



# EStAR

## Enhancing Stakeholder Awareness & Resources for Hate Crime Victim Support

### The State of Support Structures and Specialist Services for Hate Crime Victims Baseline Report

WARSAW

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## Table of Contents

I.	Introduction .....	- 1 -
	Methodology .....	- 2 -
II.	Summary of cross-cutting findings.....	- 4 -
III.	Hate crime victim support structures: System organization and integration of specialist support providers .....	- 6 -
	Overview of findings .....	- 6 -
	Main elements .....	- 7 -
	1. Ensure a general victim support system exists .....	- 7 -
	2. Define the term “hate crime victim” .....	- 7 -
	3. Ensure the existence and sustainable provision of specialist support services .....	- 7 -
	4. Channels of communication must be clear, consistent and institutionalized .....	- 8 -
	Approaches and response measures .....	- 8 -
	1. Basic elements of a hate crime victim support system.....	- 8 -
	2. Approaches to specialist service providers, their capacity and collaboration with the state .....	- 10 -
	3. Approaches for improving the co-ordination and integration of specialist service providers into criminal justice systems .....	- 11 -
IV.	Specialist support services for victims of hate crime: Types, scope and quality .....	- 13 -
	Overview of findings .....	- 13 -
	Main elements .....	- 14 -
	1. Ensure access to specialist support services.....	- 14 -
	2. Provide needs- and impact-based specialist support services.....	- 14 -
	3. Co-operation is crucial .....	- 14 -
	4. Create a system of quality control.....	- 14 -
	Approaches and response measures .....	- 14 -
	1. Scope of specialist support .....	- 14 -
	2. Requirements for personnel working with hate crime victims.....	- 15 -
	3. Quality control .....	- 16 -
	4. Co-operation is crucial .....	- 17 -
	5. Risk assessment and protection as a specific “service” .....	- 17 -
	6. Formalizing states’ commitment to hate crime victim support.....	- 17 -
V.	INA of hate crime victims’ needs, and determination of and referral for protection and support .....	- 19 -
	Overview of findings .....	- 19 -
	Main elements .....	- 20 -
	1. Significant care must be taken when organizing the INA system .....	- 20 -
	2. INA outcomes must be well-managed .....	- 21 -
	3. Define the content and form of the INA .....	- 21 -
	4. Create a plan for referrals.....	- 21 -
	Approaches and response measures .....	- 21 -
	1. Content and form of the INA .....	- 21 -
	2. INA as a continuous process .....	- 22 -

3.	Management of INA outcomes.....	- 23 -
4.	Co-ordination between CSOs and the state.....	- 23 -
5.	Referrals.....	- 24 -
VI.	Sensitive and respectful treatment of hate crime victims in the criminal justice system.....	- 25 -
	Overview of findings .....	- 25 -
1.	A victim-centred approach is a cornerstone of sensitive and respectful treatment .....	- 25 -
2.	Formal commitments are critical but must be translated into practice .....	- 25 -
3.	Victims’ bills of rights or protection acts are helpful .....	- 25 -
4.	Continuous co-operation yields better results .....	- 26 -
5.	Comprehensive approach is more effective than a sectorial measure.....	- 26 -
	Main elements .....	- 26 -
1.	Institutionalize political commitment through example, policy documents and guidance .....	- 26 -
2.	Ensure that policies and procedures enabling sensitive treatment are in place .....	- 26 -
3.	Build capacity and provide guidance to criminal justice professionals.....	- 26 -
4.	Increase consultation and outreach to CSOs and victim communities.....	- 27 -
5.	Designate “special” law enforcement officers.....	- 27 -
6.	Collect data.....	- 27 -
7.	Create oversight mechanisms.....	- 27 -
	Approaches and response measures .....	- 27 -
1.	Increase information, consultation and outreach .....	- 28 -
2.	Clarify institutional commitment to and policy on sensitive and respectful treatment .....	- 28 -
3.	Enact measures to enable sensitive and respectful treatment .....	- 29 -
4.	Guidance and training, including on conducting interviews with hate crime victims.....	- 30 -
5.	Improving the system .....	- 31 -
VII.	Concluding remarks.....	- 33 -
	Annex 1: EStAR Network of Experts.....	- 34 -

## I. Introduction

Participating States of the Organization for Security and Co-operation in Europe (OSCE) have committed to take action against hate crimes, including supporting victims of hate crime. Specifically, they have agreed to:

- take steps to encourage victims to report hate crimes;<sup>1</sup>
- provide hate crime victims with access to counselling and legal assistance, as well as effective access to justice;<sup>2</sup>
- promote capacity-building of law enforcement authorities through training and the development of guidelines on the most effective and appropriate way to respond to bias-motivated crime, to increase a positive interaction between police and victims and to encourage reporting by victims of hate crime, i.e., training for front-line officers, implementation of outreach programmes to improve relations between police and the public and training in providing referrals for victim assistance and protection;<sup>3</sup> and
- facilitate capacity-building of civil society to assist victims of hate crimes.<sup>4</sup>

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated to, “strengthen [...] its assistance programmes, in order to assist participating States upon their request in implementing their commitments.”<sup>5</sup> Participating States that are also European Union (EU) Member States have also committed to EU standards on countering racism and xenophobia and protecting victims’ rights.<sup>6</sup> In line with these commitments, states are responsible for ensuring that victims of hate crime are protected, enjoy full access to justice and can receive the support they need.

To assist participating States in fulfilling these commitments, ODIHR<sup>7</sup> has produced guidance for states, including a practical guide on *Hate Crime Victims in the Criminal Justice System* in 2020 and a recent publication in 2020 on *Understanding the Needs of Hate Crime Victims* within the EStAR project framework in co-operation with VBRG e.V. (see below).<sup>8</sup> ODIHR is continuing this critical work through its project on Enhancing Stakeholder Awareness and Resources for Hate Crime Victim Support (EStAR). The project is implemented jointly with the Association of Counselling Centers for Victims of Right-wing, Racist and Anti-Semitic Violence in Germany (VBRG), which provides access to counselling and support

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1 OSCE Ministerial Council, Decision 9/09, “Combatting Hate Crimes”, Athens, 2 December 2009, <<https://www.osce.org/cio/40695>>.

2 *Ibid.*

3 OSCE Ministerial Council, Decision 13/06, “Combating Intolerance and Discrimination and Promoting Mutual Respect and Understanding”, Brussels, 5 December 2006, <<https://www.osce.org/mc/23114>>.

4 *Ibid.*

5 *Ibid.*

6 Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, <<https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32008F0913>>; the European Union Directive establishing minimum standards on the rights, support and protection of victims of crime – Directive 2012/29/EU, adopted on 25 October 2012, <<https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32012L0029>>.

7 As the OSCE’s human rights institution, ODIHR provides support to the OSCE participating States and civil society to address, among other things, intolerance and foster a climate of peace. To this end, ODIHR has an extensive mandate in the area of hate crime. For more information, see: *ODIHR’s Efforts to Counter Hate Crime* (Warsaw: OSCE/ODIHR, 2016), <<https://www.osce.org/odihr/68668>>.

