Monitoring Center on Racism and Xenophobia (EUMC), as well as relevant NGOs, with serving as a collection point for information and statistics collected by participating States, and with reporting regularly on these issues, including in the format of the Human Dimension Implementation Meeting, as a basis for deciding on priorities for future work. The ODIHR will, inter alia, promote best practices and disseminate lessons learned in the fight against intolerance and discrimination;

8. Recognizes the need to combat hate crimes, which can be fuelled by racist, xenophobic, and anti-Semitic propaganda on the internet. We welcome the offer by France to host in Paris in 2004 a forward-looking event, fully respecting the rights to freedom of information and expression, on the relationship between propaganda on the internet and hate crimes;
9. Affirms the importance of freedom of thought, conscience, religion or belief, and condemns all discrimination and violence, including against any religious group or individual believer. Commits to ensure and facilitate the freedom of the individual to profess and practice a religion or belief, alone or in community with others, where necessary through transparent and non-discriminatory laws, regulations, practices and policies. Encourages the participating States to seek the assistance of the ODIHR and its Panel of Experts on Freedom of Religion or Belief. Emphasizes the importance of a continued and strengthened interfaith and intercultural dialogue to promote greater tolerance, respect and mutual understanding;
10. Ensures the advancement of the implementation of the OSCE commitments on national minorities, and recognizes the importance of the recommendations of the High Commissioner on National Minorities on education, public participation, and language, including on its use in broadcast media, and the relevant recommendations of the Representative on Freedom of the Media in this regard;
11. Undertakes to combat discrimination against migrant workers. Further undertakes to facilitate the integration of migrant workers into the societies in which they are legally residing. Calls on the ODIHR to reinforce its activities in this respect;
12. Undertakes, in this context, to combat, subject to national legislation and international commitments, discrimination, where existing, against asylum seekers and refugees, and calls on the ODIHR to reinforce its activities in this respect;
13. Takes into account the UN Guiding Principles on Internal Displacement as a useful framework for the work of the OSCE and the endeavors of participating States in dealing with internal displacement;
14. Decides that the OSCE in addressing the issues contained in this document will increase its efforts towards the younger generation in order to build up their understanding of the need for tolerance. Human rights education merits particular attention;
15. Decides to intensify the co-operation of the OSCE with relevant international organizations such as the United Nations, the Council of Europe and the European Union, as well as with civil society and relevant non-governmental organizations to promote tolerance and non-discrimination;

16. Tasks the Permanent Council, the ODIHR, the HCNM and the RFoM, in close co-operation with the Chairmanship-in-Office, with ensuring an effective follow-up to the relevant provisions of the present decision, and requests the Permanent Council to address the operational and funding modalities for the implementation of this decision.



**Organization for Security and Co-operation in Europe
Ministerial Council
Sofia 2004**

MC.DEC/12/04
7 December 2004
Original: ENGLISH

2nd day of the Twelfth Meeting

MC(12) Journal No. 2, Agenda item 8

**DECISION No. 12/04
TOLERANCE AND NON-DISCRIMINATION**

The Ministerial Council,

Recognizing that respect for human rights and fundamental freedoms, democracy and the rule of law are at the core of the OSCE comprehensive concept of security,

Recalling its commitments in the field of the human dimension, enshrined in the Helsinki Final Act, the Charter of Paris for a New Europe, the Charter for European Security (Istanbul Summit, 1999) and all other relevant OSCE documents and decisions,

Recalling Decision No. 4/03 on Tolerance and Non-Discrimination, adopted at the Eleventh Meeting of the Ministerial Council in Maastricht on 2 December 2003,

Welcoming the work done by the OSCE during 2004 in promoting tolerance and non-discrimination,

1. Appreciates the Declaration made by the OSCE Chairman-in-Office at the OSCE Conference on Anti-Semitism held in Berlin on 28 and 29 April 2004 — “Berlin Declaration” and the Declaration made by the OSCE Chairman-in-Office at the OSCE Conference on Tolerance and the Fight Against Racism, Xenophobia and Discrimination held in Brussels on 13 and 14 September 2004 — “Brussels Declaration”;
2. Endorses the Permanent Council Decisions on Combating Anti-Semitism (PC.DEC/607) and on Tolerance and the Fight against Racism, Xenophobia and Discrimination (PC.DEC/621) and the Permanent Council Decision on Promoting Tolerance and Media Freedom on the Internet (PC.DEC/633), annexed to this decision;
3. Further decides to intensify efforts for the implementation of these three decisions, which include commitments in the fields of, *inter alia*, education, media, legislation, law enforcement, migration and religious freedom;

4. Decides to follow up the work started in 2003 and continued with the OSCE Conference on Anti-Semitism, (Berlin on 28 and 29 April 2004), the OSCE Meeting on the Relationship Between Racist, Xenophobic and anti-Semitic Propaganda on the Internet and Hate Crimes, held in Paris on 16 and 17 June 2004, and the OSCE Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination, (Brussels on 13 and 14 September 2004). Also welcomes the offer by Spain to host in Cordoba in June 2005 the OSCE Conference on anti-Semitism and on Other Forms of Intolerance;
5. Welcomes the intention of the Chairman-in-Office to appoint, in accordance with Porto Ministerial Council Decision No. 8, three personal representatives as part of the overall fight of the OSCE in combating discrimination and promoting tolerance. The personal representatives will have their costs covered by extra-budgetary contributions.



**Organization for Security and Co-operation in Europe
Permanent Council**

MC.DEC/12/04
7 December 2004
Annex

504th Plenary Meeting

PC Journal No. 504, Agenda item 4

PC.DEC/607
22 April 2004
Original: ENGLISH

**DECISION No. 607
COMBATING ANTI-SEMITISM**

The Permanent Council,

Taking into account the forthcoming OSCE Conference on Anti-Semitism in Berlin on 28 and 29 April 2004,

Reaffirming the participating States' existing commitments related to combating anti-Semitism, and

In order to reinforce our common efforts to combat anti-Semitism across the OSCE region,

Decides,

1. The participating States commit to:

- Strive to ensure that their legal systems foster a safe environment free from anti-Semitic harassment, violence or discrimination in all fields of life;
- Promote, as appropriate, educational programmes for combating anti-Semitism;
- Promote remembrance of and, as appropriate, education about the tragedy of the Holocaust, and the importance of respect for all ethnic and religious groups;
- Combat hate crimes, which can be fuelled by racist, xenophobic and anti-Semitic propaganda in the media and on the Internet;
- Encourage and support international organization and NGO efforts in these areas;
- 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;
- Endeavour to provide the ODIHR with the appropriate resources to accomplish the tasks agreed upon in the Maastricht Ministerial Decision on Tolerance and Non-Discrimination;

- Work with the OSCE Parliamentary Assembly to determine appropriate ways to review periodically the problem of anti-Semitism;
 - Encourage development of informal exchanges among experts in appropriate fora on best practices and experiences in law enforcement and education;
2. To task the ODIHR to:
- Follow closely, in full co-operation with other OSCE institutions as well as the United Nations Committee on the Elimination of Racial Discrimination (UNCERD), the European Commission against Racism and Intolerance (ECRI), the European Monitoring Centre on Racism and Xenophobia (EUMC) and other relevant international institutions and NGOs, anti-Semitic incidents in the OSCE area making use of all reliable information available;
 - Report its findings to the Permanent Council and to the Human Dimension Implementation Meeting and make these findings public. These reports should also be taken into account in deciding on priorities for the work of the OSCE in the area of intolerance;
 - Systematically collect and disseminate information throughout the OSCE area on best practices for preventing and responding to anti-Semitism and, if requested, offer advice to participating States in their efforts to fight anti-Semitism;
3. To ask the Chairman-in-Office to bring this decision to the attention of the participants of the upcoming Conference in Berlin and to incorporate it into his declaration concluding the Conference;
4. To forward this decision to the Ministerial Council for endorsement at its Twelfth Meeting.



**Organization for Security and Co-operation in Europe
Permanent Council**

MC.DEC/12/04
7 December 2004
Annex

520th Plenary Meeting

PC Journal No. 520, Agenda item 3

PC.DEC/621
29 July 2004
Original: ENGLISH

**DECISION No. 621
TOLERANCE AND THE FIGHT AGAINST RACISM,
XENOPHOBIA AND DISCRIMINATION**

The Permanent Council,

Taking into account the forthcoming OSCE Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination in Brussels on 13 and 14 September 2004,

Recalling the Maastricht Ministerial Council Decision on Tolerance and Non-Discrimination (MC.DEC/4/03), the OSCE Conference on anti-Semitism in Berlin on 28 and 29 April 2004 as well as the OSCE Meeting on the Relationship between Racist, Xenophobic and anti-Semitic Propaganda on the Internet and Hate Crimes in Paris on 16 and 17 June 2004 and their results,

Reaffirming the participating States' existing commitments related to the promotion of tolerance and non-discrimination, and

In order to reinforce our common efforts to fight manifestations of intolerance across the OSCE region,

Decides,

1. The participating States commit to:

- Consider enacting or strengthening, where appropriate, legislation that prohibits discrimination based on, or incitement to hate crimes motivated by, race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;
- Promote and enhance, as appropriate, educational programmes for fostering tolerance and combating racism, xenophobia and discrimination;
- Promote and facilitate open and transparent interfaith and intercultural dialogue and partnerships towards tolerance, respect and mutual understanding and ensure and facilitate the freedom of the individual to profess and practice a religion or belief, alone or in community with others, including through transparent and non-discriminatory laws, regulations, practices and policies;

- Take steps to combat acts of discrimination and violence against Muslims in the OSCE area;
- Take steps, in conformity with their domestic law and international obligations, against discrimination, intolerance and xenophobia against migrants and migrant workers;
- Consider undertaking activities to raise public awareness of the enriching contribution of migrants and migrant workers to society;
- Combat 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;
- Consider establishing training programmes for law enforcement and judicial officials on legislation and enforcement of legislation relating to hate crimes;
- Encourage the promotion of tolerance, dialogue, respect and mutual understanding through the Media, including the Internet;
- Encourage and support international organization and NGO efforts in these areas;
- Collect and maintain reliable information and statistics about hate crimes motivated by racism, xenophobia and related discrimination and intolerance, 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;
- Examine the possibility of establishing within countries appropriate bodies to promote tolerance and to combat racism, xenophobia, discrimination or related intolerance, including against Muslims, and anti-Semitism;
- Endeavour to provide the ODIHR with the appropriate resources to accomplish the tasks agreed upon in the Maastricht Ministerial Decision on Tolerance and Non-Discrimination;
- Work with the OSCE Parliamentary Assembly to determine appropriate ways to review periodically the problems of racism, xenophobia and discrimination;
- Encourage development of informal exchanges among experts in appropriate fora on best practices and experiences in law enforcement and education;

2. To task the ODIHR to:

- Follow closely, in full co-operation with other OSCE institutions as well as

the United Nations Committee on the Elimination of Racial Discrimination (UNCERD), the United Nations Office of the High Commissioner for Human Rights (UNHCHR), the European Commission against Racism and Intolerance (ECRI), the European Monitoring Centre on Racism and Xenophobia (EUMC) and other relevant international institutions and NGOs, incidents motivated by racism, xenophobia, or related intolerance, including against Muslims, and anti-Semitism in the OSCE area making use of all reliable information available;

- Report its findings to the Permanent Council and to the Human Dimension Implementation Meeting and make these findings public. These reports should also be taken into account in deciding on priorities for the work of the OSCE in the area of intolerance;
- Systematically collect and disseminate information throughout the OSCE area on best practices for preventing and responding to racism, xenophobia and discrimination and, if requested, offer advice to participating States in their efforts to fight racism, xenophobia and discrimination;
- Support the ability of civil society and the development of partnerships to address racism, xenophobia, discrimination or related intolerance, including against Muslims, and anti-Semitism;
- To ask the Chairman-in-Office to bring this decision to the attention of the participants of the upcoming Conference in Brussels and to incorporate it into his declaration concluding the Conference;
- To forward this decision to the Ministerial Council for endorsement at its Twelfth Meeting.



**Organization for Security and Co-operation in Europe
Permanent Council**

MC.DEC/12/04
7 December 2004
Annex

532nd Plenary Meeting

PC Journal No. 532, Agenda item 5

PC.DEC/633
11 November 2004
Original: ENGLISH

**DECISION No. 633
PROMOTING TOLERANCE AND MEDIA FREEDOM
ON THE INTERNET**

The Permanent Council,

Reaffirming the commitments made at the Ministerial Council Meeting in Maastricht to combat hate crimes, which can be fuelled by racist, xenophobic and anti-Semitic propaganda on the Internet,

Reaffirming the importance of fully respecting the right to the freedoms of opinion and expression, which include the freedom to seek, receive and impart information, which are vital to democracy and in fact are strengthened by the Internet,

Recalling the commitments to collect and maintain reliable information and statistics about hate crimes motivated by racism, xenophobia, anti-Semitism and related discrimination and intolerance, to report such information periodically to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and to make this information available to the public, as contained in the Permanent Council Decisions on Combating Anti-Semitism (PC.DEC/607) and on Tolerance and the Fight against Racism, Xenophobia and Discrimination (PC.DEC/621),

Stressing the importance of promoting tolerance, mutual respect, dialogue and understanding, including through the Media and the Internet within strategies based on a variety of measures,

Decides that:

1. Participating States should take action to ensure that the Internet remains an open and public forum for freedom of opinion and expression, as enshrined in the Universal Declaration of Human Rights, and to foster access to the Internet both in homes and in schools;
2. Participating States should investigate and, where applicable, fully prosecute violence and criminal threats of violence, motivated by racist, xenophobic, anti-Semitic or other related bias on the Internet;
3. Participating States should train law enforcement agents and prosecutors on how to address crimes motivated by racist, xenophobic, anti-Semitic or other related bias on the Internet and should share information on successful training programmes as part of the exchange of best practices;

4. The OSCE Representative on Freedom of the Media will continue an active role in promoting both freedom of expression and access to the Internet and will continue to observe relevant developments in all the participating States. The Representative will advocate and promote OSCE principles and commitments. This will include early warning when laws or other measures prohibiting speech motivated by racist, xenophobic, anti-Semitic or other related bias are enforced in a discriminatory or selective manner for political purposes which can lead to impeding the expression of alternative opinions and views;
5. Participating States should study the effectiveness of laws and other measures regulating Internet content, specifically with regard to their effect on the rate of racist, xenophobic and anti-Semitic crimes;
6. Participating States should encourage and support analytically rigorous studies on the possible relationship between racist, xenophobic and anti-Semitic speech on the Internet and the commission of crimes motivated by racist, xenophobic, anti-Semitic or other related bias;
7. The OSCE will foster exchanges directed toward identifying effective approaches for addressing the issue of racist, xenophobic and anti-Semitic propaganda on the Internet that do not endanger the freedom of information and expression. The OSCE will create opportunities, including during the annual Human Dimension Implementation Meeting, to promote sharing of best practices;
8. Participating States should encourage the establishment of programmes to educate children and youth about expression motivated by racist, xenophobic, anti-Semitic or other related bias they may encounter on the Internet. Also, as appropriate, participating States and Internet service providers should take steps to increase parental awareness of widely available filtering software that enables parents to exercise greater supervision and control over their children's use of the Internet. Materials on successful educational programmes and filtering software should be widely disseminated as part of the exchange of best practices;
9. Participating States should welcome continued and increased efforts by NGOs to monitor the Internet for racist, xenophobic and anti-Semitic content, as well as NGOs' efforts to share and publicize their findings.

Annex C

ODIHR Law Enforcement Officer Programme on Combating Hate Crime: Curriculum Overview

Programme Overview

The ODIHR Law Enforcement Officer Programme on Combating Hate Crime was developed specifically by and for law enforcement officers. The ODIHR's implementing partner for this programme is the National Public Safety Strategy Group (NPSSG).

The programme was funded with the generous support of the governments of the Federal Republic of Germany, Switzerland, and the United States of America.

The Law Enforcement Officer Programme on Combating Hate Crime engages seven OSCE participating states:

- Spain;
- Hungary;
- France;
- Germany;
- The United Kingdom;
- Canada; and
- The United States.

The programme, which was implemented between January and May 2005, consisted of several stages:

- Research of good practices in combating hate crimes;
- Selection of two host countries to pilot and develop the programme;
- Consultation with law enforcement officials, supervisors, front-line police officers, and non-governmental organizations in pilot countries on training law enforcement officers and community response to hate crimes;
- Development of a training curriculum and customization of the curriculum to the needs of the pilot countries;
- Development of a template for collecting data on hate crime;

- Establishment of an expert cadre of law enforcement trainers from six OSCE participating States;
- Piloting of the training curriculum in Hungary and Spain; and
- Evaluation of the impact and effectiveness of the programme in combating hate crimes.

Summary of the Curriculum

Based on extensive research of training curricula, good practices, and consultations with a broad range of law enforcement officers and non-governmental organizations in OSCE participating States, the curriculum for the training programme is a composite of the most modern and effective law enforcement practices and techniques concerning hate crimes.

Described below are the generic components of the curriculum developed for the programme. Customization to reflect and address the individual needs of the two pilot countries – Hungary and Spain – followed a comprehensive assessment process involving law enforcement agencies and the communities they serve. Participants in the assessment phase from law enforcement included senior police administration and command, supervisory officers, unit commanders, and front-line officers.

During the process of developing the curriculum, NGOs representing community interests were also invited to participate. The goal of the assessment process was to learn more about the experiences of law enforcement officials and NGOs. Recommendations were obtained on how to establish and enrich partnerships between law enforcement officials and agencies in order to serve individuals and communities that are the victims of hate crimes.

Following these consultations, the final training design was customized to reflect and respond to the conditions in the host state. Customization included:

- Legislative and policy reviews;
- Identification of the affected communities;
- Development of case studies appropriate to the states involved;
- Integration of state policing policies, procedures, and methods;
- Harmonization of the training programme with existing state training initiatives; and
- Preparation of speakers from state law enforcement agencies and NGOs.

Following the customization process, which was based on the principle of co-development between the programme developers and pilot states, law enforcement trainers took part in a three-day train-the-trainer workshop to introduce them to the content and delivery processes of the programme. The trainers from the two pilot countries subsequently delivered the custom-

ized training programme over four days to law enforcement officers in the host state. Following the training delivery, an evaluation of the impact and effectiveness of the programme will now be undertaken by the ODIHR.

1. Background and Overview of the Programme

Themes

The Law Enforcement Officer Programme on Combating Hate Crime is comprised of four main themes:

- i. Hate crime awareness;
- ii. Good practices in hate crime responses, investigations, intelligence-gathering, information-sharing, documentation, and prosecution;
- iii. Engagement of community partners in responding to hate crime; and
- iv. Development of a process for collecting, analysing, and disseminating data on hate crimes.

Principles, goals, and design features

Seven principles are outlined that drive the programme. These range from the leveraging effects of community engagement to intelligence-gathering, links between hate crimes and other security concerns, accountability in OSCE states for responding to hate crimes, and OSCE monitoring and assessment activities concerning these crimes.

Programme design and delivery features are also described in detail.

2. Defining and Determining Hate Crimes

Definitions

Definitions of the following terms are provided along with exercises, case studies, and discussion to investigate and understand their importance in law enforcement:

- Hate crimes;
- Hate incidents;
- Anti-Semitism;
- Islamophobia; and
- Racism and racial discrimination.

History and significance of hate crimes

A brief history of hate crimes is accompanied by a discussion about the differences between terrorism and hate crime, legislated protections against hate crime in the host nation, the application of these protections, and the impact on communities targeted by those who propagate hate.

A typology of hate crime offenders

The typology includes known offender types, from organized hate groups to thrill-seekers and those offenders acting on a reactive basis.

Symbols of interest in hate crimes

A detailed presentation is provided on symbols of hate and symbols of interest in hate crimes, including examples of where they may be found, their significance in detecting hate crimes, and their application in intelligence-gathering.

Other types of hate crime

The programme is at the forefront in describing the proliferation of, and ways to combat, hate crimes via mail, the Internet, and through music.

Understanding the nature of prejudice and discrimination

These terms are explored in detail, and methods to ameliorate their effects are addressed in the classroom. The topic is explored from the perspective of good practices that have made a significant difference in the most successful jurisdictions.

The impact of hate crimes

Victims of hate-motivated crimes are affected much more profoundly than victims of otherwise similar crimes that are not motivated by bias. More importantly, the widespread effects of fear, intimidation, and alienation, which extend well beyond the immediate victims, are the intent of the offenders. This phenomenon is explored through case studies and exercises designed to engage law enforcement officers in examining their role in addressing this aspect of hate crime.

3. Good Practices in Hate Crimes Response and Investigation

Detection and identification of hate crimes

This section addresses law enforcement in several key activities:

- First response to the scene of a potential hate crime;
- Conducting victim interviews;

- Conducting suspect interviews;
- Investigating hate crimes;
- Preserving and obtaining forensic evidence; and
- Gathering and sharing intelligence on hate crimes and offenders.

Good practices are examined through group sessions, case studies, presentations from state authorities, and handouts that may be developed as job aids for responding and investigating officers.

Training elements covered in this section constitute state-of-the-art techniques and practices. The material provided is among the most comprehensive in the world.

4. Managing Victim Relations

Participants are introduced to models and tools for managing victims of, and witnesses to, hate crimes. These include:

- Victim relations;
- Victims as key prosecution witnesses;
- Assessing victim and witness impact;
- Witness intimidation;
- Risk management; and
- Victim information.

5. Data Collection and Management

The programme includes a component on developing processes for collecting and disseminating data on hate crimes. An assembly of law enforcement experts on hate crime data collection was convened in Warsaw in May 2005 to review a prototype developed under the auspices of the programme. This template for data collection and a proposed methodology for collecting data are under consideration and will eventually form part of the ODIHR response to the OSCE mandate in tolerance and non-discrimination in general and hate crimes in particular.

The proposed data-collection methodology was designed to blend as seamlessly as possible with existing systems of law enforcement data collection. A copy of the data-collection template is included in the training curriculum. The template will provide a valuable tool for law enforcement officers in OSCE states to use when recording and reporting on hate crimes.

This section will include recommendations and insight on how to evaluate data on hate crimes, including information from hate crimes databases, to assist with the determination of whether a hate crime has occurred. Emphasis is placed on the importance of using national data only for periodic intra-state comparison in evaluating occurrences of hate crimes and the effectiveness of law enforcement responses. Issues relevant to data collection such as national legislation on protection of privacy and personal-information requirements will also be addressed.

6. Police Leadership in Partnerships in the Fight against Hate Crime

The role of law enforcement agencies as community partners in combating hate crimes is a theme that has brought unprecedented success to many jurisdictions in law enforcement concerning hate crimes. The programme explores how partnership skills have been used very effectively to:

- Mobilize communities to assist in responding to a specific crime or hate crimes in general;
- Manage the impact of hate crimes by engaging communities in responding;
- Develop community crime strategies;
- Reduce and prevent hate crimes;
- Better protect police officers and victims;
- Increase community communications with police for the benefit of both;
- Improve community well-being
- Gather intelligence on crime; and
- Contribute to developing and sustaining civil society.

This section provides resource material (e.g., methods, models, techniques, and job aids) for building community capacity in law enforcement and community responses to hate crimes.

7. Good Policy Practices

Descriptions of various good practices in policies and procedures were compiled following an evaluation process that was developed in collaboration with law enforcement agencies across the OSCE region. Samples of good policies include:

- Dedicated units for the investigation of hate crimes;
- Debriefing processes;

- A positive arrest policy;
- An anti-racism policy;
- Third-party and assisted reporting;
- A policy on record-keeping;
- Risk assessment;
- Specialized roles (e.g., family liaison officer, hate crimes investigator);
- Victim-relations approaches; and
- A policy on in-person reporting of hate crimes.

Annex D

ODIHR Law Enforcement Officer Programme on Combating Hate Crime: Data-Collection Template

INCIDENT REPORT

HATE CRIME INCIDENT #.....	
ORIGINAL CASE # (FROM AGENCY).....	
DATE OF OCCURRENCE.....	TIME OF OCCURRENCE..... <input type="checkbox"/> Initial
ARREST (Y or N).....	OFFENDER KNOWN (Y or N)..... <input type="checkbox"/> Adjustment
DATE OF ARREST.....	TIME OF ARREST..... <input type="checkbox"/> Unfounded

OFFENCE

	No. of Victims	ATT / COMP
1. <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
2. <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
3. <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>

LOCATION (check for offence # 1)

01 Residential	<input type="checkbox"/>
02 Business	<input type="checkbox"/>
03 Place of worship	<input type="checkbox"/>
04 Place where alcohol is sold	<input type="checkbox"/>
05 Government/public building	<input type="checkbox"/>
06 Other public area	
07 Other private area	

DISCRIMINATION TYPE (check for offence # 1)

01 Race/ethnicity/national origin	<input type="checkbox"/>
02 Religion	<input type="checkbox"/>
03 Sexual orientation	<input type="checkbox"/>
04 Disability (physical or mental)	<input type="checkbox"/>
05 Sex	<input type="checkbox"/>
06 Other.....	

OFFENCE CODES

- | | |
|-----------------------|------------------------------------|
| 1 Murder | 11 Destruction of property |
| 2 Rape | 12 Holocaust denial |
| 3 Robbery | 13 Incitement of hatred |
| 4 Aggravated assault | 14 Civil rights violations |
| 5 Simple assault | 15 Hate organization |
| 6 Threats | 16 Dissemination of hate material |
| 7 Burglary | 17 International crimes G, A, P, S |
| 8 Larceny/threat | 18 Quality-of-life crimes |
| 9 Motor vehicle theft | 19 Other |
| 10 Arson | |

Enter location code if different from offence # 1

2
3

Enter discrimination type if different from offence # 1

2
3

VICTIM

	AGE	SEX	CITIZENSHIP	REPEAT VICTIMIZATION			INJURY	VICTIM TYPE	VICTIM TYPES	OFFENCE		
				M	Y	N				1	2	3
01	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	D, S, M, N	<input type="checkbox"/> <input type="checkbox"/>	01-person 02-gov 03-Inst (other than gov) 04-place of worship 05-other	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
02	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	D, S, M, N	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
03	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	D, S, M, N	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

OFFENDER

	AGE	SEX	CITIZENSHIP	REPEAT OFFENDER			MEMBER HATE GROUP			VICTIM	ARRESTED	
				M	Y	N	M	Y	N		1	2
01	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
02	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
03	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>

Annex E

Overview of Legislation Related to Hate Crimes in OSCE Participating States

NOTES:

1. This table is not intended to be an exhaustive list of relevant legislation in OSCE participating States. On the basis of this structure, participating States will be encouraged to provide the ODIHR with relevant material to fill in any gaps.
2. The legislation appearing in this table has been derived from information submitted by OSCE participating States. While, in some instances, the wording of the legislation may appear unclear, it has not been changed from its original form.
3. Legislation is constantly updated, and therefore the provisions cited are subject to change.
4. The term racist is illustrative and does not exclude other bias types.
5. The use of "Article", "Section", or § refers to parts of the respective Criminal Code.
6. No material was available from Kyrgyzstan, Turkmenistan, or Uzbekistan.

ALBANIA

International crimes ¹	<p>Article 73: Genocide The execution of a premeditated plan aiming at the total or partial destruction of a national, ethnic, racial or religious group directed towards its members, and combined with the following acts, such as: intentionally killing a group's members, serious physical and psychological harm, placement in difficult living conditions which cause physical destruction, applying birth preventing measures, as well as the obligatory transfer of children from one group to another, is sentenced with no less than ten years of imprisonment, or with life imprisonment, or death penalty.</p> <p>Article 74: Crimes against humanity Killing, massacres, slavery, internal exile and deportation, as well as every act of torture or other inhuman violence committed for political, ideological, racial, ethnic and religious reasons, are sentenced with no less than fifteen years of imprisonment, or with life imprisonment, or death penalty.</p>
Incitement to hatred / Dissemination of racist ideas ²	Article 265: Inciting nationality, racial and religious hatred or conflict as well as preparing, propagating, or preserving with the intent of propagat-

¹ Relevant international crimes include genocide, apartheid, slavery and persecution.

² Includes (public) incitement to racial discrimination, violence or hatred; (public) dissemination of ideas based on racial superiority or hatred; (public) insults and threats.

	<p>ing, of writings with that content, is sentenced to a fine or to up to ten years of imprisonment.</p> <p>Article 266 Endangering public peace by calling for national hatred against other parts of the population, by insulting or defaming them, or by requesting the use of force or arbitrary actions against them, is sentenced to a fine or up to five years of imprisonment.</p>
Holocaust denial ³	
Personal violence	
Destruction of property	<p>Article 132 Ruining or damaging places of worship, when it has inflicted the partial or total loss of their values, is sentenced to a fine or up to three years of imprisonment.</p>
Civil rights violations	<p>Article 253: Denying equality of the citizens Discrimination by a worker holding a state function or public service conducted because of his capacity or during its exercise, when the discrimination is based upon origin, sex, health situation, religious or political beliefs, trade-union activity or because of belonging to a particular ethnic group, nation, race or religion, which consists in creating unfair privileges or in refusing a right or benefit deriving from law, is sentenced to a fine or up to five years of imprisonment.</p> <p>Article 131 Ban on the activity of religious organizations, or creating obstacles for the free exercise of their activities, is sentenced to a fine or to up to three years of imprisonment.</p> <p>Article 133 Ban on creating obstacles for participating in religious ceremonies, as well as for freely expressing religious beliefs, constitutes criminal contravention and is sentenced to a fine or up to one year of imprisonment.</p>
Racist organizations ⁴	
Racist cyber-crime	
Aggravating circumstances	
Bias types ⁵	National origin, race, religion, ethnicity, political affiliation, ideology.

³ Includes public denial or gross trivialization of international crimes, especially genocide/the Holocaust.

⁴ Includes creation, support, participation.

⁵ Includes bias types referred to in definitions of crimes and as aggravating factors, but excludes crimes based on denying equality of citizens, which tend to encompass broader grounds for discrimination.

ANDORRA

International crimes	
Incitement to hatred / Dissemination of racist ideas	
Holocaust denial	
Personal violence	
Destruction of property	Article 122 punishes with imprisonment of up to four years those who commit acts of profanation or destruction of religious sites.
Civil rights violations	<p>Article 313 provides that any act of discrimination constituting harassment or infringing the dignity of a person on the basis of origin, religion, race or sex shall be considered an offence punished with imprisonment of up to one year.</p> <p>Article 120 punishes with imprisonment of up to three years those who disturb or hinder other persons in the enjoyment of their civil and political rights and liberties.</p> <p>Article 301 punishes with imprisonment of up to six months those who publicly offend the religious sentiments of any person, or cause disturbances during religious ceremonies or acts.</p>
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	Origin, religion, race, sex.