8 *Hate Crime Victims in the Criminal Justice System: A Practical Guide* (Warsaw: OSCE/ODIHR, 2020), <<https://www.osce.org/files/f/documents/c/5/447028.pdf>>, which assists governments and policymakers in crafting victim-centred approaches to addressing the needs of hate crime victims; and *Understanding the Needs of Hate Crime Victims* (Warsaw: OSCE/ODIHR, 2020), <<https://www.osce.org/odihr/463011>>.

to victims through its 14 independent member organizations across 12 of Germany's federal states. In 2016, RAA Saxony and VBRG published *Hate Crime Victim Support in Europe – A Practical Guide*.<sup>9</sup>

The EStAR project addresses how best to support hate crime victims through the development of practical tools for states and civil society alike.<sup>10</sup> This *Baseline Report on The State of Support Structures and Specialist Services for Hate Crime Victims* was developed within the framework of the EStAR project, and presents the results of a mapping exercise to identify the hate crime victim support structures and services provided in project states, including selected good practices. The report also identifies gaps in support for hate crime victims in those states, which will be addressed in further project activities. This report builds on prior work, including the abovementioned ODIHR and VBRG publications, as well as other ODIHR research, data and training programmes on hate crime. To ensure a holistic approach to supporting victims of hate crime, this report should be read in tandem with EStAR's publication on *Understanding the Needs of Hate Crime Victims*.

This report and the EStAR project take a victim-centred approach, meaning that victims of hate crime are at the centre of any action, approach or measure undertaken by criminal justice bodies or other entities throughout the life cycle of a hate crime case. This includes individualized treatment that views the victim as an individual with specific needs, and as a partner with agency throughout the process. Additionally, it is based on the idea that hate crime victim protection and support have to be embedded in, and form an integral part of, a comprehensive and co-ordinated approach to responding to hate crimes.

The purpose of this report is to map what is being done in EStAR project states, and identify possible gaps and solutions to addressing selected problems in hate crime victim support. The EStAR project will use the results of this report to create a series of customized tools and training workshops to assist governments and civil society in designing measures and policies to support victims of hate crime. Policymakers and civil society leaders are encouraged to proactively use this report when implementing, refining and shaping their policy and structures for hate crime victim support.

## Methodology

This report collates and analyses data from a survey that was conducted with the EStAR Network of Experts<sup>11</sup> that asked a comprehensive set of questions about the four main areas of victim support described below. The EStAR project team followed up with additional questions and conducted interviews with respondents to clarify and expand on their responses. The team also conducted independent research into the laws, policies and practices in the project countries.

The report is structured around the four critical areas of victim support that are the focus of the EStAR project. While these areas are essential to a robust hate crime victim support system, they do not cover the field in its entirety. Taken together, the four areas create a solid framework for victim support. Sections I and II introduce and summarize cross-cutting issues. Section III discusses hate crime victim support structures – the system for organizing and integrating specialist support providers – and highlights the importance of a comprehensive method for recognizing, addressing and providing support to hate crime victims. Section IV addresses the types, scope and quality of specialist support services, and discusses what services specialist providers should offer, including good practices in their implementation. Section V outlines purpose and content of the needs assessment and offers guidance on how to best meet the needs of each unique victim of a hate crime and ensure effective referrals.

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<sup>9</sup> "Hate Crime Victim Support in Europe – A Practical Guide", Victims of Right-wing, Racist and Anti-Semitic Violence in Germany, 1 April 2016, <<https://www.verband-brq.de/guidelines-hate-crime-victim-support-in-europe/>>.

<sup>10</sup> For more information about the project, see: "EStAR: Enhancing Hate Crime Victim Support", OSCE/ODIHR, <<https://www.osce.org/odihr/hate-crime-victim-support>>.

<sup>11</sup> The EStAR Network of Experts is the first dedicated network of experts on hate crime victim support, comprising experts from civil society organizations (CSOs) and governments. It was set up in the framework of the EStAR project (see Annex 1).

Finally, Section VI addresses the sensitive and respectful treatment of hate crime victims in the criminal justice system, and provides an overview and recommendations for governments and law enforcement in the appropriate treatment of hate crime victims.

Each section provides the following: first, an overview of observations based on research across the region; second, an analysis of the key elements that should be addressed; and third, a selection of approaches and measures in place, including examples of good practices from project countries. The selected approaches consist of evidenced-based practices that are proven to provide the best outcome, and are presented alongside deficiencies identified within these practices. Some of the approaches and practices focus on implementing a specific element, while others form more complex composite scenarios. These practices are included in text boxes.

The EStAR project is being implemented in 41 states, all of which are OSCE participating States and member States of the Council of Europe, while the majority are also members of the EU.<sup>12</sup> Some of the non-EU states have signed association treaties and are in the process of adopting the EU acquis, while others are not. This diversity of applicable international legal and regulatory regimes is reflected in the national responses to hate crime victims and, consequently, in this report.

It must be noted that there is significant diversity in the existence and content of hate crime laws and approaches to hate crime more generally. This results in a vast disparity in how different groups are protected, how various types of provisions impact the operation of criminal justice systems – such as in the role and rights of the victim – and in the protection and support available to hate crime victims.

Additionally, one of the challenges outlined in this report are the significant differences that exist among the national legal systems, cultural contexts and traditions of project countries. Some good practices and effective elements might work in one country but can be difficult to implement in another. While all recommended solutions can contribute to an effective hate crime victim support system, not all are equally applicable to all national systems. Considering this, the report puts forward the main elements that can assist state and civil society service providers in selecting approaches appropriate to their system.

The survey was sent to all project country governments and civil society organizations (CSOs) that form the EStAR Expert Network. Data was received for nearly every state; however, the quality of responses varied substantially. Although every effort was made to conduct a rigorous follow-up, obtaining definitive answers to many of the thematic areas was not always possible for a variety of factors, including limited, fragmented or absent knowledge about national hate crime victim support structures among members of the EStAR Expert Network. The experience of assembling the information has confirmed, once more, the necessity to expand and exchange knowledge and expertise on assisting hate crime victims in an adequate, victim-centered approach.

Additionally, while the report provides a selection of good practices in project countries, a thorough listing of each state's good practices is beyond the scope of this report. Significant effort was made to provide examples from all project countries. However, as hate crime victim support systems are more advanced in some states than others, the examples provided are not equally apportioned among project countries. Finally, for ease of reading, the report notes the source of each example (government response or CSO) but does not provide full citations.

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12 Albania, Armenia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Montenegro, the Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Cyprus, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine and the United Kingdom.

## II. Summary of cross-cutting findings

Several cross-cutting issues appeared while analysing the data for this report. First, the differences in legal traditions in the project countries suggest different approaches and support offered to hate crime victims. In the majority of EU states, laws and/or policies specifically address hate crime victims and their protection. This is, in large part, due to the existence of the EU Victims' Rights Directive, which explicitly mentions hate crime victims as a sub-category of "particularly vulnerable victims" and stresses their rights to protection and assistance in accordance with their particular needs.<sup>13</sup> Conversely, the majority of non-EU project states either do not have a policy in place aimed specifically at hate crime victims, or include hate crime victims as broader, but defined, groups of crime victims.

Diversity in legal traditions also implies differences in approaches: while some jurisdictions see the victim as a source of information for investigation purposes only, the EU Victims' Rights Directive (Directive 2012/29/EU) requires EU states to understand and incorporate the victim's perspective and to see the victim first and foremost as someone requiring support and protection. Most project countries have some legislation on victims' rights, but few have robust policies related to victims' treatment, their specific needs during criminal procedures, protection and support. In states where primary legislation exists, it is not always supplemented by bylaws, regulations or instructions that provide the necessary detail to operationalize legislation. In countries where such secondary legislation exists, it is not consistently applied.