ARMENIA

International crimes	<p>Article 393. Genocide.</p> <p>The actions aimed at the complete or partial extermination of national, ethnic, racial or religious groups by means of killing the members of this group, inflicting severe damage to their health, violently preventing them from childbearing, enforced hand-over of children, violent re-population, or physical elimination of the members of this group, are punished with imprisonment for the term of 13 to 15 years or with life sentence.</p>
Incitement to hatred / Dissemination of racist ideas	<p>Article 226. Inciting national, racial or religious hatred.</p> <p>1. Actions aimed at the incitement of national, racial or religious hatred, at racial superiority or humiliation of national dignity, are punished with a fine in the amount of 200 to 500 minimal salaries, or with correctional labour for up to 2 years, or with imprisonment for a term of 2-4 years.</p>

	2. The actions envisaged in part 1 of this Article committed: publicly or by mass media, with violence or threat of violence; by abuse of official position; by an organized group, are punished with imprisonment for the term of 3 to 6 years.
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	Article 143. Breach of citizens' legal equality. Direct or indirect breach of the human rights and freedoms of citizens, for reasons of the citizen's nationality, race, sex, language, religion, political or other views, social origin, property or other status, which damaged the citizen's legal interests, is punished with a fine in the amount of 200 to 400 minimal salaries, or with imprisonment for up to 2 years.
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	Article 63. Circumstances aggravating the liability and punishment. Circumstances aggravating the liability and punishment are as follows: (6) committal of crime by ethnic, racial or religious motives, for religious fanaticism, as revenge for other people's legitimate actions. Article 104. Murder 1. Murder is illegal willful deprivation of one's life punished with imprisonment for 6 to 12 years. Murder: (15) out of motives of national, racial or religious hatred or fanaticism; is punished with 8-15 years of imprisonment or for life.
Bias types	National origin, race, religion, ethnicity

AUSTRIA

International crimes	<p>Article 321: Genocide Anyone who, with the intention of destroying in total or in part a group defined as such through its belonging to a church or religious community, a race, a nation, an ethnic group or a State, kills members of the group, inflicts serious physical (Article 84(1)) or mental injury on them, subjects the group to living conditions likely to cause death to all or part of the group, imposes measures designed to prevent births within that group or forcibly transfers children of the group to another group is guilty of the crime of genocide. Genocide is punishable by life imprisonment. Conspiracy to commit genocide is also punishable.</p>
Incitement to hatred / Dissemination of racist ideas	<p>Prohibition Statute – “Prohibition of the National Socialist German Workers’ Party (NSDAP)” (8 May 1945): Under this law all National Socialist organizations and institutions were dissolved and their re-establishment forbidden. Activities of any kind on behalf of the NSDAP or in pursuit of its goals were prohibited and made punishable by law. Article 3g covers anyone acting in a manner inspired by National Socialism including use of political slogans for propaganda purposes or the favourable depiction of the violent measures taken under national Socialism if they occur in such a way that gives expression to the deplored objectives and moral concepts of National Socialism. Xenophobic pronouncements are to be regarded as meeting the criteria of the offence if there is a manifestation of the National Socialist attitude motivated and justified by racist ideology if foreigners are rejected specifically on the basis of their alleged racial inferiority and if such ideas are expressed in a language reminiscent of the propaganda vocabulary of the Third Reich. The use for propaganda purposes of National Socialist symbols and slogans is prohibited.</p> <p>§ 283 Verhetzung (1) <i>Wer öffentlich auf eine Weise, die geeignet ist, die öffentliche Ordnung zu gefährden, zu einer feindseligen Handlung gegen eine im Inland bestehende Kirche oder Religionsgesellschaft oder gegen eine durch ihre Zugehörigkeit zu einer solchen Kirche oder Religionsgesellschaft, zu einer Rasse, zu einem Volk, einem Volksstamm oder einem Staat bestimmte Gruppe auffordert oder aufreizt, ist mit Freiheitsstrafe bis zu zwei Jahren zu bestrafen.</i> (2) <i>Ebenso ist zu bestrafen, wer öffentlich gegen eine der im Abs. 1 bezeichneten Gruppen hetzt oder sie in einer die Menschenwürde verletzenden Weise beschimpft oder verächtlich zu machen sucht.</i> [Publicly inducing or inciting – in a manner likely to endanger public order – the commission of a hostile act against a church or religious community in the country or against a group identified by belonging to such a church or religious community, a race, a nation, an ethnic group or a State (para. 1), or publicly stirring up hatred against such a group indicated in para. 1, or publicly disparaging it in a manner violating human dignity or attempting to belittle it (para. 2) constitutes incitement under Article 283.]</p>
Holocaust denial	<p>Prohibition Statute: The denial of the mass extermination of human beings under National Socialist rule is covered if it is accompanied by a corresponding intention to engage in National Socialist revivalism.</p>

	Article 3h forbids any denial, gross trivialization, approval or justification of the genocide committed under national Socialism or other National Socialist crimes if carried out publicly.
Personal violence	Section 115 penalizes public insult, injury or threat to injure. According to Section 117 (para. 3), an offence provided for in Section 115 is pursued by the Public Prosecutor with the consent of the victim, provided that it is committed for reason of the injured party's belonging to a church or religious community established in the country or a group determined by their affiliation to such a church or religious community, or to a race, nation, ethnic group or state and that it constitutes a violation of human dignity.
Destruction of property	
Civil rights violations	Under administrative criminal law, offences include dissemination of National Socialist ideas, unjustifiably disadvantaging persons solely on the grounds of their race, colour, national or ethnic origin, religion or a disability or preventing them from entering places or making use of services intended for general public use, and discriminatory revocation of licences to do business.
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	In connection with sentencing for a general criminal offence falling within the competence of the courts, Article 33(5) regards cases in which the offender acted out of racist, xenophobic or other particularly reprehensible motives as involving aggravating circumstances.
Bias types	Race, national origin, ethnicity, religion, "other reprehensible motives"

AZERBAIJAN

International crimes	Article 109 prohibits as a crime against humanity persecution of a group of people or organization on the basis of a difference in race, colour of skin, nationality, ethnic, cultural or religious appearance, that is a gross violation of fundamental rights of persons because of their belonging to such groups or organisations. Articles 103 and 104 prohibit acts of genocide.
Incitement to hatred / Dissemination of racist ideas	Article 111 prohibits spreading ideas about the superiority of one race over another; advocating racial hatred or instigating racial discrimination; any activity with the purpose of arousing hostility or dissension among races, religions or nationalities; and the direct or indirect restriction of rights or the establishment of direct or indirect privileges for citizens on the basis of the races, religions or nationalities to which they belong. Article 111 furthermore prohibits as specific offences the premeditated murder and infliction of serious injuries motivated by racial, religious, national or ethnic intolerance.

	Article 283 prohibits acts aimed at incitement to national or religious hatred and debasing of national dignity and discrimination.
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	Article 154 punishes violation of the equality of citizens.
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	Criminal Code stipulates that an offence committed on the basis of racial, national or religious hatred is considered to have been committed under aggravating circumstances.
Bias types	Race, national origin, religion, ethnicity, skin colour

BELARUS

International crimes	§127: prohibition of genocide
Incitement to hatred / Dissemination of racist ideas	<p>§130: Incitement to hatred or discord on racial, national or religious grounds</p> <p>1. Wilful actions aimed at inciting racial, national or religious hatred or discord, the degradation of national honour and dignity, shall be punishable by a fine, or by “arresting” the guilty person for up to six months, or restricting the freedom of the guilty person for a period of up to five years, or by imprisoning the guilty person for the same period of time.</p> <p>2. If these actions are carried out, with the use of violence, or by a person who has made use of his/her official position, shall be punishable by imprisoning the guilty person for a period of from three up to five years.</p> <p>3. Actions, specified in parts 1 and 2 of this article, if committed by a group of persons or which entailed death or other grave consequences, shall be punishable by imprisoning the guilty person for a period of from three up to five years.</p>
Holocaust denial	
Personal violence	
Destruction of property	§344: prohibition of destruction of historical and cultural monuments
	§347: prohibition of desecration of cemeteries
Civil rights violations	§445(1): abuse of power, or exceeding of authority or dereliction of duty, motivated by racial or national hatred or differences.

	<p>§71 (Criminal Code 1960): violation of National and Racial Equality as well as of the Equality of Citizens in Relation to their Attitude towards Religion</p> <p>Deliberate actions aimed at arousing national, racial or religious strife or animosity, humiliating the national honour and dignity, as well as a direct or indirect restriction of the rights or the imposition of direct or indirect advantages for citizens depending on their racial or national status, or their attitude towards religion – shall be punishable with the deprivation of freedom for a term of up to three years or a fine. The same actions connected with violence, deception or threats committed by an official person – shall be punishable with the deprivation of freedom for a term of up to five years or a fine. Actions envisaged in parts one or two of the present Article committed by a group of persons or if they have entailed death of people or other grave consequences – shall be punishable with the deprivation of freedom for a term of up to ten years.</p> <p>§20: equality of citizens before the law and equality of the principle of protection of their rights and legal interests</p> <p>§190 (1999 Criminal Code)</p> <p>The deliberate direct or indirect infringement or restriction of rights and freedoms, or the granting of direct or indirect advantages to citizens based on their sex, race, nationality, language, origin, material or official status, place of residence, religious convictions, or membership of social groupings, and which infringe the rights, freedoms, and legal interests of the citizen, are punishable by a fine, or by correctional work for up to two years, or by limitation of freedom for the same period of time, or by incarceration for up to two years, either with deprivation of the right to a given position or occupation without that deprivation.</p>
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	<p>§139: aggravating circumstances (murder)</p> <p>§147: aggravating circumstances (wilful infliction of heavy bodily injuries)</p> <p>§443: aggravating circumstances (violation of the statutory rules of relationship between servicemen with the absence of subordination relationship between them)</p> <p>§64, subsection 1, paragraph 10: motivation of racial, national, religious hatred and discord for committing a crime as an aggravating circumstance</p>
Bias types	Race, national origin, religion

BELGIUM

International crimes	Law relating to the repression of the serious violations of humanitarian international law, 10 February 1999.
Incitement to hatred / Dissemination of racist ideas	<p>By virtue of Article 1(2) of the anti-racism law, penalties may be imposed on persons who under the circumstances described in Article 444 of the Penal Code:</p> <ul style="list-style-type: none"> - incite discrimination, hatred or violence against a person on account of his race, colour, origin or national or ethnic descent (para.1); - incite discrimination, segregation, or violence against a group, community, or the members of it on account of the race, colour, origin or national or ethnic descent of these members or some of these members (para. 2); - publicly announces his intention towards discrimination, hatred or violence against a person on account of his race, colour, origin, descent or nationality (para. 3) - publicly announces his intention towards discrimination, segregation, hatred or violence against a group, community or members thereof, on account of the race, colour, origin, descent or nationality of these members or some of these members (para. 4). <p>In order to be prosecuted, publicising one's intention towards discrimination, hatred or violence must be carried out under the circumstances described in Article 444 of the Penal Code. This requirement means that discrimination must take place: in public places; in places that are accessible to a limited number of people; in any place if witnesses are present; by distributing texts either by selling or publicly displaying them; lastly, by sending or proclaiming texts to various individuals. The anti-racism law only penalises "public" expression of opinion.</p>
Holocaust denial	Law of 23 March 1995 against denying, minimizing, justifying or approving of the genocide carried out by the German National Socialist regime during the Second World War.
Personal violence	
Destruction of property	
Civil rights violations	On 31 July 1981, the law penalising certain acts determined by racism and xenophobia was implemented. The anti-racism law does not state that discrimination in se is punishable – only discrimination for specific reasons, i.e. race, skin colour, descent, origin or nationality. The 1994 amendment introduced a description of discrimination as any form of distinction, exclusion, restriction or preference, whose purpose or whose result is or could be to destroy, compromise or limit the equal recognition, enjoyment or exercise of human rights and the fundamental freedoms on a political, economic, social or cultural level, or in any other area of social life. (Article 1(1) of the anti-racism law).
Racist organizations	
Racist cyber-crime	

Aggravating circumstances	Act of 25 February 2003 “aimed at combating discrimination and modifying the Act of 15 February 1993 which establishes the Centre for Equal Opportunities and the Fight against Racism” provides for a specific aggravating circumstance: Articles 7-14 of the Act provide that hatred, contempt or hostility based, inter alia, on supposed race, colour, descent, religious convictions, and national or ethnic origin are aggravating circumstances in respect of a certain number of offences. These offences are: indecent assault and rape; murder, battery and assault; non-assistance to a person in danger; violation of the personal liberty and of the inviolability of private property committed by private individuals; harassment; insulting the honour or the reputation of a person; arson; destruction of movable property.
Bias types	Race, skin colour, descent, religious convictions, national origin, ethnicity.

BOSNIA AND HERZEGOVINA

International crimes	
Incitement to hatred / Dissemination of racist ideas	Article 390/1 of the Criminal Code of Republika Srpska and Article 163/1 of the Criminal Code of the Federation contain provisions against incitement to national, racial or religious hatred.
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	<p>Article 145: Infringement of the Equality of Individuals and Citizens</p> <p>(1) An official or responsible person in the institutions of Bosnia and Herzegovina, who on the ground of differences in race, skin colour, national or ethnic background, religion, political or other belief, sex, sexual orientation, language, education or social status or social origins, denies or restricts the civil rights as provided by the Constitution of Bosnia and Herzegovina, ratified international agreement, law of Bosnia and Herzegovina, some other regulation of Bosnia and Herzegovina or general act of Bosnia and Herzegovina or, whoever on the ground of these differences or background or other status grants unjustified privileges or does unjustified favours to individuals, shall be punished by imprisonment for a term between six months and five years.</p> <p>(2) An official or responsible person in the institutions of Bosnia and Herzegovina, who in contravention of the regulations of Bosnia and Herzegovina on the equal use of languages and alphabets of the constituent peoples and others living on the territory of Bosnia and Herzegovina, restricts or denies to a citizen the use of his language or alphabet while addressing bodies or institutions of Bosnia and Herzegovina, business enterprises or other legal persons in order to exercise his rights, shall be punished by a fine or imprisonment for a term not exceeding one year.</p>

	<p>(3) An official or responsible person in the institutions of Bosnia and Herzegovina, who denies or limits the right of citizens to be freely employed within the entire territory of Bosnia and Herzegovina and under the same prescribed terms, shall be punished by imprisonment for a term between six months and five years.</p> <p>The Criminal Codes at the Entity level contain provisions against discrimination by any individual on similar grounds (Article 162/4 of the Criminal Code of Republika Srpska and Article 177/4 of the Criminal Code of the Federation). The Criminal Codes in both Entities also contain provisions against restrictions of the right of citizens to use their language or alphabet (Article 163/1 of the Criminal Code of Republika Srpska and Article 177/9 of the Criminal Code of the Federation) and provisions against prevention of return of refugees or displaced persons (Article 146 of the Criminal Code of Republika Srpska and Article 178 of the Criminal Code of the Federation).</p>
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	Race, skin colour, national origin, ethnicity, religion, language.

BULGARIA

International crimes	Articles 416-419 cover genocide and apartheid.
Incitement to hatred / Dissemination of racist ideas	<p>§108 (1): A person who preaches fascist or another anti-democratic ideology or forceful change of the social and state order as established by the Constitution of the Republic of Bulgaria, shall be punished by deprivation of liberty for up to three years or a fine of up to thirty thousand BGN.</p> <p>Chapter 3 (Crimes against the rights of Citizens), Section 1 (Crimes against National and Racial Equality), §162: (1) A person who propagates or abets to racial or national hostility or hatred or to racial discrimination shall be punished by deprivation of liberty for up to three years and by public censure.</p> <p>Chapter 3, Section 2 (Crimes against Religious Denominations), §164: A person who propagates hatred on a religious basis by speech, through the press, action or in another way, shall be punished by deprivation of liberty for up to three years or by corrective labour.</p>
Holocaust denial	
Personal violence	<p>§163: prohibits taking part in a crowd rallied to attack groups, individuals or property in connection with their national or racial affiliation. Aggravating factors include the crowd being armed or the infliction of severe bodily injury or death. Punishment by imprisonment or corrective labour.</p>

Destruction of property	Chapter 3 (Crimes against the rights of Citizens), Section 1 (Crimes against National and Racial Equality), §162: (2) A person who uses violence against another or damages his property because of his nationality, race, religion or because of his political convictions, shall be punished by deprivation of liberty for up to three years and by public censure.
Civil rights violations	<p><i>Protection against Discrimination Act</i> adopted 16 September 2003. Comprehensive, consolidated anti-discrimination law.</p> <p>Art. 4. (1) All direct or indirect discrimination on the grounds of sex, race, extraction, ethnicity, nationality, origin, religion or faith, education, beliefs, political affiliation, personal or public status, disability, age, sexual orientation, family status, property status, or any other ground provided for by law or international treaty the Republic of Bulgaria is a party to, shall be prohibited.</p> <p>Protects labour rights, education and other rights. Provides for administrative penal provisions.</p> <p>Chapter 3, Section 2, §165: prohibition of interference with freedom of religion; provides for punishment by imprisonment.</p> <p>Chapter 3, Section 6 (Crimes against the Labour Rights of the Citizens), §172: prohibition of discrimination in field of employment; provides for punishment by imprisonment or fine</p>
Racist organizations	Chapter 3 (Crimes against the rights of Citizens), Section 1 (Crimes against National and Racial Equality), §162 (3) A person who forms or leads an organisation or group which has set itself the objective of committing acts under the preceding paragraphs, shall be punished by deprivation of liberty for one to six years and by public censure. (4) A person who is a member of such an organisation or group shall be punished by deprivation of liberty for up to three years and by public censure.
Racist cyber-crime	
Aggravating circumstances	Article 54(1) provides that judges are to take into account the motives and aggravating circumstances of a crime when making sentencing decisions. Although this article does not specifically mention racist motivation, a judge may make use of it in order to take such a motivation into account and thus hand down a more severe penalty.
Bias types	Nationality, race, religion.

CANADA

International crimes	<p>318. (1) Every one who advocates or promotes genocide is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.</p> <p>(2) In this section, “genocide” means any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely</p> <p>(a) killing members of the group; or</p> <p>(b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.</p> <p>(3) No proceeding for an offence under this section shall be instituted without the consent of the Attorney General.</p> <p>(4) In this section, “identifiable group” means any section of the public distinguished by colour, race, religion or ethnic origin. [R.S. c.11 (1st Supp.), s.1.]</p>
Incitement to hatred / Dissemination of racist ideas	<p>319. (1) Every one who, by communicating statements in a public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace if guilty of</p> <p>(a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or</p> <p>(b) an offence punishable on summary conviction.</p> <p>(2) Every one who, by communicating statements, other than in private conversation, wilfully promotes hatred against and identifiable group is guilty of</p> <p>(a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or</p> <p>(b) an offence punishable on summary conviction.</p> <p>(3) No person shall be convicted of an offence under subsection (2)</p> <p>(a) if he establishes that the statements communicated were true;</p> <p>(b) if, in good faith, he expressed or attempted to establish by argument an opinion on a religious subject;</p> <p>(c) if the statements were relevant to any subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds he believed them to be true; or</p> <p>(d) if, in good faith, he intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred toward an identifiable group in Canada.</p> <p>(4) Where a person is convicted of an offence under section 318 or subsection (1) or (2) of this section, anything by means of or in relation to which the offence was committed, on such convictions, may, in addition to any other punishment imposed, be ordered by the presiding provincial court judge or judge to be forfeited to Her Majesty in right of the province in which that person is convicted, for disposal as the Attorney General may direct.</p> <p>(5) Subsections 199(6) and (7) apply with such modifications as the circumstances require to section 318 or subsection (1) or (2) of this section.</p> <p>(6) No proceeding for an offence under subsection (2) shall be instituted without the consent of the Attorney General.</p> <p>(7) In this section,</p> <p>“communicating” includes communicating by telephone, broadcasting or other audible or visible means;</p> <p>“identifiable group” has the same meaning as in section 318;</p> <p>“public place” includes any place to which the public have access</p>

	<p>as a right or by invitation, express or implied; "statements" includes words spoken or written or recorded electronically or electromagnetically or otherwise, and gestures, signs or other visible representations. [R.S., c.11 (1st Supp.), s.1.]</p> <p>320. (1) A judge who is satisfied by information on oath that there are reasonable grounds for believing that any publication, copies of which are kept for sale or distribution in premises, within the jurisdiction of the court, is hate propaganda, shall issue a warrant under his hand authorizing seizure of the copies.</p>
Holocaust denial	
Personal violence	
Destruction of property	It is a crime to damage property used for religious worship if the action is motivated by bias, prejudice or hate based on religion, race, colour or national or ethnic origin.
Civil rights violations	
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	Section 718.2(a)(i) makes it an aggravating factor for sentencing purposes when there is evidence that the crime was motivated by bias, prejudice, or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or any other similar factor.
Bias types	Colour, race, religion, ethnic origin, national origin, language, sex, age, mental or physical disability, sexual orientation, any other similar factor.

CROATIA

International crimes	§157: proposed amendment (pursuant to harmonisation of provisions with Rome Statute) to prescribe a new criminal offence of 'crime against humanity'.
Incitement to hatred / Dissemination of racist ideas	<p>Article 39 of the Constitution directly prohibits any call or incitement to national, racial, religious or other discrimination or hatred.</p> <p>Criminal acts of racial and other discrimination were defined by provisions of Article 174 of the 1997 Penal Code as follows: (3) Anyone who publicly speaks and expresses ideas of supremacy of one race over another, with the aim of inciting racial hatred or with the aim of inciting racial discrimination, shall be punished by a term of imprisonment of between 3 months and 3 years.</p> <p>The above criminal acts have been extended by the amendments to the Penal Code adopted in 2000 (Official Gazette 'Narodne novine' No. 129/00), and Article 174 now reads as follows:</p>

	<p>(3) Anyone who publicly speaks and expresses ideas of supremacy of one race over another, of one ethnic or religious group over another, of one gender over another, of one nation over another or one skin colour over another, with the aim of inciting racial, religious, gender, national, ethnic hatred or hatred based on the skin colour, or with the aim of belittling, shall be punished by a term of imprisonment of between 3 months and 3 years.</p> <p>Article 151 a) of the Law on the Amendments to the Penal Code enacted in 2003 (Official Gazette 'Narodne novine' No. 111/03) defined a new criminal act - Exalting fascist, nazi and other totalitarian states and ideologies or promoting racism and xenophobia. It was repealed by the Constitutional Court on 27 November 2003 as being unconstitutional on the basis that it was an organic law and was passed without the requisite number of votes. It read as follows:</p> <p>(1) Anyone who produces, sells, imports or exports, makes available to public via computer system or in any other manner, or possesses for that purpose large quantities of promotion materials exalting fascist, nazi and other totalitarian states, organisations or ideologies that champion, promote or incite hatred, discrimination or violence against any individual or group on the basis of racial difference, skin colour, gender, sexual orientation, national or ethnic origin, religion, political or other belief, shall be punished by a fine or a term of imprisonment of not more than one year.</p> <p>(2) No criminal act shall be committed if the material from paragraph (1) herein is prepared or made available to the public for the purpose of research, for artistic or scientific purposes, or for the purpose of reporting on events in the present time or in the past.</p> <p>(3) The objects and materials from paragraph (1) herein shall be confiscated.</p>
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	<p>Criminal acts of racial and other discrimination were defined by provisions of Article 174 of the 1997 Penal Code as follows:</p> <p>(1) Anyone who on the ground of racial difference, gender, skin colour, nationality or ethnic origin violates basic human rights and freedoms recognized by the international community, shall be punished by a term of imprisonment of between 6 months and 5 years.</p> <p>The above criminal acts have been extended by the amendments to the Penal Code adopted in 2000 (Official Gazette 'Narodne novine' No. 129/00), and Article 174 now reads as follows:</p> <p>(1) Anyone who on the ground of racial difference, religion, language, political belief, property, birth, education, social status or other characteristics, gender, skin colour, nationality or ethnic origin violates basic human rights and freedoms recognized by the international community, shall be punished by a term of imprisonment of between 6 months and 5 years.</p>
Racist organizations	

Racist cyber-crime	(Proposed amendment to the Criminal Code to include criminalisation of distribution or publication through a computer system of material which denies, grossly minimises, approves or justifies the criminal acts of genocide or crimes against humanity to be punished by a fine or prison term of 3 months – 3 years (obligation referred to in §6 of the Additional Protocol to the Convention on Cybercrime))
Aggravating circumstances	
Bias types	National origin, race, religion, gender, skin colour, political belief, property, birth, education, social status, other

CYPRUS

International crimes	
Incitement to hatred / Dissemination of racist ideas	<p>Amending Laws 11/92, 6(III)/95 and 28(III)/99 amending the law ratifying the CERD establish as criminal offences:</p> <p>→ To incite acts which are likely to cause discrimination, hatred, or violence against any person or group of persons on account of their racial or ethnic origin, or their religion. The offence is committed when a person incites as above in public either orally or through the press or by means of any document or picture or any other means. The penalty is that of imprisonment not exceeding two years, or a fine not exceeding one thousand pounds, or both.</p> <p>→ To express ideas insulting to any person or group of persons by reason of their racial or ethnic origin, or their religion. The offence is committed when a person acts as above in public either orally or through the press or by means of any documents or pictures or any other means. The penalty is that of imprisonment not exceeding one year, or a fine not exceeding five hundred pounds, or both.</p> <p>In conformity with a recommendation of the Committee for the Elimination of Racial Discrimination, the 1999 amendments mean that it is no longer necessary that the incitement to racial hatred be intentional for the corresponding offence to be committed.</p> <p>Sections 47, 48(f), 51, 51(A) of the Criminal Code deal with sedition and promotion of violence or intolerance. Section 155 of the Criminal Procedure Law affords the possibility of seizure and confiscation of racist and xenophobic material.</p>
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	Amending Laws 11/92, 6(III)/95 and 28(III)/99 amending the law ratifying the CERD establish as criminal offences:

	<p>To refuse to supply goods or services to another by reason of his racial or ethnic origin or religion. The offence is committed by persons who supply goods or services by profession, and the penalty is that of imprisonment not exceeding one year, or a fine of four hundred pounds or both.</p> <p>Equal Treatment (Racial or Ethnic Origin) Law 2004 prohibits discrimination on racial or ethnic grounds in public and private sector regarding social protection, services, training, and access to goods and services.</p> <p>Equal Treatment Law in Employment and Occupation 2004 prohibits discrimination on the above grounds or on grounds of sexual orientation, religion or belief, disability or age in employment and occupation.</p>
Racist organizations	<p>Amending Laws 11/92, 6(III)/95 and 28(III)/99 amending the law ratifying the CERD establish as criminal offences: To establish or participate in an organisation which promotes organised propaganda or activities of any form aiming at racial discrimination.</p>
Racist cyber-crime	
Aggravating circumstances	
Bias types	Race, ethnicity, religion.

CZECH REPUBLIC

International crimes	<p>Section 259 Genocide (1) Whoever, with intent to annihilate, fully or partially, a national, racial or religious group, (a) causes the members of such group to live in conditions which will lead to their complete or partial physical extinction; (b) carries out measures designed to prevent the birth of children in such group; (c) forcibly transfers children from one such group to another; (d) causes severe injury to health, or death, to a member of such group, shall be sentenced to a term of imprisonment of from twelve to fifteen years or an exceptional term of imprisonment. (2) The same punishment shall be imposed on any person participating in an act under subsection (1).</p>
Incitement to hatred / Dissemination of racist ideas	<p>Sections 198 ("defamation of a race, nation or belief"), 198a ("incitement to national and racial hatred"), 260 ("sponsoring and promotion of movements which aim to suppress the rights and freedoms of citizens") and 261 ("public expression of sympathy for fascism or similar movement").</p>
Holocaust denial	

Personal violence	Section 196: "violence against a group of inhabitants and against individuals on the basis of race, nationality, political conviction or religion".
Destruction of property	
Civil rights violations	
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	The Czech Criminal Code includes racist motivation as a specific aggravating circumstance. An amendment to the Code in 1995 increased all sentences for crimes with racial motives and extended the range of evidence for such crimes as murder, battery, intimidation, and damage to property where there is a racial motivation.
Bias types	National origin, ethnicity, race.