Second, comprehensive approaches have been found to be more effective. The mapping showed that states with more advanced policies against hate crime and a comprehensive, rather than sectorial, approach to hate crime are more likely to address the specific needs of hate crime victims and offer them effective support and protection. A comprehensive approach implies measures to strengthen hate crime reporting, recording, investigation, prosecution and victim support. This includes legal and policy frameworks, commonly agreed definitions of "hate crime" and "hate crime victim", capacity building and instructions for law enforcement and other criminal justice system professionals, and inter-agency co-operation. A comprehensive government response also fully engages CSOs as partners in both hate crime prevention and response, including support for victims.

Third, it is important to note that in the absence of well-established state systems, CSOs frequently step in to provide specialized services. The role of CSOs in promoting and providing services to hate crime victims cannot be overstated. In all project countries, CSOs deliver victim support services to diverse populations, often with minimal resources, by working closely with the communities they serve, applying the skills and knowledge they gain through listening to the needs of victims and tailoring their services to meet those needs. However, in spite of this expertise, including the training and other capacity development opportunities they provide to law enforcement and criminal justice agencies, CSOs are often not considered an equal partner by the authorities and excluded from important conversations pertaining to the development or improvement of victim support.

Fourth, co-operation across horizontal hate crime victim support structures is robust but needs to be strengthened throughout vertical structures. CSOs working with hate crime victims from different communities have established a long-standing co-operation, becoming each other's champions and allies. They recognize that through collaboration they are likely to improve their services, identify what

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13 In an effort to harmonize minimum standards of protection for victims across the EU, the Victims' Rights Directive, establishing minimum standards on the rights, support and protection of victims of crime, was adopted in 2012. The Victims' Rights Directive specifically recognizes victims of hate crime as requiring enhanced protection and support. The Victims' Rights Directive was transposed to varying degree in all Member States (Denmark opted out); the magnitude of the impact the Victims' Rights Directive had on Member States largely depends on how developed a country's victim support system was before the transposition of the Directive and the resources allocated for implementing the Directive. See the new EU Victims' Rights Strategy, aimed at supporting the implementation of the Victims' Rights Directive: <[https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_20\\_1169](https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_1169)>

is working, what is not working, develop good practice solutions and have a stronger voice when advocating for changes. They exchange relevant information, collaborate with the academic community, complement each other's services, co-develop standards and guidelines and conduct joint trainings – all with the goal of ensuring that their solutions are tailored to the needs of hate crime victims. CSOs are used to collaborating with each other and strive to improve co-operation with state authorities. In some countries, CSOs are included in inter-ministerial and cross-sectoral co-ordination mechanisms; in the majority of project countries, however, this co-operation and co-ordination is neither regular nor comprehensive.

Finally, the composition of victim support systems varies widely among project states. In some, equality bodies and CSOs are given a robust role in co-ordinating and providing support to hate crime victims as part of the government response. In others, governments claim a monopoly on victim support, providing it solely within the criminal justice system. This is frequently symptomatic of a government response that lacks a needs-based approach to victims' rights and undervalues the work of CSOs. In yet other states, no victim support system exists and the support provided by CSOs is ad hoc and not co-ordinated with other actors either inside or outside the criminal justice system.

### **III. Hate crime victim support structures: System organization and integration of specialist support providers**

Hate crime victim support structures are critical to ensuring that victims are able to access the comprehensive services they need to fully recover from a hate crime. “Hate crime victim support structures” refers to the institutionalized structures, including the laws, policies, procedures, guidance and services that govern a state’s response to a hate crime victim. This section provides an overview of the structures put in place by both the state and non-government service providers in project countries, as well as possible approaches and responses to effectively organizing those structures and successfully integrating specialist support providers within the structures.

The term “specialist support service providers” refers to state and non-government entities that offer expert services to hate crime victims – such as legal representation, psychosocial and/or counselling services, and medical care – and that understand hate crime victimization and the specific needs and vulnerabilities of victims. These services are critical to understanding that victims of hate crime should be protected, given the opportunity to participate in criminal justice system processes and receive whatever type of support is needed throughout the life cycle of the hate crime case.

#### **Overview of findings**

##### **1. Structures and collaboration are needed**

In project states, victim-centred support structures designed specifically for victims of hate crime are generally not in place. Although such a structure is ideal, hate crime victims’ needs may also be met through a support system intended for general victims of crime. However, the survey data reveals only a few EU states have a comprehensive general victim support system in place. In most project countries the general victim support offered is mostly limited to the criminal justice process and often depends on the victim’s participation status in the legal procedure against the perpetrator.

Collaboration between state and CSO service providers is generally better in countries with a more robust response to hate crime overall. This corresponds to a greater appreciation by authorities of the value of co-operating with civil society, which is often tested in other areas of hate crime prevention and response.

##### **2. Defining the issues is key**

In many EU countries, hate crime victims are defined as a specific category of victim or as a sub-group of a particularly vulnerable victims’ category (a direct outcome of the transposition of the Victims’ Rights Directive). However, although EU states’ legislation often makes this distinction, it frequently does not define the term “hate crime victim”, and thus is not operationalized in policies, instructions or practices on the ground. As a result, law enforcement and other criminal justice officials are often unaware that hate crime victims require specialist support. The majority of the non-EU project countries, on the other hand, does not have any specific legal regimes in places aimed specifically at hate crime victims, or hate crime victims as part of a broader but defined group of particularly vulnerable victims.

Specialist services for hate crime victims are generally not defined. Specialist services (with or without accreditation) offer specialist services or general victim support services address victim’s needs without a specific focus on hate crime victims. Unrealistic accreditation requirements for civil society organizations often preclude them from providing specialist services to hate crime victims. Where accreditation does exist, organizations listed as service providers often do not provide specialist services to hate crime victims. Many do not provide the relevant services, do not provide all of the services, or provide them only to certain groups of hate crime victims.

### **3. *Communication gaps exist***

The survey data evidences that only a few countries have effective, formal mechanisms for communication between criminal justice bodies, government victim support units and CSO service providers. Where such a mechanism exists, it can take different forms, such as formal lists of approved specialist services, or inter-agency networks that bring together CSOs and law enforcement to coordinate the delivery and improvement of victim care. However, police in many countries rely on informal lists or prior knowledge of specialist support providers when they refer victims.

Generally, once criminal proceedings begin there is very little communication between the criminal justice system and supporting CSOs other than that which is mandated in procedural law. Communication between the criminal justice system and supporting CSOs happens most frequently when the CSO is providing legal representation to the victim.

### **4. *Funding is critical***

Adequate funding is critical and tied to the political prioritization of hate crime at all levels of government, from local and regional to national. This can also include international funding mechanisms. The availability, geographic coverage, quality and quantity of specialist support services are largely determined by funding. The state has the responsibility to ensure that state service providers are adequately funded and to offer opportunities to increase non-government service providers access to government funding and partnerships. This institutional funding should be tied to the quality of service based on evaluations from service beneficiaries, the scientific community and experts in the field of hate crime victim support. In states where service providers have to rely on “project-based” funding rather than continuous and institutionalized funding, specialist service providers face unsustainable situations that limit the scope and quality of the services they can deliver.

### **5. *Quality control varies***

In most project countries, there are no established mechanisms to control the quality of specialist service providers except for a post-implementation evaluation of project targets. Even these evaluations are largely limited by their focus on activity implementation rather than the quality of services provided. Some providers carry out self-evaluations or collect feedback and satisfaction surveys from their clients, but these reviews are not common.

## **Main elements**

The following elements are important for the creation of an effective system of support for hate crime victims.