DENMARK

International crimes	Law Nr. 132 of 29 of April 1955, Law concerning punishment of Genocide: § 1 Whoever with the intent to destroy in whole or in part a national, ethnical, racial or religious group as such, (a) kills members of the group, (b) causes serious bodily or mental harm to members of the group, (c) deliberately inflicts on the group conditions of life calculated to bring about its physical destruction in whole or in part, (d) imposes measures intended to prevent births within the group, (e) forcibly transfers children of the group to another group, is punishable for genocide by imprisonment for life or for a time not less than 16 years.
Incitement to hatred / Dissemination of racist ideas	Article 266b of the Criminal Code prohibits dissemination of racist statements and racist propaganda. Article 266(b) states that any person who, publicly or with the intention of wider dissemination, makes a statement or imparts other information by which a group of people are threatened, insulted or degraded on account of their race, colour, national or ethnic origin, or sexual inclination, shall be liable to a fine or imprisonment for a term not exceeding two years. When measuring out the punishment it shall be considered an aggravating circumstance if the conduct is characterized as propaganda.
Holocaust denial	
Personal violence	
Destruction of property	

Civil rights violations	Sections 1 and 2 of the Act Prohibiting Discrimination on the Basis of Race make it an offence to discriminate on the basis of race, colour, national or ethnic origin, religion or sexual inclination when offering a commercial or non-profit service or in granting access to a public place.
Racist organizations	Racist and xenophobic organisations are not prohibited.
Racist cyber-crime	
Aggravating circumstances	An amendment (2004) provides that it shall be regarded as an aggravating circumstance if an offence is due to ethnic origin, religion, sexual inclination or other grounds. Section 80(1) of the Criminal Code instructs courts to take into account the gravity of the offence and the offender's motive when meting out penalty.
Bias types	Race, colour, national or ethnic origin, sexual inclination, other

ESTONIA

International crimes	§ 611(1) Genocide and crimes against humanity
Incitement to hatred / Dissemination of racist ideas	§ 151. Incitement to social hatred Activities which publicly incite to hatred or violence on the basis of nationality, race, colour, sex, language, origin, religion, political opinion, financial or social status are punishable by a pecuniary punishment or up to 3 years' imprisonment.
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	<p>§ 152. Violation of equality Unlawful restriction of the rights of a person or granting of unlawful preferences to a person on the basis of his or her nationality, race, colour, sex, language, origin, religion, political opinion, financial or social status is punishable by a pecuniary punishment or up to one year of imprisonment.</p> <p>§ 153. Discrimination based on genetic risks Unlawful restriction of the rights of a person or granting of unlawful preferences to a person on the basis of his or her genetic risks is punishable by a pecuniary punishment or up to one year of imprisonment.</p> <p>§ 154. Violation of freedom of religion A person who interferes with the religious affiliation or religious practices of a person, unless the religious affiliation or practices are detrimental to the morals, rights or health of other people or violate public order, shall be punished by a pecuniary punishment or up to one year of imprisonment.</p>

	<p>§ 155. Compelling person to join or retain membership of religious association Compelling a person to join or be a member of a religious association is punishable by a pecuniary punishment or up to one year of imprisonment.</p>
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	There is no scope for racist motivation to be taken into account by the courts as an aggravating circumstance when sentencing.
Bias types	Nationality, race, colour, sex, language, origin, religion, political opinion, financial or social status

FINLAND

International crimes	Sections 6-7 of Chapter 11 of the Criminal Code define genocide.
Incitement to hatred / Dissemination of racist ideas	Section 8 of Chapter 11 of the Criminal Code covers ethnic agitation and penalises the spreading of statements or other information among the public where a certain "race", a national, ethnic or religious group or a comparable group is threatened, defamed or insulted.
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	<p>Section 9 criminalises discrimination on the part of a person who, in the practice of their trade or profession, in the exercise of their duties as a civil servant, in other public duties or in the organisation of a public gathering or meeting, refuses to serve a person, refuses entry to a place of public amusement or meeting, or places someone in an unequal or essentially inferior position, without an acceptable reason and on the grounds, inter alia, of race, national or ethnic origin, colour, language or religion.</p> <p>Chapter 47, section 3, penalises employers who put job seekers or employees in an inferior position on the grounds, inter alia, of race, national or ethnic origin, colour, language and religion: thus, a prison term or fine may be imposed for a breach of the prohibition of discrimination contained in the Employment Contracts Act.</p>
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	Chapter 6: Sections 4-5 dealing with sentencing allow for racist motives to be taken into account in sentencing with respect to

	common crimes. There are no separate provisions on e.g. racist assault.
Bias types	Race, national origin, ethnicity, religion, comparable group

FRANCE

International crimes	<p><i>Code Pénal; Livre II, Des crimes et délits contre les personnes ; Titre Ier - Des crimes contre l'humanité, Chapitre Ier - Du génocide, Article 211-1:</i></p> <p><i>Constitue un génocide le fait, en exécution d'un plan concerté tendant à la destruction totale ou partielle d'un groupe national, ethnique, racial ou religieux, ou d'un groupe déterminé à partir de tout autre critère arbitraire, de commettre ou de faire commettre, à l'encontre de membres de ce groupe, l'un des actes suivants:</i></p> <p><i>atteinte volontaire à la vie;</i></p> <p><i>atteinte grave à l'intégrité physique ou psychique;</i></p> <p><i>soumission à des conditions d'existence de nature à entraîner la destruction totale ou partielle du groupe;</i></p> <p><i>mesures visant à entraver les naissances;</i></p> <p><i>transfert forcé d'enfants.</i></p> <p><i>Le génocide est puni de la réclusion criminelle à perpétuité.</i></p>
Incitement to hatred / Dissemination of racist ideas	<p>Articles 23, 24, Article 42 of Law of 29 July 1881 forbid public provocation of discrimination, national, racial or religious violence</p> <p>Articles 23, 29, 32 and 42 of Law of 29 July 1881 forbid racial defamation and public racial injury</p> <p>Article R625-7 of penal code forbids non-public provocation of discrimination or national, racial or religious hatred</p> <p>Article R624-3 of the penal code forbids non-public racial defamation</p> <p>As concerns racist statements, the law of 9 March 2004 extended the prescriptive period from three months to one year for prosecuting the offences of: incitement to racial discrimination, hatred and violence; negationism; and racial defamation and insults.</p>
Holocaust denial	Articles 23, 24bis and 42 of the law of 29 July 1881 forbid denial of crimes against humanity.
Personal violence	
Destruction of property	
Civil rights violations	<p>Article 225-2 of the penal code addresses discrimination by refusal of admission to public places.</p> <p>The law of 16 November 2001 relating to the fight against discrimination has widened the field of application of relevant penal legislation by inter alia prohibiting discrimination on the grounds of physical appearance and surname. This law has also extended the scope of application of penal legislation sanctioning discrimination in employment to cover internships as well as professional training opportunities. Furthermore, the law of 9 March 2004 increased the applicable penalties for racial discrimination.</p>

Racist organizations	
Racist cyber-crime	
Aggravating circumstances	<p>Law of 3 February 2003 establishes aggravated circumstances according to article 132-76 of the penal code if an infraction is preceded or accompanied by the consideration that the victim is in fact or by supposition a member of a determined ethnicity, nation, race or religion. The aggravated circumstance may increase the penalty or change the nature of the infraction.</p> <p>Law 2004-204 of 9 March 2004 extends the list of crimes to which aggravated circumstances of racist/anti-Semitic/xenophobic character can be attached, to include extortion, threats and theft. Other crimes for which such motives constitute aggravating circumstances include homicide, torture and barbarous acts, violence causing death, threat to commit a crime, threat of death, and others.</p> <p>Law 2003-239 of 18 March 2003 created an article 132-77 of the penal code providing that commission of a crime or delict because of the victim's sexual orientation would constitute an aggravating circumstance. Law 2004-204 of 9 March 2004 extended the range of crimes to which this aggravating factor may attach.</p>
Bias types	Ethnicity, national origin, race, religion, sexual orientation.

GEORGIA

International crimes	Article 411 penalises the premeditated violation of international humanitarian law based on apartheid or racial discrimination. Article 407 punishes acts of genocide.
Incitement to hatred / Dissemination of racist ideas	
Holocaust denial	
Personal violence	<p>Criminal Code of 1999 defines some common offences - but with a racist nature - as specific offences:</p> <p>Article 109 (murder motivated by racial, religious, national or ethnic intolerance);</p> <p>Article 117 (infliction of serious injuries motivated by racial, religious, national or ethnic intolerance);</p> <p>Article 126 (torture motivated by racial, religious, national or ethnic intolerance).</p>
Destruction of property	Article 258 prohibits desecration of graves and other acts committed on the grounds of racial, religious, national or ethnic intolerance.
Civil rights violations	Article 142 penalises the infringement of an individual's right to equality on the grounds mentioned in Article 14 of the Constitu-

	tion. It requires for its application that the infringement of the right to equality result in a substantial violation of human rights.
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	Race, religion, national origin, ethnicity.

GERMANY

International crimes	Section 16, Crimes Against Life; § 220a., Genocide
Incitement to hatred / Dissemination of racist ideas	Section 86: Dissemination of Means of Propaganda of Unconstitutional Organisations – provides for fine or imprisonment for up to 3 years Section 86a: Use of Symbols of Unconstitutional Organisations – provides for fine or imprisonment for up to 3 years Section 130 prohibits incitement to hatred and violence against segments of the population (§ 130.1), including through dissemination of publications or broadcasts (§ 130.2).
Holocaust denial	Section 130 prohibits denial or playing down of the genocide committed under the National Socialist regime (§ 130.3), including through dissemination of publications (§ 130.4).
Personal violence	
Destruction of property	
Civil rights violations	
Racist organizations	Section 85 prohibits the continuation of the activities of an organisation that has been banned.
Racist cyber-crime	
Aggravating circumstances	Section 46: Principles for Determining Punishment – takes into account aims and motives of perpetrator
Bias types	(Genocide: race, national origin, ethnicity, religion)

GREECE

International crimes	
Incitement to hatred / Dissemination of racist ideas	Law 927/1979 “on punishing acts or activities aiming at racial discrimination” penalizes: (a) to willfully and publicly, either orally or by the press or by written texts or through pictures or any other means, incite to acts or activities which may result in discrimination, hatred or violence against individuals or groups of individuals on the sole grounds of the latter’s racial or national origin or [by virtue of article 24 of Law 1419/1984] religion; (c) to express publicly, either orally or by the press or by written texts or through pictures or any other means offensive ideas against any individual or group of individuals on the grounds of the latter’s racial or national origin or religion.
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	Law 927/1979 “on punishing acts or activities aiming at racial discrimination” penalizes: (d) to refuse, in the exercise of one’s occupation, to provide goods or supply services on the sole grounds of racial or national origin or religion or to subject the aforementioned activities to conditions related to racial or national origin or religion.
Racist organizations	Law 927/1979 “on punishing acts or activities aiming at racial discrimination” penalizes: (b) to form or participate in organizations with intent to organize propaganda or any kind of activities tending to racial discrimination;
Racist cyber-crime	
Aggravating circumstances	The motives of the crime are taken into account when determining the sentence so racist motives can be considered as aggravating circumstances.
Bias types	Race, national origin, religion

HOLY SEE

International crimes	
Incitement to hatred / Dissemination of racist ideas	
Holocaust denial	
Personal violence	

Destruction of property	
Civil rights violations	Discrimination on the grounds of sex, race, colour, social conditions, language or religion is condemned in numbers 1934 and 1935 of the Catechism of the Catholic Church. Canon 1321 protects the individual from discrimination by defining the objective and subjective elements of the offence and the principle of legality in penal matters.
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	Sex, race, colour, social conditions, language, religion

HUNGARY

International crimes	§155: prohibition of genocide §157: prohibition of apartheid
Incitement to hatred / Dissemination of racist ideas	§269: incitement against a community: A person who incites to hatred before the general public against (a) the Hungarian nation; (b) any national, ethnic, racial group or certain groups of the population, shall be punishable for a felony offence with imprisonment up to three years. Proposed amendment to §269 to ensure punishment of racial expression – adopted by Hungarian Parliament, but judged unconstitutional by Constitutional Court in May 2004 - unamended article still valid. §269/A: violation of a national symbol §269B: detailed list of symbols which are connected to ideas and events relating to the forceful seizure and dictatorial keeping of power, and therefore represent violence, hate against certain national, ethnic, or religious groups
Holocaust denial	
Personal violence	§174/B: punishes violence against a member of a national, ethnic, racial or religious group (and presumption of membership of such a group) with imprisonment (1) The person who assaults somebody else because he belongs or is believed to belong to a national, ethnic, racial or religious group, or coerces him with violence or menace into doing or not doing or into enduring something, commits a felony and shall be punishable with imprisonment up to five years. (2) lists aggravating factors such as use of arms.
Destruction of property	
Civil rights violations	

Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	National origin, ethnicity, race, religion

ICELAND

International crimes	
Incitement to hatred / Dissemination of racist ideas	
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	<p>Section 180 of the Criminal Code provides for fines or imprisonment of up to six months for the act of denying a person goods and services in business transactions or service activities, or access to any place intended for general public use, or any other public place, on the grounds of his or her colour, race or national origin, religion or sexual orientation, or other comparable considerations. Section 233a provides that any person who, by mockery, slander, insult, threat or other means, publicly attacks a person or a group of persons on the grounds of their nationality, colour, race, religion or sexual orientation shall be liable to a fine or imprisonment for a term not exceeding two years.</p> <p>Article 125 stipulates that any person who publicly ridicules or dishonours the religion or worship of a lawful religious community in Iceland shall be liable to a fine or imprisonment of up to three months.</p>
Racist organizations	<p>Racist associations are not prohibited as such in Iceland, however the activities of an association considered to have unlawful objectives may be banned. An association aiming to attack a group of persons on the grounds of their nationality, colour, race or religion, by mockery, slander, insult, threat or other means, might thus be considered to have an unlawful objective, as such acts constitute punishable offences according to section 233 a of the Criminal Code.</p>
Racist cyber-crime	
Aggravating circumstances	
Bias types	Nationality, colour, race, religion, sexual orientation, other.

IRELAND

International crimes	Genocide Act , No. 28/1973.
Incitement to hatred / Dissemination of racist ideas	<p>Prohibition of Incitement to Hatred Act 1989 (under review); prohibits the use of words, behaviour or the publication or distribution of material which is threatening, abusive or insulting and intended, or likely, to stir up hatred. Under the Act the following deeds aiming to stir up hatred are punishable: publishing or distributing written material; using words or behaviour or displaying written material; distributing, showing or playing a recording of visual images or sounds; broadcasting an item; preparing or possessing written material or recordings of visual images or sounds.</p> <p>A person found guilty of an offence under the Act is liable to a fine or 6 months imprisonment or both, and on conviction on indictment a fine or imprisonment for up to 2 years.</p> <p>The term "hate crime" is not generally used to describe racist, xenophobic or anti-Semitic incidents. The Act provides a definition of hatred in Section 1(1): "The Act interprets hatred to be hatred against a group of persons in the State or elsewhere on account of their race, colour, nationality, religion, ethnic or national origins, membership of travelling community or sexual orientation".</p> <p>Video Recording Act 1989; prevents generally undesirable video works from being supplied to the public. Among the grounds on which the censor can conclude that a video recording should not be classified as fit for viewing are that the viewing of the video would be likely to stir up hatred against a group of persons in the State or elsewhere on account of their race, colour, nationality, religion, ethnic or national origins.</p>
Holocaust denial	
Personal violence	The Public Order Act 1994 may be used in some cases to combat racist acts although on public order grounds rather than on the grounds of prohibiting racist acts per se.
Destruction of property	
Civil rights violations	<p>Equality Act 2004; principle of equal treatment between persons irrespective of racial or ethnic origin.</p> <p>Employment Equality Act 1988; prohibits both direct and indirect discrimination in the areas of employment and access to goods and services on nine grounds; gender, marital status, family status, sexual orientation, religion, age, disability, race or membership of the Traveller community.</p>
Racist organizations	The provisions of the Employment Equality Act, 1998, the Equal Status Act, 2000, and the Prohibition of Incitement to Hatred Act, 1989, together with provisions of the Offences against the State Act 1939 make illegal organisations which promote and incite racial hatred and discrimination and render membership of such organisations a criminal offence.

Racist cyber-crime	
Aggravating circumstances	No provision in the law for racially aggravated offences attracting heavier penalties.
Bias types	Race, colour, nationality, religion, ethnic or national origin, membership of traveling community, sexual orientation.