### **1. *Ensure a general victim support system exists***

A general victim support system consists of institutionalized structures, including laws, policies, procedures, guidance and services, that govern a state’s response to victims of crime. The existence of a general victim support system will help to ensure that the state’s response addresses victims’ needs and facilitates their participation in criminal proceedings beyond serving as a witness.

### **2. *Define the term “hate crime victim”***

Hate crime victims should be defined as a specific category of victims or as a sub-group of another category of particularly vulnerable victims, and preferably enshrined in law. This definition should further translate into government policies, procedures and guidance. At the same time, defining “hate crime victim” should not lead to a restrictive understanding of this term, and therefore should be considered in light of a particular legal system.

### **3. *Ensure the existence and sustainable provision of specialist support services***

The sustainable provision of specialist support services is achieved through the existence specialist victim support units operated by the government, and by supporting qualified civil society providers.

Regardless of whether such services are provided by a public or non-public entity, the government must be involved in co-ordinating their availability and provision, ensuring their quality and securing their funding. Information on available services that meet the quality standards requirements, when such exist, must be accessible to all relevant law enforcement so that effective referrals can be made easily. The services must be available to all hate crime victims, wherever they are located.

#### **4. Channels of communication must be clear, consistent and institutionalized**

States must ensure regular communication and co-operation on each hate crime case among the government entities involved and the relevant service providers, including CSOs working with hate crime victims. Such communication and co-operation should consider the needs and vulnerabilities of the victims, and should be formalized through written agreements or procedures and designed to prevent overlap of function.

### **Approaches and response measures**

The following approaches and measures support the creation of a successful support structure for hate crime victims. The approaches below should be read as consecutive but intersecting building blocks of a successful support system for hate crime victims. For example, without first defining who qualifies as a hate crime victim for the purposes of support, governments would be unable to correctly define the victim's needs and to accurately assess the requirements for specialist service providers to appropriately meet those needs. However, when all elements are addressed, a holistic, organic and effective model of hate crime victim support will be constructed.

#### **1. Basic elements of a hate crime victim support system**

At a minimum, a general crime victim support system should include institutionalized structures – such as laws, policies, procedures, guidance and services – that govern a state's response to victims of crime. While written frameworks cannot replace general victim support systems, jurisdictions can take a strategic approach in setting up hate crime victim support structures for the first time and can involve individual commitments within police, prosecution and ministries. These commitments can help initiate a successful systemic change, such as through binding court decisions that improve the position of victims.

**Introduce the term “hate crime victim”.** Hate crime victims should be defined as a specific and particularly vulnerable category of victims or, if included as a sub-group of another category of particularly vulnerable victims, should be explicitly mentioned in the law. The data from the EStAR survey indicates that, where such an explicit mention does not exist, law enforcement and criminal justice professionals might not realize a specific categorization is applicable to hate crime cases. Legal frameworks, irrespective of the legal system, should provide for victims' access to both 1) relevant protection and specialist support, and 2) effective participation in criminal proceedings. This is to enable them, at a minimum, to present the harm they have suffered and to receive compensation. Criteria for accessing each type of victim status should be defined. Access to protection and support should not be connected with the act of reporting a crime to the authorities or with the victim's participation in criminal proceedings, and vice versa.

#### **Victims' Rights Law**

In the Czech Republic, In IUSTITIA, reported that a victims' rights law was enacted in 2013, establishing hate crime victims as victims with specific needs. This gives hate crime victims the rights to free legal aid and other assistance (psychological and social counselling), to avoid visual contact with the perpetrator, to be interviewed by a trained professional and to be interviewed by a person of a gender of the victim's choice. Defining the special needs of hate crime victims and enshrining their ability to access these services in the law is an important step in ensuring that hate crime victims are able to access services.

**Define hate crime victims' needs in writing.** Governments should describe the protection and support required by hate crime victims on the basis of their needs, which are elaborated on in EStAR's publication, *Understanding the Needs of Hate Crime Victims*. These elements should then be embedded in a policy document, similar to the hate crime prevention strategies of Spain and the United Kingdom.

**Put in place an Individual Needs Assessment (INA).** Introduce questions about hate crime victimization and needs upon first contact with the victim, and mandate that police use the INA mechanism. Develop instructions and easy-to-use guidance to provide police with information on hate crime victims, and the steps that law enforcement should take in working with these victims.

#### **Operational Guidance for Law Enforcement in the Treatment of Hate Crime Victims**

In the United Kingdom, the College of Policing has a comprehensive training manual for law enforcement on hate crime, the *Hate Crime Operational Guidance*. The Guidance provides "practical advice and instruction" for law enforcement on hate crime investigation, response and treatment of victims, including good practices on, "critical incident management, family liaison, community engagement and independent advice, third-party reporting, and changes in the way hate crime investigations are conducted". The Guidance prescribes service delivery for the victims of hate crime and practical approaches to victim care. As a result, law enforcement officers are not only trained to work effectively with hate crime victims, but are also provided a readily accessible "how-to" manual to use throughout the course of their work.<sup>14</sup>

**Conduct a mapping exercise and list measures** already in the law and procedural codes that will benefit hate crime victims, and enforce their consistent application. Systems should focus on the initial stage in a hate crime case, ensuring that policies promote incident reporting and guaranteeing that a victim's first contact with law enforcement is a positive and empowering experience.

**Draw from experiences with other specific victim groups.** Many countries often have solid support frameworks in place for other specific types of victims, such as victims of domestic violence. These support structures and experiences could be expanded and applied to hate crime victims when undertaking efforts to improve outreach and reporting and build the capacity of service providers to work with victims.

All the aforementioned elements should then be embedded in government policies, procedures and guidance. It is important that hate crime victims are guaranteed access to all the legal rights provided to victims of crime by the respective national legislation. The absence of a specific law should not prevent criminal justice systems from working within existing legal frameworks to develop comprehensive policies.

#### **Action Plan to Combat Hate Crimes**

The Spanish Government has developed an *Action Plan to Combat Hate Crime*. The Action Plan encompasses "four fundamental pillars: training of the Spanish Security Forces, prevention, assistance to victims and response to this type of crimes". The Action Plan not only lays out government actions to address hate crime, but also describes where additional guidance for law enforcement can be found, including the *Action Protocol for Spanish Security Forces for "hate crimes" and actions that infringe on the legal rules on Discrimination*. The Plan Action therefore raises the visibility of the actions of the criminal justice system to address hate crime, and also provides a guide to the available protocols and additional guidance.<sup>15</sup>

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14 "Hate Crime Operational Guidance", 2014, <<https://www.college.police.uk/What-we-do/Support/Equality/Documents/Hate-Crime-Operational-Guidance.pdf>>.

15 "Action Plan to Combat Hate Crime", Spanish Security Forces, 2019, <<http://www.interior.gob.es/documents/642012/3479677/Plan+de+accion+ingles/222063a3-5505-4a06-b464-a4052c6a9b48>>.

## **2. Approaches to specialist service providers, their capacity and collaboration with the state**

To protect the integrity of victim services, the government should ensure that the services offered by service providers are of a high quality. To this end, states should consider developing, or facilitating the development of, quality standards for specialist support for hate crime victims. Such standards can be enforced through government accreditation, licensing or another method applied by the state. Criteria and evidence-based standards for providers should be developed on the basis of hate crime victims' needs. An earnest effort should be made to foster co-operation between state, CSO service providers and the scientific community to allow for the development of rigorous quality standards. Further, the application of quality standards should be monitored.

In order to ensure that hate crime victims have access to the services they need, governments should guarantee institutional funding to both state and non-government service providers to enable them to provide high-quality, continuous services to all hate crime victims in need. Funding can be linked to the application of quality standards to ensure the quality of services provided.

Governments and CSOs should also intentionally work together to create methods for collaborating with and integrating the services of specialist service providers. This is critical to ensuring access to specialist support for hate crime victims. CSOs are often the first point of contact for victims, enjoy greater levels of trust than law enforcement and provide specialist services that the government does not offer. Government and CSOs working together will lead to a more victim-centred, comprehensive approach. The EStAR project's research reveals three main systems of government and CSO co-operation: shared responsibility, single entity responsibility and parallel responsibility. If properly implemented, each of these systems has the potential to ensure effective support.

**Government and CSOs share responsibility.** This entails collaboration between the criminal justice system and independent CSOs providing hate crime victim support, making such CSOs an integral part of the national victim support system. In this model, financial support for these organizations should be integrated into the annual state budget in a manner that obligates timely funding. The survey data reveals that this is not the case in many project countries, leaving CSO providers in a perpetually precarious state. It is ultimately the responsibility of the government to ensure the quality of the services provided and guarantee funding. The government should therefore initiate the co-development of quality standards along with experts and service providers, invest in developing providers' capacities and provide CSOs with the necessary support to successfully deliver quality services to victims.

### **Government-Funded Collaboration**

In Croatia, the Government and the CSO reported that the victim support system consists of a combination of state-run Victim and Witness Support (VWS) departments and a network of CSOs providing victim support services funded by the Ministry of Justice. There are seven VWS Departments at the courts throughout the country. They provide counselling, emotional support to victims and witnesses (before, during and after the proceedings), practical information to victims, witnesses and their families, and, depending on the victim's needs, refer victims to specialist support services. Additionally, in 13 municipalities where VWS Departments have not been established, a Support and Cooperation Network for Victims and Witnesses of Crimes consists of CSOs that provide support services to victims. The government funds the work of the CSOs through an open competition. The Network provides emotional and practical support, technical and practical information, and information on victim's rights, psychosocial and legal counselling, as well as a person to accompany them to court, the police station, the State Attorney's Office and/or Centers for Social Care. Out of 18 CSOs in the Network, nine provide legal and psychological support to victims from vulnerable groups.

**Single entity responsibility system.** Under this system, support is directly co-ordinated or led by one entity, such as an equality body or CSO, with other CSOs playing a supporting role and integrating into the system. The advantage of this model is that, by placing the responsibility for support in one place, co-ordination is quite often more effective. However, if the responsible entity does not operate efficiently, this can affect the entire system, leading to a breakdown in support; in a shared

responsibility system, many points of contact allow continued functioning if one part of the system is not operating properly. In order for this system to be effective, special partnership agreements covering all aspects of victim care should be institutionalized, such as in legislation or a written Memorandum of Understanding (MoU). This allows for clear, consistent operating procedures and a shared understanding of the *modus operandi* of all involved entities. Governments must also ensure that the co-ordinating entity provides high-quality services and has adequate funding.

### **Points of Support**

Hate crime victims must be able to access the specialist support they need. Creating points of support so that they can access care is critical. The following examples illustrate how such points of support have been developed and operate in the project countries.

In France, the Government reported that there are specialized CSOs, including SOS Racisme (specializing in hate crime victims) and Ligue Internationale Contre le Racisme et l'Antisémitisme (The International League Against Racism and Anti-Semitism – LICRA), which partner with France Victimes, a general victim support organization. This partnership of specialized CSOs and general victim support providers ensures that hate crime victims can access multidisciplinary support. CSOs that specialize in hate crime victims are subsidized by the government. The co-operation between CSOs and the authorities is institutionalized through conventions specifying the funding and the assigned objectives, which allows the quality of services provided to be assessed. General victim support organizations have a specific accreditation that focuses on professionalization and the quality of service. Police refer victims to victim support organizations, when a victim reports a crime, by providing them with the organizations' contact information. Public prosecutors can also request that victim support organizations assist specific victims.

In Belgium, the Interfederal Centre for Equal Opportunities and against Discrimination and Racism (UNIA) plays an active role in co-ordinating and offering victim support. To do so, it co-operates with police, specialist support service providers and CSOs. UNIA has the ability to act on complaints regarding discrimination related to age, sexual orientation, civil status, birth, religion or belief, political opinions, health conditions, physical or genetic characteristics, social origin, race, financial status and disability. When a victim comes to UNIA, the case is treated independently and confidentially, and UNIA works with the victim to determine the next steps.

**Governments and CSOs work in parallel.** In some project states, the survey data reveals that CSO providers themselves do not want to become part of a more integrated government-run system through accreditation, connected funding or other processes. In this scenario, governments should open a dialogue with relevant CSOs to develop a framework agreement for collaboration that, at a minimum, addresses: (i) aligning methodologies for specialist services, addressing gaps in available services and any overlaps; (ii) ensuring CSOs' independence from the state, while helping them advertise available services to victims and law enforcement; and (iii) seeking ways to provide funding where it is missing, while respecting CSOs' alternative sources of funding.

To facilitate the functioning of any of the above systems, governments should adjust existing laws or victim protection and support strategies by incorporating additional details to reflect these arrangements. This should lead to the development of a victim-centred hate crime victim protection and support strategy.

### **3. *Approaches for improving the co-ordination and integration of specialist service providers into criminal justice systems***

Survey data and long-standing good practices have shown that focusing on strengthening communication channels is critical for building an effective support system. Governments should focus specifically on how to institutionalize communication both around INAs and referrals, and between the criminal justice system and CSOs providing support to hate crime victims. These channels should also be used to share the outcomes of an INA between entities to avoid repeatedly questioning the victim, and to ensure that protection measures implemented in criminal proceedings are relevant to the victim.

Any exchange of information between service providers and criminal justice bodies should be done with the explicit consent of the victim and regard for the victim's need for confidentiality.

Governments should require that criminal justice authorities develop a continuously updated database of CSOs and specialist support providers working with hate crime victims. This will enable law enforcement and other criminal justice system actors to effectively refer victims while considering victims' needs and vulnerabilities. Updates to the database should be performed in line with government measures to ensure quality standards. Further, governments should undertake outreach to map the landscape of CSOs and specialist service providers with the aim of developing new partnerships with organizations outside the criminal justice system. Once identified, governments should institutionalize the collaboration in MoUs or other written policies that clarify the criteria for including a CSO in the database.

### **Mapping and Outreach**

In the United Kingdom, the National Police Chiefs' Council invests in mapping and developing relationships with CSOs working on hate crime. This includes the Independent Advisory Group (see Section VI), and its relationship with members of the CSO network, The Community Alliance to Combat Hate (CATCH) – a group of CSOs working to address hate crime. They offer specialist advice and assistance to people who have experienced hate incidents because of their race, religion, disability, sexuality or gender identity. Several CSOs in the group also have their own national agreements, including hate crime data sharing with the police.

## **IV. Specialist support services for victims of hate crime: Types, scope and quality**

Specialist support services for hate crime victims – including legal advice and representation, psychosocial, emotional and counselling services, and medical care – constitute practical support provided by experts with an understanding of hate crime victimization and victims. These services, and those who provide them, are critical in ensuring a hate crime victim has the necessary range of services needed to overcome the consequences of the crime and regain their agency. While the previous section focuses on the systemic issues of incorporating specialist support service providers within the hate crime victim support structure, this section focuses on the scope and quality of such services. EStAR's publication, *Understanding the Needs of Hate Crime Victims*, elaborates on these needs with respect to specialist service providers and their participation in the criminal justice process. Policymakers are encouraged to read these two publications in tandem when developing a specialist support network for hate crime victims.