ITALY

International crimes	Law N° 962, 9 October 1967, Prevention and Repression of the Crime of Genocide
Incitement to hatred / Dissemination of racist ideas	Law N° 205/1993 prohibits the dissemination of ideas based on superiority or racial and ethnic discrimination, as well as the incitement to commit or the commission of discriminatory acts for racial, ethnic, national or religious reasons (Section 3(1) a. of Law N° 654/1975 as amended by Law N° 205/1993). It also punishes the incitement to commit or the commission of violent acts or provocation on racial, ethnic, national or religious grounds (Section 3(1) b. of Law N° 654/1975 as amended by Law N° 205/1993). In addition, the display or manifestation of emblems or symbols of organisations, associations, movements inciting to discrimination or violence for racial, ethnic, national or religious reasons is punished, especially when it takes place at public meeting or sport events (Section 2 of Law N° 205/1993).
Holocaust denial	
Personal violence	Commission of violent acts on racial, ethnic, national or religious grounds (Section 3(1) b. of Law N° 654/1975 as amended by Law N° 205/1993).
Destruction of property	
Civil rights violations	
Racist organizations	Establishment of, participation in or assistance to organisations, associations, movements or groups aiming to incite to racial discrimination or hatred (Section 3(2) of Law N° 654/1975 as amended by Law N° 205/1993).
Racist cyber-crime	
Aggravating circumstances	Section 3 of the Law N° 205/1993 introduces a general aggravating circumstance for all offences committed with a view to discrimination on racial, ethnic, national or religious ground or in order to help organisations with such purposes. The Law also provides that any racially aggravated offence is prosecuted ex officio.
Bias types	Race, ethnicity, religion, national origin

KAZAKHSTAN

International crimes	<p>Article 160. Genocide Genocide, that is deliberate acts aimed at complete or partial destruction of a national, ethnic, racial, or religious group by murdering members of such a group, the causation of severe damage to their health, forcible prohibition of the birth of children, forcible transfer of children, forcible migration or the creation of other conditions of life which lead to destruction of members of a given group, shall be punished by imprisonment for a period from ten to twenty years, or by capital punishment or life-time imprisonment.</p>
Incitement to hatred / Dissemination of racist ideas	<p>Article 5(6) of the Act on National Security includes amongst threats to national security, stirring-up racial, national, religious hatred and discord.</p> <p>Article 164. Incitement of Social, National, Tribal, Racial, or Religious Enmity</p> <p>1. Deliberate actions aimed at the incitement of social, national, tribal, racial, or religious enmity or antagonism, or at offense to the national honour and dignity, or religious feelings of citizens, as well as propaganda of exclusiveness, superiority, or inferiority of citizens based on their attitude towards religion, or their genetic or racial belonging, if these acts are committed publicly or with the use of the mass information media, shall be punished by a fine in an amount up to one hundred monthly calculation bases, or in an amount of wages or other income of a given convict for a period up to one month, or by detention under arrest for a period up to six months, or by correctional labour for a period up to two years., or by imprisonment for the same period.</p> <p>2. The same acts committed by a group of persons or committed repeatedly, or combined with violence or a threat to apply it, as well as committed by a person with the use of his official position, or by the head of a public association, shall be punished by a fine in an amount from one hundred up to three hundred monthly calculation bases, or in an amount of wages or other income of a given convict for a period from one to three months, or by restriction of freedom for a period up to four years, or by imprisonment for the same period with deprivation of the right to hold certain positions or to engage in certain types of activity for a period up to three years, or without it.</p> <p>3. The acts stipulated by the first and second parts of this Article which entailed serious consequences shall be punished by imprisonment for a period from three to ten years with deprivation of the right to hold certain positions or to engage in certain types of activity for a period up to three years, or without it.</p>
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	<p>Article 141. Violation of Equality of Citizens</p> <p>1. Direct or indirect restriction of the rights and freedoms of a man</p>

	and a citizen based on motives of origin, social, official, or property status, sex, race, nationality, language, attitude towards religion, convictions, place of residence, or his belonging to public associations, or based on any other circumstances, shall be punished by a fine in an amount from two hundred up to one thousand monthly calculation bases, or in an amount of wages of other income of a given convict for a period from two to five months, or by detention under arrest for a period up to three months, or by imprisonment for a period up to one year.
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	National origin, ethnicity, race, religion, social group, tribe.

LATVIA

International crimes	<p>Section 71. Genocide</p> <p>For a person who commits genocide, that is, commits intentional acts for purposes of the destruction in whole or in part of any group of people identifiable as such by nationality, ethnic origin, race, social class or a defined collective belief or faith, by killing members of the group, inflicting upon them physical injuries hazardous to life or health or causing them to become mentally ill, intentionally causing conditions of life for such people as result in their physical destruction in whole or in part, utilising measures the purpose of which is to prevent the birth of children in such group, or transferring children on a compulsory basis from one group of people into another, the applicable sentence is life imprisonment or deprivation of liberty for a term of not less than three and not exceeding twenty years.</p>
Incitement to hatred / Dissemination of racist ideas	<p>Section 78. Violation of National or Racial Equality and Restriction of Human Rights</p> <p>1. For a person who commits acts knowingly directed towards instigating national or racial hatred or enmity [...] the applicable sentence is deprivation of liberty for a term not exceeding three years or a fine not exceeding sixty times the minimum monthly wage.</p> <p>2. For a person who commits the same acts, if they are associated with violence, fraud or threats, or where they are committed by a group of persons, a State official, or a responsible employee of an undertaking (company) or organisation, the applicable sentence is deprivation of liberty for a term not exceeding ten years.</p> <p>Section 150. Violation of Equality Rights of Persons on the Basis of their Attitudes Towards Religion</p> <p>For a person who commits [...] incitement of hatred in connection with the attitudes of [...] persons towards religion or atheism, the applicable sentence is deprivation of liberty for a term not exceeding two years, or community service, or a fine not exceeding forty times the minimum monthly wage.</p>

Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	<p>Section 78. Violation of National or Racial Equality and Restriction of Human Rights</p> <p>1. For a person who [...] knowingly commits the restricting, directly or indirectly, of economic, political, or social rights of individuals or the creating, directly or indirectly, of privileges for individuals based on their racial or national origin, the applicable sentence is deprivation of liberty for a term not exceeding three years or a fine not exceeding sixty times the minimum monthly wage.</p> <p>2. For a person who commits the same acts, if they are associated with violence, fraud or threats, or where they are committed by a group of persons, a State official, or a responsible employee of an undertaking (company) or organisation, the applicable sentence is deprivation of liberty for a term not exceeding ten years.</p> <p>Section 150. Violation of Equality Rights of Persons on the Basis of their Attitudes Towards Religion</p> <p>For a person who commits direct or indirect restriction of the rights of persons or creation of whatsoever preferences for persons, on the basis of the attitudes of such persons towards religion, excepting activities in the institutions of a religious denomination, or commits violation of religious sensibilities of persons [...] the applicable sentence is deprivation of liberty for a term not exceeding two years, or community service, or a fine not exceeding forty times the minimum monthly wage.</p>
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	Nationality, ethnic origin, race, social class, defined collective belief or faith.

LIECHTENSTEIN

International crimes	Article 321 of the Criminal Code affords special protection to religious, racial, ethnic, cultural or national groups and persons and establishes genocide as an offence punishable by law.
Incitement to hatred / Dissemination of racist ideas	§283: punishment with imprisonment of up to 2 years for public incitement to hatred or discrimination on the basis of race, ethnicity or religion; public dissemination of ideologies aimed at the systematic disparagement or defamation of members of a race, ethnicity or religion; organisation, promotion or participation in propaganda actions with the same objective; public disparagement of discrimination on the basis of race, ethnicity or religion in

	a manner violating human dignity [...] manufacture, importation, storage, distribution, recommendation, exhibition or presentation of documents (etc) whose content is racially discriminatory (unless the material serves the purpose of art, science, research, education, appropriate reporting on current events or history)
Holocaust denial	§283: public denial or trivialisation or attempts to justify genocide or other crimes against humanity
Personal violence	
Destruction of property	
Civil rights violations	§283: denial of a service that is meant for the general public on the basis of race, ethnicity of religion
Racist organizations	§283: participation as a member in an association whose activity consists of promoting or inciting racial discrimination
Racist cyber-crime	
Aggravating circumstances	§33, paragraph 5: "racist, xenophobic, or other particularly reprehensible motives" as an aggravating circumstance.
Bias types	Race, ethnicity, religion, nationality, cultural group, "other particularly reprehensible motives"

LITHUANIA

International crimes	<p>§99: prohibition of genocide, attempted genocide and complicity in genocide; provides for punishment by imprisonment</p> <p>"Any person who aiming at physical destruction, in whole or in part, of people belonging to any national, ethnic, racial, religious, social or political group organized, directed or participated in killing, torturing, injuring, hampering of mental development, deporting or by other means creating such living conditions that inflicted their physical destruction in whole or in part, or imposed measures intended to prevent births within such group or forcibly transferred their children over to other groups, shall be punished by imprisonment from 5 to 20 years or life imprisonment."</p> <p>§100: prohibition of violation of international humanitarian law including persecution on political, racial, national, ethnic, cultural, religious or gender grounds; provides for punishment by imprisonment.</p>
Incitement to hatred / Dissemination of racist ideas	§170: "Any person who by public statements orally, in writing or through mass media mocks, expresses contempt, incites hatred or discrimination against a group of people or an individual belonging to such group on account of their sex, sexual orientation, race, nationality, language, origin, social status, religion, conviction or belief, shall be punished by fine or restriction of freedom, or arrest, or imprisonment up to 2 years.

	<p>Any person who publicly incites violence or use of deadly physical force against a group of people or an individual belonging to such group on account of their sex, sexual orientation, race, nationality, language, origin, social status, religion, conviction or belief, or provides financial or other kind of material support for such acts, shall be punished by a fine or restriction of freedom, or arrest, or imprisonment up to 3 years.”</p> <p>Law on Amendment of Republic of Lithuania on Provision of Information to the Public prohibits instigating war, national, racial, religious and social discord and gender enmity and hatred.</p>
Holocaust denial	
Personal violence	
Destruction of property	§312: prohibition of destruction or desecration of graves and acts of vandalism in cemeteries with racial, national or religious motivation; provides for punishment by public works, fine, restriction of freedom, arrest or imprisonment.
Civil rights violations	<p>§169: “Any person, who commits an act intended at hindering a group of people or an individual belonging to such group on account of their sex, sexual orientation, race, nationality, language, origin, social status, religion, conviction or belief, to equally with others participate in political, economic, social, cultural, labour or other activities or to restrict rights and freedoms of such group of people or an individual belonging to this group, shall be punished by public works or fine, or restriction of freedom, or arrest, or imprisonment up to 3 years.”</p> <p>§171: prohibition of disturbance of religious services or celebrations of state-recognised religious communities or associations; provides for punishment by public works, fine, restriction of freedom or arrest.</p>
Racist organizations	§214 Administrative Code prohibits creating or participating in the activities of an organization that instigates national, racial or religious enmity.
Racist cyber-crime	
Aggravating circumstances	
Bias types	Sex, sexual orientation, race, nationality, language, origin, social status, religion, conviction or belief, politics, ethnicity, cultural group, gender, social group.

LUXEMBOURG

International crimes	Law of 8 August 1985 on genocide.
Incitement to hatred / Dissemination of racist ideas	
Holocaust denial	Article 457-3: it is forbidden to contest, trivialise, justify or deny publicly the existence of crimes against humanity or war crimes linked to the Holocaust.
Personal violence	
Destruction of property	§453 (added in 1997): prohibition of attacks on the integrity of a corpse or desecration of a tomb (+ §457-2: increase of sanctions for such an offence if committed on racial grounds)
Civil rights violations	<p>Article 454 defines discrimination as any distinction made between natural persons on the grounds of their origin, skin colour, gender, sexual orientation, family situation, state of health, disability, morals, political or philosophical opinions, trade union activities or membership or non-membership, true or alleged, of a particular ethnic group, nation, race or religion. Discrimination against legal persons is also banned. Discrimination is prohibited and punishable with imprisonment or a fine where it entails the refusal to provide goods or services, refusal to recruit, disciplinary action against or dismissal of an individual. According to Article 456, the sanction is more severe if the accused holds public office and, in performing their official duties, refuses to respect a right provided by law or hinders the normal exercise of any economic activity.</p> <p>Article 457 provides for exceptions to the ban on discrimination, including cases where nationality is a determining factor in the exercise of a profession (para. 3). Paragraph 5 contains a general clause stating that "the ban on discrimination does not apply to differential treatment provided by or resulting from another provision of law".</p>
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	Race

MALTA

International crimes	Statute of the ICC has been enacted under the subheading: Genocide, Crimes against Humanity and War Crimes. Press Act 1974, Article 6 states that whosoever by means of the publication or distribution in Malta of printed matter, or by means of any broadcast shall threaten, insult, or expose to hatred, persecution or contempt, a person or group of persons because of their race, creed, colour, nationality, sex, disability or national or ethnic origin shall be liable on conviction to imprisonment for a term not exceeding three months and to a fine.
Incitement to hatred / Dissemination of racist ideas	§82A(1): whosoever uses any threatening, abusive or insulting words or behaviour, or displays any written or printed material which is threatening, abusive or insulting, or otherwise conducts himself in such a manner, with intent thereby to stir up racial hatred or whereby racial hatred is likely, having regard to all the circumstances, to be stirred up shall, on conviction, be liable to imprisonment for a term from six to eighteen months. Racial hatred is defined in (2) as hatred against a group of persons in Malta defined by reference to colour, race, nationality (including citizenship) or ethnic or national origins.
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	Race ⁶ , creed, colour, nationality, sex, disability, national or ethnic origin.

MOLDOVA

International crimes	
Incitement to hatred / Dissemination of racist ideas	<i>Article 176. Non-respect de l'égalité des droits</i> <i>Le non-respect des droits et libertés garantis par la Constitution et par d'autres lois, fondé sur le sexe, la race, la couleur, la langue, la religion, les opinions politiques ou autres opinions, l'origine nationale ou sociale, l'appartenance à une minorité nationale, la fortune, la naissance ou n'importe quelle autre situation:</i> <i>a. commis par une personne exerçant une fonction à responsabilité;</i> <i>b. qui s'est soldé par des préjudices considérables,</i> <i>est puni d'une amende de 300 à 600 unités conventionnelles ou</i>

⁶ Defined by reference to colour, race, nationality, ethnic, national origins.

	<p><i>de l'emprisonnement pour 3 ans au plus, dans les deux cas avec ou sans privation de remplir une fonction ou d'exercer une activité pour un délai de 2 à 5 ans.</i></p> <p>[Prohibition of deliberate actions taken to limit the rights of, or to grant privileges to citizens on the basis of their ethnic or racial identity, or to deliberately incite hatred or cause racial or national disintegration on the same grounds; provides for punishment by fine or imprisonment; the penalty may be increased if the acts involve violence, lies or threats, or if perpetrated by a State official. Aggravating circumstances include collective activity and loss of human life.]</p> <p><i>Article 346. Actions intentionnelles visant à alimenter la discorde ou la haine nationale, raciale ou religieuse</i> <i>Les actions intentionnelles, les appels publics lancés au moyen d'un mass-média écrit ou électronique, visant à alimenter la discorde ou la haine nationale, raciale ou religieuse, à porter atteinte à l'honneur et à la dignité nationale, ainsi que la restriction, directe ou indirecte, des droits des citoyens ou la création d'avantages, directs ou indirects, en faveur de certains citoyens en fonction de leur appartenance nationale, raciale ou religieuse, sont punis d'une amende de 250 unités conventionnelles au plus ou de 3 ans d'emprisonnement au maximum.</i></p> <p>[Prohibition of incitement of enmity or national, racial or religious disintegration (etc) by the media; provides for punishment by fine or imprisonment.]</p>
Holocaust denial	
Personal violence	
Destruction of property	Penal accountability for the desecration of graves.
Civil rights violations	
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	Ethnicity, race, nationality.