### **Overview of findings**

#### **1. Government awareness and action is needed**

The survey data reveals that the core shortcoming of hate crime victim support systems is that they are not based on an understanding of the common needs and vulnerabilities of hate crime victims. The patchwork support provided in project countries leaves many hate crime victims without the necessary support. In many EU Member States, general victim support services are expected to provide support to hate crime victims, but in many cases are not equipped to do so. In many states outside the EU, some CSOs offer specialized services to communities targeted by hate violence and crime; however, many of these CSO providers are not integrated into the state system, do not receive state funding and are not part of government consultations on hate crime action plans or similar initiatives.

#### **2. Limited beneficiary and geographical scope**

Compared to other crime types, hate crimes are often under-reported. Despite measures to increase police capacity to detect hate crimes, members of vulnerable groups often do not trust the police to take their complaints seriously and investigate them. They also do not rely on the police to protect them. Therefore, victims of hate crimes regularly turn to the CSOs working with their community for support and protection. This is commonly the case in the Roma and Sinti, Jewish and Muslim communities, as well as among persons with disabilities, refugees and migrants, and those who identify as Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) or are among persons of African Descent. These organizations are not integrated into general victim support system, but provide services tailored to their beneficiary communities. Furthermore, many of these service providers are small grassroots organizations that are unregistered and provide services only in communities where they are located. Consequently, victims in rural areas often lack access to specialist service providers. Where no community organization is present, the gap may be filled by organizations providing free legal services to victims of discrimination, and those working on preventing violence against women and domestic violence. In countries without CSOs specializing in hate crime victim support, the state should provide funding for community-based grassroots groups to enable the provision of basic hate crime victim support.

#### **3. Funding issues inhibit support**

As noted in previous sections, CSOs that are not officially registered with the government often are not entitled to state funding. Those that do receive state funding often do not receive sufficient, multi-year funding. Most of the funding they receive is project-based, rather than the more sustainable general support funding. As a result, the types of services that CSOs provide depends on the resources they have, and quite often does not include legal representation and/or shelters.

#### **4. Quality control is lacking**

The survey responses did not include information on mechanisms and instruments used to assess the national victim support system. In a few project countries, professional service providers have quality standards; in some other countries, accreditation requirements are viewed as standards for the provision of services, and some service providers reported having quality standards for individual service providers.

### **Main elements**

The following elements can help to ensure that hate crime victims have access to specialist support services.

#### **1. Ensure access to specialist support services**

Hate crime victims should have access to a broad range of support services specifically designed to address the needs of hate crime victims. Such specialist support services should be set up based on the understanding that the physical, emotional and behavioural injuries of a hate crime are severe and long-lasting. Ideally, such services should be offered by one provider and should include individualized assessments of the victim's medical, legal, psychosocial support/counselling needs, as well as interpretation services and/or access to information in a language they understand, and practical help.

#### **2. Provide needs- and impact-based specialist support services**

Specialist services should be provided based on an understanding of the specific experience of hate crime victims. First, the impact of a hate crime can be particularly significant because the act is directed at an individual owing to one or more protected characteristics pertaining to their identity. Second, unlike other categories of crime, whole communities can be victimized when a hate crime occurs. Consequently, support has to consider the impact on both the individual and the community.

#### **3. Co-operation is crucial**

In many project states, there are organizations that support all victims of hate crime, ones that support certain victim communities and organizations that work on hate crime more broadly. Co-operation among these organizations is critical to complement the services provided, while also facilitating the exchange of good practices and important information on, for example, victimization trends and government responses.

#### **4. Create a system of quality control**

Governments must ensure that organizations providing specialist services meet evidence-based standards of care. Governments should regularly commission independent bodies to rigorously monitor and evaluate these services. Quality control standards and benchmarks need to be established while respecting the independence of the CSOs providing these services.

### **Approaches and response measures**

The following approaches and measures facilitate the creation of a successful system of hate crime victim support.

#### **1. Scope of specialist support**

Specialist support services for hate crime victims must be based on the actual, identified needs of the victim and, as a category of services, on the known needs of hate crime victims. This includes individualized assessments of the victim's medical, legal, psychosocial support/counselling, language and financial needs. Furthermore, individual assessments need to take into account victims' personal characteristics, such age, gender, gender identity or expression, ethnicity, religion or belief, sexual orientation, health and disability.

In defining the types of services and the scope of entitlements, including financial compensation, governments should look to the unique needs and vulnerabilities of hate crime victims.

At a minimum, the following services should be made available to hate crime victims free of charge: medical, legal, psychosocial support/counselling, language support, provision of information, financial assistance to cover immediate needs and a person to accompany the victim throughout the criminal proceedings. In particular, quality standards should be developed for the provision of legal advice and representation, psychosocial support or general counselling (such as psychological counselling, emotional support and social work) and a person to accompany the victim. Shelter or other temporary accommodation should be made available. Support should also be given to victims to help them feel safe again in public. Services should be available to all persons, both citizens and foreign nationals.

### **Separate Unit to Provide Specialist Support Services to Hate Crime Victims**

In Malta, the Government reported that the Hate Crime and Speech Unit (Hate Crime Unit) provides specialized services to hate crime victims. The Hate Crime Unit strengthens the support and services provided by the Police Victim Support Unit to victims of hate crime. The Hate Crime Unit is a multidisciplinary unit providing both professional support and legal assistance to victims. It consists of specialist service providers from different professional disciplines, including psychology, social work and legal aid. As a result, the Hate Crime Unit can draw on the experiences of its members to help guarantee that victims receive the type of support they need.

### **Providing Nationwide Specialist Support to Hate Crime Victims**

In Germany, a CSO reported that there are specialized counselling centres for victims of hate crimes in each federal state. These counselling centres are financed from municipal funds, state funds and a Federal programme titled “Demokratie leben!” (“Living democracy”). The counselling centres support people who have been targeted by racist, anti-Semitic or other far-right attacks. The support is free-of-charge, confidential, partisan (pro-victim) and long-term. The services offered by the counselling centres include emotional support after an attack, information about legal options, a person to accompany them to the police station or court, information on financial support options and help with public relations.

### **Providing Shelter for Hate Crime Victims**

Providing housing for victims of hate crime can be critical in certain situations. Numerous project countries offer state- or CSO-run shelters that can accommodate hate crime victims. For example, Italy and Moldova have shelters run by CSOs to house victims. In Sweden, housing is provided by the Swedish Federation for Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Rights, and in France the La Refuge shelter takes in victims who identify as LGBTI. In Montenegro, there are shelters for victims of trafficking, women and persons identifying as LGBTI that also provide services to hate crime victims. Both Croatia and Iceland have shelters for women victims.

### **Re-establishing a feeling of safety**

In Norway, the Government reported that the Oslo Police District offers a programme called “Trygghetsprogrammet” (“the safety programme”), which helps victims to re-establish a feeling of safety in the public sphere. Run by the preventive section of the police, the programme conducts follow-up interactions with the victim that can include phone calls, meetings and accompanying them when out in public, such as in the subway or even to the scene of the crime. Recovery from a hate crime is quite often more emotional than physical. Healing from the emotional trauma caused by a hate crime is essential for a victim’s full recovery.

## **2. Requirements for personnel working with hate crime victims**

The personnel of specialist service providers that support hate crime victims require education and training to ensure they have the appropriate professional skills for these specialized services. The state should determine these requirements when setting quality standards and/or determining the criteria for registering or accrediting service providers. If service providers do not have the appropriate skills or

qualifications, then they should rely on partners trained to provide specialist support to hate crime victims. This can include healthcare workers, social workers, psychologists or interpreters who, in addition to their professional training, are also trained on the unique needs of hate crime victims. It can also include community organizations that specialize in meeting the needs of victims from a specific community.

### **Training and Capacity-Development Requirements**

The VBRG in Germany requires hate crime counsellors to attend a Basic Training, an eight-module training lasting approximately 100 hours. Additionally, in the course of their work, counsellors are required to undertake professional capacity-building, including an in-house training programme. Topics of the module and in-house training programme include:

- Introduction to counselling for people affected by right-wing, racist and anti-Semitic violence.
- Introduction to collegial case counselling.
- Victimization, trauma and dealing with difficult counselling situations.
- Legal issues in counselling.
- Social compensation law and other compensation benefits.
- Counselling for victims of violence from a systemic perspective.
- Working with interpreters.
- Group counselling for affected persons, relatives and witnesses.

### **3. Quality control**

Standards and methodologies for victim-centred support services should be co-developed by all relevant stakeholders. They should include standards for each of the services listed in the previous subsection, covering personnel qualification, training, service guidelines and other measures to ensure quality control. The implementation and enforcement of these standards can be either self-regulated by the CSO, enforced by the government through an accreditation mechanism – such as in the Czech Republic, France, Italy and Slovenia – or through an independent commission consisting of governmental entities, academics and CSOs such as the VBRG model in Germany.

### **Standards of Quality**

In the Czech Republic, IUSTITIA reported that the quality of services is ensured by mandatory “standards of quality of social services” and “standards of quality of legal information”, which must be demonstrated by the service provider during registration with both the Ministry of Justice and Ministry of Social Affairs, and when delivering services. Adherence to these standards is controlled by the Ministries. They include ensuring that victims’ data and details are confidential and are not exchanged with law enforcement bodies without prior written agreement.

VBRG in Germany reported that it has rigorous quality standards for how it conducts victim services and offers a training program for staff and counsellors of member organizations about the special needs of hate crime victims. VBRG follows the *Quality Standards for Professional Support*, which is the basis for their advisory work in the member organizations. The social science research institute *Deutsches Jugendinstitut* (DJI) which translates as the German Youth Institute, was involved in the development of these quality standards. Furthermore, DJI also assesses the work of counselling centres and independently evaluates clients’ experience, including to what extent they were satisfied with the service offered, which aspects helped them most, and how the counselling centres can improve their services. The results contribute to VBRG’s continuous development.

In Switzerland, the Swiss counselling network for victims of racist violence, Beratungsnetz für Rassismuskritik comprises 22 member organizations and offices providing specialist support services to victims of racist attacks. The main goal of the network is to strengthen the quality of the counselling

centres by developing professional standards. The quality standards enable member organizations to identify and jointly agree on ethical guidelines for the support services provided to victims of hate crime. Members commit themselves to implement the quality standards and communicate gaps openly, so that these can be addressed through training initiatives or coaching. The network reports annually on racist incidents using a documentation system, and offers members further training and networking opportunities.

The Racist Violence Recording Network (RVRN), a CSO network in Greece, reported that it ensures that staff providing services to hate crime victims are qualified doctors, lawyers, social workers, psychologists, interpreters or other professionals or volunteers with sufficient and relevant experience. The staff of RVRN member organizations are trained on a regular basis.

In Portugal, the CSO Portuguese Association for Victim Support (APAV), which provides services to victims of general crime, reported that its Quality Policy aims to continuously improving the quality of its services, including for hate crime victims. As part of this commitment, APAV has one monitoring unit that assesses the support services and is responsible for creating and analysing the annual satisfaction surveys disseminated among beneficiaries. Additionally, a quality management system was developed that includes both an internal and external evaluation of each proceeding and unit at the headquarters. An expansion of the system to the other support offices is planned.

#### **4. Co-operation is crucial**

Ensuring co-operation among all types of victim support CSOs – including those supporting all victims of hate crime, those assisting certain victim communities and those working on hate crime more broadly – has been shown to yield positive results.

##### **CSO Co-operation**

In Greece, a CSO reported on the creation of the RVRN, comprised of 47 non-governmental and civil society actors. The RVRN was established in 2011 on the basis of two major findings: a) the absence of an official and effective data collection and victim support system on racist violence; and b) the need to co-ordinate organizations that recorded, on their own initiative, incidents of racist violence against people who seek their services. RVRN members are often the first point of contact for hate crime victims and offer a range of services, including information, legal aid, psychosocial services, material support and other types of assistance for hate crime victims.

##### **Specialist Service Providers**

Several project states have CSOs that provide support to victims of hate crime motivated by bias against sexual orientation or gender identity, including Croatia, Hungary, Montenegro, Poland, Portugal, Serbia and Sweden. Similarly, there are organizations focusing on Roma victims in Hungary and Norway, on anti-Muslim hate crimes in Belgium and the United Kingdom, and on anti-Semitic hate crimes in France and the United Kingdom. CSOs that focus on all hate crime victims exist in Austria, the Czech Republic, Germany, Switzerland and the United Kingdom.

#### **5. Risk assessment and protection as a specific “service”**

Governments should develop a law enforcement risk assessment and protection strategy that is seamlessly linked with the INA process. This should be accompanied by adequate training or other measures to increase the capacity of law enforcement to assess the specific needs and risks associated with victims of hate crime. See Section VI on respectful and sensitive treatment for good practice examples.

#### **6. Formalizing states’ commitment to hate crime victim support**

Governments should institutionalize and publish information about hate crime victims’ rights and entitlements. The obligations of state bodies and standards for the provision of support should be formalized in written agreements or policies and referred to in publicly available strategic documents, such as a victims’ rights charter or hate crime strategies. For example, in both Spain and the United

Kingdom, the hate crime action plans referred to in Section III include commitments to ensure victim support.

### **Diversity and Integration Strategies**

In Ireland, the Government responded that the National Police Service of the Republic of Ireland, An Garda Síochána, published a *Diversity and Integration Strategy 2019 to 2021*. The strategy commits the police service to providing comprehensive training for Garda and other staff, partnering with CSOs and other agencies and regularly publishing its data. Such written commitments help to open up law enforcement data and action to public scrutiny and improve the law enforcement response to hate crime and its victims.<sup>16</sup>

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16 “Diversity and Integration Strategy 2019 to 2021”, An Garda Síochána Strategy, 2019, <<https://www.garda.ie/en/crime-prevention/community-engagement/community-engagement-offices/garda-national-diversity-integration-unit/diversity-and-integration-strategy-2019-2021-english-v1-1.pdf>>.

## **V. INA of hate crime victims' needs, and determination of and referral for protection and support**

Hate crime victims have specific protection and support needs following a bias-motivated incident. These needs and associated risks differ depending on the bias motivation of the perpetrator and the victim's personal identity. Furthermore, individuals experience victimization differently, requiring customized support. The victim's family members, friends or other community members may also require assistance as a result of the hate crime. The assistance needs of those affected by hate crimes evolve with time and over the course of the criminal proceedings.