MONACO

International crimes	
Incitement to hatred / Dissemination of racist ideas	
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	Article 205; freedom to practice religion Article 206; forbids disturbance or interruption of Catholic or other religious buildings or ceremonies Article 207; forbids words or gestures profaning religious objects Article 208; forbids harming religious minister during his/her duties
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	

NETHERLANDS

International crimes	Act of 2 July 1964 implementing Genocide Convention.
Incitement to hatred / Dissemination of racist ideas	Article 137 prohibits discriminatory defamation, incitement to hatred and discrimination in official duties or the running of a business. In accordance with Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, Article 90quater of the Dutch Criminal Code defines discrimination as any distinction, any exclusion restriction or preference, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social cultural or any other field of public life. The Dutch Criminal Code penalises: insults expressed publicly for the purpose of discriminating on racial and other grounds (Article 137c); incitement to hatred, discrimination and violence on grounds of, inter alia, race (Article 137d); and publicising or disseminating these expressions, other than for objective publication (Article 137e). Article 137f penalises the participation in or support of activities with the purpose of discriminating on racial or other grounds.
Holocaust denial	
Personal violence	

Destruction of property	
Civil rights violations	Criminal Code penalises racial discrimination in the exercise of a public service, profession or trade (Article 137g) and discrimination in the exercise of one's office, profession or business (429 <i>quater</i>).
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	Race, other.

NORWAY

International crimes	
Incitement to hatred / Dissemination of racist ideas	<p>Section 135a - Felonies against the general order and peace - Any person shall be liable to fines or imprisonment for a term not exceeding two years who by any utterance or other communication made publicly or otherwise disseminated among the public threatens, insults, or subjects to hatred, persecution or contempt any person or group of persons because of their creed, race, colour or national or ethnic origin.</p> <p>The same applies to any such offensive conduct towards a person or a group because of their homosexual bent, life-style, or inclination. The same penalty shall apply to any person who incites or is otherwise accessory to any act mentioned in the first paragraph.</p> <p>Section 247. Any person who by word or deed behaves in a manner that is likely to harm another person's good name and reputation or to expose him to hatred, contempt, or loss of the confidence necessary for his position or business, or who is accessory thereto, shall be liable to fines or imprisonment for a term not exceeding one year. If the defamation is committed in print or in broadcasting or otherwise under especially aggravating circumstances, imprisonment for a term not exceeding two years may be imposed.</p>
Holocaust denial	
Personal violence	
Destruction of property	Section 292 – Vandalism - The penalty for serious vandalism shall be fines or imprisonment for a term not exceeding four years. An accomplice shall be liable to the same penalty. In deciding whether the vandalism is serious, special regard shall be paid to whether the damage is considerable, whether the offender has knowingly caused material loss or endangered any person's life or health, whether there was a racial motive or whether the damage has been committed against a boundary mark on the border of a neighbouring State or against a public monument, collection or other object which is

	intended for general use or decoration or has historical, national or religious significance for the public or a large number of people.
Civil rights violations	<p>Section 349a - Misdemeanours against the general peace and order - Any person who in an occupational or similar activity refuses any person goods or services on the same conditions as apply to others, because of his religion, race, colour of his skin, national or ethnic origin, shall be liable to fines or imprisonment for a term not exceeding six months. The same penalty shall apply to any person who in any such activity refuses a person goods or services as mentioned because of his homosexual bent, life-style, or inclination. The same penalty shall apply to any person who for any such reason as is mentioned in the first paragraph refuses a person admission to a public performance or exhibition or other public gathering on the same conditions as apply to others.</p> <p>Provisions also in housing and employment legislation. The new housing laws, enacted by the Parliament in May 2003, includes a prohibition against discrimination on the grounds of faith, colour, language skills, national or ethnic origin, homosexual bent, life-style or inclination.</p>
Racist organizations	Section 330 - Misdemeanours against the public authorities - Any person shall be liable to fines or to detention or imprisonment for a term not exceeding three months who establishes or participates in any association that is prohibited by law, or whose purpose is the commission or encouragement of offences, or whose members pledge themselves to unconditional obedience to any person. If the purpose of the association is to commit or encourage felonies, imprisonment for a term not exceeding six months may be imposed.
Racist cyber-crime	
Aggravating circumstances	<p>Section 232 - Felonies against another person's life, body and health - includes a passage that special regard shall be paid to whether the offence has been committed against a defenceless person, whether there was a racial motive, whether it was unprovoked, whether it was committed by several persons jointly, and whether it constitutes ill treatment.</p> <p>Section 227. Any person who by word or deed threatens to commit a criminal act that is subject to a more severe penalty than detention for one year or imprisonment for six months, under such circumstances that the threat is likely to cause serious fear, or who is accessory to any such threat, shall be liable to fines or imprisonment for a term not exceeding three years. If there are specially aggravating circumstances, cf. section 232, third sentence [cf. above], a term of imprisonment not exceeding six years may be imposed.</p> <p>In addition to these provisions, where racist motivation is mentioned explicitly, such motivation will also often lead to stricter sanctions when other provisions of the General civil penal code are offended, in accordance with general principles for the measure of punishment in Norwegian law.</p>
Bias types	Creed, race, colour, nationality, ethnicity.

POLAND

International crimes	Chapter XVI of the 1998 Criminal Code, dealing with offences against peace and humanity, and with war crimes, foresees particular penalties in its Article 118 for the murder or physical injury of a person belonging to any ethnic, racial, political or religious group with an intent to destroy in full or in part that group.
Incitement to hatred / Dissemination of racist ideas	Article 256 punishes the public propagation of fascist or totalitarian systems of state and the incitation to hatred based on national, ethnic, racial or religious differences, while Article 257 punishes the public insult of a group or person because of their national, ethnic, racial, or religious affiliation. Proposed amendment to Article 256 to include those who, acting with the aim of dissemination - prepare, gather, store, transport, acquire, transfer or send materials propagating fascist or other totalitarian national system or instigate hatred based on national, ethnic, racial or religious differences, or based on lack of religious affiliation.
Holocaust denial	
Personal violence	Article 119 punishes the use of violence or threats towards a group of persons or an individual because of their national, ethnic, political or religious affiliation.
Destruction of property	
Civil rights violations	
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	National origin, ethnicity, politics, religion, race

PORTUGAL

International crimes	Article 239 of the Criminal Code defines and prohibits genocide, direct public incitement to commit genocide, and conspiracy to commit genocide.
Incitement to hatred / Dissemination of racist ideas	Paragraph 2 of Article 240 punishes anyone who, in a public meeting, in writing intended for dissemination, or by any other means of social communication, provokes acts of violence against an individual or group of individuals on grounds of their race, colour, or ethnic, national or religious origin with the intention of inciting to or encouraging racial or religious discrimination. Paragraph 2 also punishes anyone who, in a public meeting, in writing intended for dissemination, or by any other means of social communication, defames or insults an individual or group of individuals on grounds of their race, colour, or ethnic, national or religious origin,

	particularly by denying war crimes and crimes against peace or humanity, with the intention of inciting to or encouraging racial or religious discrimination.
Holocaust denial	See Article 240(2).
Personal violence	
Destruction of property	
Civil rights violations	
Racist organizations	Article 240, Paragraph 1, makes it an offence to found or establish organisations or engage in organised propaganda activities which incite or encourage racial or religious discrimination, hatred or violence. It also prohibits participation in or assistance, including financial assistance, to such organisations or such organised propaganda activities.
Racist cyber-crime	
Aggravating circumstances	Under Article 132.2 f) of the Criminal Code on homicide, motives of racial, religious or political hatred are regarded as aggravating circumstances resulting in a heavier penalty. Such aggravating circumstances may also apply in cases of assault causing bodily harm under Article 146 of the Criminal Code.
Bias types	Race, religion, colour, ethnicity, national origin, politics.

ROMANIA

International crimes	Article 356 on genocide.
Incitement to hatred / Dissemination of racist ideas	The Criminal Code prohibits in its Article 166 the dissemination of propaganda in favour of a totalitarian state, including a fascist regime, while Article 317 prohibits chauvinistic nationalist propaganda and incitement to racial or national hatred.
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	Article 247 covers offences committed in the course of duties by civil servants who restrict employment or the exercise of the rights of an individual or who place an individual in a situation of inferiority for reasons of nationality, race, sex or religion.
Racist organizations	
Racist cyber-crime	

Aggravating circumstances	
Bias types	Race, nationality

RUSSIAN FEDERATION

International crimes	Article 357: Genocide
Incitement to hatred / Dissemination of racist ideas	Article 282 penalises any actions directed at instigating national, racial or religious hatred, belittling national dignity, as well as the propagation of exclusiveness, superiority or deficiency of citizens because of their attitude to a religion, or their national or racial affiliation, if such behaviour is committed in public or using mass media.
Holocaust denial	
Personal violence	
Destruction of property	Article 244: outrage upon places of burial
Civil rights violations	Article 136 of the Criminal Code of the Russian Federation penalises any violation of the equality of citizens on the basis of, inter alia, gender, race, nationality, language, place of residence, attitude to religion, convictions, and membership in public associations, which inflicts damage on citizens' rights and lawful interests.
Racist organizations	<p>Article 282(2) penalizes the establishment of an extremist community, i.e. establishment of an organized group of persons for preparation for or commission of crimes of an extremist nature, because of ideological, political, racial, national or religious hatred or hostility.</p> <p>Federal Law on Counteracting Extremist Activities concerns responsibility of social and religious organizations, other organizations and citizens for extremist activities such as stirring up national hostility, humiliation of national dignity, production of mass riots, hooligan actions because of hatred or hostility, for propaganda of discrimination, superiority or inferiority of citizens because of their relation to religion, social, racial, national or language affiliation.</p>
Racist cyber-crime	
Aggravating circumstances	The Criminal Code also provides for the imposition of more severe penalties if, in certain instances, the motive of national, racial or religious hatred or enmity is present in committing an offence. Article 105 which covers murder prohibits in section 2, para. L, murder "motivated by national, racial or religious hatred or animosity". It also provides generally that such motive constitutes an aggravating circumstance (Article 63(1)).
Bias types	Nationality, race, religion, ideology, politics.

SAN MARINO

International crimes	
Incitement to hatred / Dissemination of racist ideas	
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	Articles 260, 261 and 262 of the Criminal Code penalise denigration of a religion, violation of religious freedom and disruption of religious functions. Other provisions exist stipulating the principle of equal treatment of prisoners without discrimination on grounds, <i>inter alia</i> , of race, nationality, and religious beliefs
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	Race, nationality, religion, other.

SERBIA AND MONTENEGRO

International crimes	
Incitement to hatred / Dissemination of racist ideas	<p>Article 134: Whoever provokes or fans national, racial or religious hatred, discord or intolerance among the nations and national minorities living in the Federal Republic of Yugoslavia will be punished by imprisonment of 1 to 5 years. If such an offence has been committed by coercion, maltreatment, threat to safety, exposure to derision of national, ethnic or religious symbols, damage of belongings of others, desecration of shrines, memorials and graves, the perpetrator will be punished by a prison term of 1-8 years.</p> <p>Whoever commits this offence by the abuse of official position or powers or if, as a consequence of these offences, disorders, violence or other serious consequences have occurred for the life in common of nations and national minorities living in the FRY, the perpetrator will be punished by imprisonment of 1 to 8 and/or 1 to 10 years.</p> <p>Article 154: whoever spreads the ideas of superiority of one race over another or instigates racial hatred or stirs up racial discrimination, will be punished by imprisonment of 3 months to 3 years.</p>
Holocaust denial	
Personal violence	

Destruction of property	
Civil rights violations	<p>Article 154 prohibits racial or other discrimination Pursuant to this Article, whoever, on the grounds of race, colour, nationality or ethnic origin, violates the fundamental human rights and freedoms recognized by the international community will be punished by imprisonment of six months to five years. Whoever engages in the persecution of organizations or individuals because of their advocacy of human equality will also be punished by the same punishment.</p> <p>Article 186: An official person who on the grounds of difference of nationality, race, religion, political or other belief, ethnicity, sex, language, level of education and social status denies or limits the rights of citizens spelled out by the Constitution, by law or other legislative or general enactment, or by a recognized international treaty or who on the grounds of this difference accords citizens privileges or advantages, will be punished with imprisonment of 3 months to 5 years.</p> <p>Article 60 imposes sentences for anyone who denies civil rights guaranteed by the Constitution or international treaties on the basis of race, creed, political or other opinion, ethnic origin, sex, language, education or social status.</p> <p>Article 16 and 162 deal with violation of equality in the pursuit of economic activity and in employment respectively.</p>
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	Nationality, race, religion

SLOVAK REPUBLIC

International crimes	Section 259: Genocide
Incitement to hatred / Dissemination of racist ideas	<p>Section 198: Defamation of a nation, race or conviction (1) Any person who publicly defames a) a nation, its language, a race and/or ethnic group or, b) a group of people because of their denomination or because of being without a denomination shall be liable to a term of imprisonment up to one year or to a pecuniary penalty.</p> <p>Section 198a: Incitement to ethnic or racial hatred (1) Any person who publicly incites to hatred against a nation or a race and/or ethnic group, or to the restriction of rights and freedoms of the persons belonging to a nation or a race shall be liable to a term of imprisonment up to one year, or to a pecuniary penalty.</p>

	(2) The same sentence shall be imposed on any person, who associates or assembles with others with a view to committing the offence referred to in para. 1.
Holocaust denial	An amendment to Section 261 of the Criminal Code added the possibility to prosecute public negation, doubts, acceptance or justification of fascist crimes or other similar movements.
Personal violence	Section 196: Violence against a group of the population and individuals (2) Any person who uses violence against a group of the population or an individual or threatens them with death, bodily harm or extensive damage on grounds of their political conviction, nationality, race, belonging to an ethnic group, denomination or because of being without a denomination shall be liable to a term of imprisonment up to two years.
Destruction of property	Section 202: Disturbance of peace, including desecrating historical or cultural monument.
Civil rights violations	Section 260 & 261: Support for and propagation of movements leading to the suppression of civil rights and freedoms
Racist organizations	
Racist cyber-crime	Amendment no 421/2002 Coll. added in section 89 the possibility of prosecuting criminal offences perpetrated through the Internet.
Aggravating circumstances	Section 219, paragraph 2, subparagraph f: Murder (exceptional sentence when crime committed because of race, ethnic group, nationality, political conviction or belief) Section 221/2 subparagraph b: Health impairment (serious bodily harm; possibility to increase sentence when crime committed because of victim's political conviction, nationality, race, ethnic group, denomination or lack of denomination)
Bias types	Political conviction, nationality, race, ethnicity, denomination or being without denomination, language.

SLOVENIA

International crimes	The crime of genocide is penalised under Article 373 of the Criminal Code.
Incitement to hatred / Dissemination of racist ideas	Article 300 prohibits incitement to ethnic, racial and religious hatred or intolerance or spreading ideas concerning racial superiority. This offence is punishable with imprisonment for up to two years (paragraph 1). A qualified form of this basic criminal offence is defined as including the use of force or ill-treatment, endangering safety, denigrating other nationalities or ethnic or religious symbols, damaging foreign property or desecrating monuments, memorials or graves. In these cases imprisonment can be imposed for up to five years.

Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	<p>According to Article 141 of the Criminal Code, whoever, due to differences in respect of nationality, race, skin colour, religion, ethnic origin, gender, language, political or other beliefs, birth status, education, social position or any other circumstances, prevents another person's enjoyment of any human right or freedom recognised by the international community or laid down by the Constitution or the statute, or grants to any person a special privilege or advantage on the basis of such discrimination shall be punished by a fine or sentenced to imprisonment for not more than one year. The same punishment applies to the offence of harassing an individual or organisation promoting equality (paragraph 2). Paragraph 3 contains a qualified form of the criminal offence of infringing equality as defined in paragraph 1 and 2 and foresees a greater punishment (imprisonment for up to three years) for public officials abusing their official function.</p>
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	<p>There is no specific provision establishing that the racist motivation of the perpetrator constitutes a specific aggravating circumstance. However, e.g. Article 127 provides for more severe punishment for murder if the judge considers that an aggravating circumstance should be taken into account.</p>
Bias types	Ethnicity, race, religion.

SPAIN

International crimes	Article 607, crime of genocide
Incitement to hatred / Dissemination of racist ideas	Articles 510.1 and 510.2; punish as a crime incitement to discrimination, hatred and violence on racist, anti-Semitic or ethnic and racial grounds... as well as on grounds related to ideology, religion, beliefs, family status, their belonging to an ethnic group or race, national origin, gender, sexual orientation, illness or handicap.
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	Article 161.2; makes a crime of human cloning with the aim of selecting race

	<p>Article 197.5 unveiling and publication of secret information affecting data on a person's racial origin</p> <p>Article 312 and 314; refer to the recruitment of foreign citizens without a working permit in conditions prejudicial to their rights as well as discrimination in the working place on racial, ethnic or national grounds</p> <p>Article 511 of the Criminal Code criminalises racial or ethnic discrimination against natural or legal persons committed by persons in charge of a public service. According to the same Article a public official convicted of having committed these offences shall receive an increased sentence and be suspended from his or her duties.</p> <p>Article 314 punishes those producing a "serious discrimination" in employment, public or private, against a person based, <i>inter alia</i>, on grounds of ideology, religion or beliefs, or belonging to a race or ethnicity.</p> <p>Article 312 (1) punishes those engaging in the illegal traffic of workers. Article 312 (2) punishes those employing foreigners without a working permit in conditions that jeopardise, restrict, or suppress their rights under the law, collective conventions, or individual employment contracts.</p>
Racist organizations	<p>Article 515 (4) prohibits associations promoting discrimination, hate or violence against persons, groups or associations by reason of, <i>inter alia</i>, their ideology, religion or beliefs and belonging to a race, ethnic or national group. Article 517 provides for imprisonment and fines for the founders, directors and presidents of such associations as well as for their active members. Article 520 allows for the dissolution of these associations. According to the jurisprudence of the Supreme Court, the mere existence of such an organisation results in criminal sanctions, even if the organisation does not carry out its aims.</p>
Racist cyber-crime	
Aggravating circumstances	<p>Article 22.4; aggravating circumstance where crime committed on racist, anti-Semitic or other discriminatory grounds related to the victim's ideology, religion or beliefs or his/ her belonging to an ethnic group, race, nation, gender or sexual orientation or his/her suffering from an illness or handicap</p>
Bias types	<p>Race, ideology, religion, belief, ethnicity, nation, gender, sexual orientation, illness, handicap, family status.</p>

SWEDEN

International crimes	<p>Law 1964:169 on genocide.</p>
Incitement to hatred / Dissemination of racist ideas	<p>Chapter 16 Section 8 of the Criminal Code prohibits racial agitation. The criminal act consists in a disseminated statement or communication, threatening or expressing contempt for a national, ethnic or other such group of persons with allusion to race, colour, national or ethnic affiliation or religious belief. Dissemination through an organisation or similar group is also punishable under the law. Agitation is also punishable when the act is committed through the printed word, film, sound recording and other such</p>

	<p>media, including via the Internet. The provision also covers communications in pictorial form or gesture: thus, the Supreme Court ruled in 1996 that the bearing of symbols that can be associated with the Nazi persecution of the Jews and other persons can constitute racial agitation.</p> <p>The provision does not protect individuals but only groups of people defined as a collective. An amendment in January 2003 provides that incitement may be defined as a serious crime with a penal scale ranging from 6 months to 4 years imprisonment. Fines are imposed if the offence is “of little gravity”, a concept which the Criminal Code does not define.</p> <p>Chapter 16 Section 12 of the Penal Code penalises the distribution to young people or children of a writing, picture or technical recording which through its content could brutalise or otherwise involve serious danger to the moral nurture of the young. This provision has been used to penalise the distribution of racist propaganda to young people through, for example, the sale of CD recordings, without impediment from the provisions contained in the Fundamental Law on Freedom of Expression.</p>
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	Chapter 16 Section 9 of the Penal Code criminalises discrimination by a person during the conduct of his or her business, or in organising a public assembly or gathering, against another person on the basis of race, colour, national or ethnic affiliation, religious belief or homosexual orientation. The provision, which carries a penalty of up to one years’ imprisonment, also applies to those employed in public service or having a public duty.
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	<p>Common offences with a racist motive</p> <p>Chapter 29 Section 2 (7) of the Penal Code provides for the racist motives of offenders to be taken into account as an aggravating circumstance when sentencing in cases of criminal acts such as assault, unlawful threat, molestation and inflicting damage. The aggravating circumstances include: “a motive for the crime was to aggrieve a person, ethnic group or some other similar group of people by reason of race, colour, national or ethnic origin, religious belief or other similar circumstance.”</p>
Bias types	Nationality, ethnicity, race, colour, religion, other.

SWITZERLAND

International crimes	§264 on genocide.
Incitement to hatred / Dissemination of racist ideas	§261(bis) penalises public incitement to racial hatred or discrimination, spreading racist ideology, denying crimes against humanity and refusing to supply a public service (Consideration being given to amending criminal code to separate “distinctive signs of discriminatory attitude” from creation or participation in groups which intend to commit acts prohibited under §261(bis))
Holocaust denial	See §261(bis)
Personal violence	
Destruction of property	
Civil rights violations	See §261(bis)
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	
Bias types	Race

TAJKISTAN

International crimes	Article 398. Genocide Actions committed with the intent of full or partial destruction of a national, ethnic, racial, or religious group by full or partial physical extermination, violent diminishing of child - bearing or transfer of children from one of these human groups to another, causing grave injury to their health, as well as creation of living conditions leading to physical liquidation of members of the group are punishable by imprisonment for a period of 15 to 20 years or death penalty.
Incitement to hatred / Dissemination of racist ideas	Article 189. Arousing National, Racial, Local or Religious Hostility 1. The actions, which lead to arousing national, racial, local or religious hostility, or dissension, humiliating national dignity, as well as propaganda of the exclusiveness of citizens by a sign of their relation to religion, national, racial, or local origin, if these actions were committed in public or using means of mass media are punishable by up to 5 years of restriction of liberty or imprisonment for the same period of time. 2. The same actions, if committed: a. repeatedly; b. using violence or threat of its using; c. using an official position; d. by a group of individuals or group of individuals in a conspiracy, -

	<p>are punishable by imprisonment for a period of 5 to 10 years simultaneously with deprivation of the right to hold certain positions or to be involved in a certain activity of 2 to 5 years or without it.</p> <p>3. The actions, specified in paragraphs 1 and 2 of the present Article, if they:</p> <ol style="list-style-type: none"> a. committed by an organized group; b. caused carelessly death of a human or other serious consequences; c. caused forcible expulsion of a citizen from his permanent place of residence; d. committed by a dangerous or an especially dangerous recidivist, - are punishable by imprisonment for a period of 8 to 12 years simultaneously with deprivation of the right to hold certain positions or to be involved in a certain activity for up to 5 years or without it.
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	Murder, intentional major/minor bodily injury, torture on the ground of national, racial, religious, locality hatred or hostility, as well as vendetta carries heavier penalty.
Bias types	

TURKEY

International crimes	Criminal Code adopted on 26 September 2004 contains provision which prohibits genocide and crimes against humanity.
Incitement to hatred / Dissemination of racist ideas	<p>Article 312/2 'A person who openly lauds a crime or who incites people to violate a law will receive a prison term from six months to two years. Prison terms of one to three years will be given to individuals who incite hostile feelings or hatred in people by emphasizing differences based on social class, race, religion or region in such a way as to endanger law and order.'</p> <p>'In addition, a person who insults a certain sector of society or harms human dignity will receive the same punishment. If these crimes are committed using the media, the punishment will be two-fold.'</p>
Holocaust denial	
Personal violence	

Destruction of property	Article 176 destruction of religious places, graveyards or objects.
Civil rights violations	Article 122-1 provides that a six months to one year sentence and a fine shall be meted out to anyone who discriminates on the grounds of language, race, colour, religion or sect in the following areas: the sale or transfer of goods or services, employment, the provision of food, access to services which are available to the public and the exercise of an economic activity.
Racist organizations	Articles 87, 81, 82, 83 of Political Parties Law: prohibition of targeting and establishment of state order based on differences of language, race, colour, sex, religion or creed and region. Article 5 of Law on Associations: prohibition of associations targeting creation of differences based on race, religion, creed and region.
Racist cyber-crime	
Aggravating circumstances	
Bias types	Social class, race, religion, region.

UKRAINE

International crimes	Article 442: genocide
Incitement to hatred / Dissemination of racist ideas	Article 161. Violation of citizens' equality based on their race, nationality or religious preferences 1. Willful actions inciting national, racial or religious enmity and hatred, humiliation of national honor and dignity, or the insult of citizens' feelings in respect to their religious convictions, and also any direct or indirect restriction of rights, or granting direct or indirect privileges to citizens based on race, color of skin, political, religious and other convictions, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics, – shall be punishable by a fine up to 50 tax-free minimum incomes, or correctional labor for a term up to two years, or restraint of liberty for a term up to five years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years. 2. The same actions accompanied by violence, deception or threats, and also committed by an official, – shall be punishable by correctional labor for a term up to two years, or imprisonment for a term up to five years. 3. Any such actions as provided for by paragraph 1 or 2 of this Article, if committed by an organized group of persons, or where they caused death of people or other grave consequences, – shall be punishable by imprisonment for a term of two to five years.
Holocaust denial	
Personal violence	All the prohibited acts in Article 161 carry heavier penalties if they involve violence or threat of violence or fraud or if they are

	committed by a public official. The penalties are further increased if they are committed by a group of persons or if the prohibited acts have caused loss of life or other grave consequences.
Destruction of property	
Civil rights violations	
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	Article 67. Circumstances aggravating punishment 1. For the purposes of imposing a punishment, the following circumstances shall be deemed to be aggravating: (3) the commission of an offence based on racial, national or religious enmity and hostility.
Bias types	Nationality, race, religion

UNITED KINGDOM

International crimes	The ICC Act 2001 incorporates into domestic law the offences in the Rome Statute and makes provision for them to be dealt with domestically in the Crown Court.
Incitement to hatred / Dissemination of racist ideas	Public Order Act 1986 makes it an offence to use or publish insulting or abusive words or behaviour intended or likely to stir racial hatred. Football Act 1991 prohibits football match spectators from taking part in chanting of an indecent or racist nature. Section 119 and Schedule 10 Serious Organized Crime and Police Bill introduces law on incitement to religious hatred.
Holocaust denial	
Personal violence	Crime and Disorder Act 1998 treats as offences racially aggravated violence, harassment and criminal damage.
Destruction of property	Crime and Disorder Act 1998 – criminal damage.
Civil rights violations	
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	Crime and Disorder Act 1998 gives statutory force to the case-law which requires judges to consider evidence of racist motivation for any offence as an aggravating factor in sentencing.

	<p>Racial motivation or evidence of racial hostility in connection with the offence allow the courts to give higher maximum penalties.</p> <p>The Anti-Terrorism, Crime and Security Act 2001 introduced nine new religiously-aggravated offences, expanding on the existing racially-aggravated offences introduced in the Crime and Disorder Act 1998. These new offences, which include assault, criminal damage and harassment, make available to the courts higher maximum penalties where there is evidence of religious hostility surrounding the offence.</p>
Bias types	Race, religion.

UNITED STATES⁷

International crimes	
Incitement to hatred / Dissemination of racist ideas	
Holocaust denial	
Personal violence	Federally Protected Rights and Activities: 18 U.S.C. 245 and 42 U.S.C. 3631 criminalize bias-motivated violence, threats and intimidation when directed at persons enjoying certain federally protected rights and activities such as housing and voting.
Destruction of property	Defacement of Religious Property: 18 U.S.C. 247 prohibits damage or destruction of religious property because of its religious nature and defacement of or damage to religious property because of the race, color or ethnic characteristics of any individual associated with that property.
Civil rights violations	Conspiracy: 18 U.S.C. 241 is a civil rights conspiracy statute that makes it unlawful for two or more persons to agree together to injure, threaten, or intimidate a person in any state, territory or district in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or the laws of the United States.
Racist organizations	
Racist cyber-crime	
Aggravating circumstances	Sentencing Enhancement: the Federal Sentencing Guidelines, which governs the sentences imposed for all federal crimes, has a provision (U.S.S.G. Sec. 3A1.1) that increases penalties for crimes

⁷ Forty-six states and the District of Columbia have statutory provisions on hate crime. Nearly all states have enacted legislation targeted specifically at criminal acts of bias; content and approach can vary widely; majority state laws protect against bias on the grounds of race, religion, ethnicity, and national origin; some also include hate crimes motivated by sexual orientation, gender, disability, age, and/or political affiliation. To see the hate crime statutes in all states, see www.partnersagainsthate.org/hate_response_database/laws_search.cfm.

	when the victim is “intentionally selected ... because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability or sexual orientation”.
Bias types	Religion, race, colour, ethnicity, national origin, gender, disability, sexual orientation.

FORMER YUGOSLAV REPUBLIC OF MACEDONIA

International crimes	Amendments to the section of the Criminal Code relating to crimes against humanity penalise a range of acts committed on grounds of inter alia racial, ethnic, national, cultural or religious affiliation (Article 403 (a) and 407(a)).
Incitement to hatred / Dissemination of racist ideas	
Holocaust denial	
Personal violence	
Destruction of property	
Civil rights violations	Legal entities are to be responsible for violations of Article 137 relating to the equality of citizens.
Racist organizations	
Racist cyber-crime	A new provision sanctions the use of a computer system in order to threaten to perpetrate a crime, for which a prison sentence of five years or more is prescribed, on the grounds of a person’s religion or affiliation to a national, ethnic or racial group (Article 144(4)).
Aggravating circumstances	
Bias types	Religion, nationality, ethnicity, race, cultural group.

ⁱ Relevant international crimes include genocide, apartheid, slavery and persecution.

ⁱⁱ Includes (public) incitement to racial discrimination, violence or hatred; (public) dissemination of ideas based on racial superiority or hatred; (public) insults and threats.

ⁱⁱⁱ Includes public denial or gross trivialization of international crimes, especially genocide/the Holocaust.

^{iv} Includes creation, support, participation.

^v Includes bias types referred to in definitions of crimes and as aggravating factors, but excludes crimes based on denying equality of citizens, which tend to encompass broader grounds for discrimination.