To determine the relevant protection measures and assistance required, and to identify the available providers of such services, the needs of each hate crime victim should be established through an INA.<sup>17</sup> An INA should be conducted upon first contact with a hate crime victim by either law enforcement or a CSO to: (i) determine the victim's individual vulnerabilities, protection and support needs; (ii) to directly provide support where possible; and (iii) to refer the victim to relevant support providers. INAs are a key instrument in ensuring a victim-centred approach to addressing the needs of hate crimes victims. Without such an individualized assessment, the critical services that victims need to fully recover from a hate crime will most likely be missing.

### **Overview of findings**

#### **1. Vast disparity of approaches**

The survey data reveals enormous differences among project states in terms of the approaches taken by both criminal justice agencies<sup>18</sup> and CSO service providers. The requirement to undertake individual assessments is a new procedure for most EU Member States. While non-EU countries are not bound by the EU Victims' Rights Directive, some of the survey responses indicate that INAs are carried out to some degree in these countries. However, there is a wide range of interpretations as to what the INA entails, who should be conducting the assessment and when, as well as whether or how conclusions should be shared with other relevant service providers.

The practicalities of carrying out the INA also differ substantially, with some states requiring INAs for all victims and others mandating INAs only for particularly vulnerable victims, such as the victims of hate crime. Some states developed questionnaires for law enforcement bodies to carry out an INA; however, these questionnaires are not always obligatory and may be applied inconsistently. Conversely, in some countries where there are no written guidelines, INAs are done well, as police are trained to act intuitively and with the victims' needs in mind.

#### **2. Victim participation is key**

INAs should be carried out in close co-operation with the victim, preferably with the victim present for at least some of the INA information-gathering process. Although there are different models, the priority should be to ensure that victims' needs are adequately identified and met – including the need for protection – during criminal proceedings.

#### **3. A lack of INA training**

Very few project states require and provide special training for individuals carrying out an INA within the criminal justice system. The survey data show that in countries where law enforcement personnel

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17 In some jurisdictions, the term "risk assessment" is used. The term "needs" is used here as it is more comprehensive and addresses all victim needs, including the specific risks that individual victims may face.

18 Even within the EU, where the Victims' Rights Directive obliges police to conduct both an INA and make referrals, significant differences remain.

are not properly trained to uncover bias motivation on first contact, it becomes more difficult to ensure that victims' particular vulnerabilities are recognized and that their special protection needs are met.

#### **4. *Disconnect between criminal justice agencies and civil society***

The survey data reveal overwhelming differences in how INAs are conducted by criminal justice agencies and by CSOs. While CSOs regularly commit to a victim-centred approach to carrying out INAs, law enforcement, prosecutors and judges often deem the practice unnecessary.

#### **5. *Volunteers used frequently***

In some project states, police forces have hate crime support officers who volunteer to conduct INAs in addition to their regular duties as police officers. In several states, general victim support organizations rely on volunteers to conduct the initial INA, identify specialist support needs and refer the victim to a specialist service provider for an in-depth INA.

#### **6. *Trained specialist support providers***

In some project states, specialist support providers are given guidance on how an INA should be conducted. The guidance extends to allowing the victim to choose the gender of the person conducting the INA and having the assessment take place in premises adapted for this purpose.

#### **7. *Referrals***

In many project states, including in EU Member States, where the Victims' Rights Directive prescribes effective referrals, referrals are often formalistic. In such cases, police provide victims with brochures and other documents outlining their legal rights and entitlements, as well as a list of potential support providers. The legalistic language of such documents can be hard for victims to comprehend, while victims may struggle to identify providers that are suited to their needs. Information about providers may not include details of the exact nature of support, the languages in which services are offered and whether the services are free-of-charge. Thus, while the victim receives information on potential service providers, the obligation to refer the victim is only formally met.

Only a few countries reported having automatic and effective referral mechanisms in place among police, victim support services, prosecutors and other relevant organizations.

Due to their years of co-operation and collaboration with each other, CSOs are often more effective in referring victims to other CSO service providers when their own services do not meet victims' needs.

### **Main elements**

The following elements help to create a successful system for conducting INAs of hate crime victims' needs, including referral for protection and support.

#### **1. *Significant care must be taken when organizing the INA system***

A successful INA system is based on the premise that it is conducted according to the wishes of, and in close co-operation with, the victim. Law enforcement agencies and victim support organizations that first come into contact with a victim must ensure that the needs of each victim are assessed in a timely manner and on a case-by-case basis. Those conducting an INA, whether law enforcement or civil society, need to be specifically trained. Institutional arrangements should be put in place to accommodate the individual needs of hate crime victims. For instance, if a hate crime victim wishes to be interviewed by a person of the same gender, this should be accommodated where possible. As a victim's needs may change over time, an INA should not be seen as a one-time event, but should be conducted upon first contact and then revisited as circumstances change. Finally, guidance regarding all of the above should be consolidated and disseminated to all relevant entities to ensure a uniform approach.

## **2. *INA outcomes must be well-managed***

The results of an INA must be accurately communicated between the parties involved, while maintaining confidentiality and protecting the victim's personal data.<sup>19</sup> Outcomes must also be integrated into the criminal justice process, using the data effectively to, among other things, protect the victim from intimidation and retaliation, while ensuring pertinent information in the criminal file is shared with the prosecutor or other relevant law enforcement entities. Successful information storage is important as it saves the victim from needing to repeat the details of the incident multiple times.

## **3. *Define the content and form of the INA***

Procedures for conducting an INA must ensure that it is conducted in a safe and non-threatening environment. Options should include a mixture of in-person, email and/or other digital formats. Whether or not it is conducted using a questionnaire, an INA must have a defined purpose and provide conclusions that allow it to identify the hate crime victim's needs.

## **4. *Create a plan for referrals***

Whether referrals are made by law enforcement or civil society, information about where and how to refer a victim to specialist support service providers must be delineated. An "opt-out" model is preferred, whereby police automatically pass the victim's details to the appropriate specialist service provider, unless the victim objects. Referrals should be part of the service that police offer the victim; it is up to victim to decide whether to opt out of the service.

## **Approaches and response measures**

The following approaches contribute to the implementation of the four main elements of a successful INA system. Note that some of the proposed approaches below are centred around the elements identified above, while others target national systems in specific situations.

### **1. *Content and form of the INA***

Applicable to any national scenario, the below elements explain how an INA for hate crime victims should be implemented to meet its defined purpose.

**Principle of consent.** Nothing in the INA process should be done against the victim's will. The victim's preferences should be considered as much as possible.

**Provide options for conducting the INA.** A successful INA can be conducted through a variety of channels, including in-person interviews, online interviews or using other digital formats. Those conducting INAs can also make use of other available information, particularly if this avoids unnecessary repetition, which can traumatize a victim.

**Consider the environment.** The first INA interaction usually takes place upon initial contact, and usually not long after the incident. This makes the environment in which the meeting or interview takes place important. For example, the interview could be conducted at the victim's home or a neutral public space instead of at the police station. Alternatively, adjusting the office space within a CSO or police office can make the premises less intimidating and more welcoming.

**The purpose and content.** The purpose of an INA is to understand the needs and vulnerabilities of a hate crime victim, and determine the corresponding interventions, identify protection needs during criminal proceedings and ensure effective referrals. The INA is integral to the hate crime victim support structure. The purpose of an INA should determine its content and form. Those responsible for developing an INA should consider how the outcomes of the INA process will be used, as this will help to determine what questions need to be asked. Many of the INA questions can be the same as those used for other crime victims, such as on disorientation in the legal system, language and coping mechanisms. While the hate crime INA should be integrated into the general INA for crime victims, it

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19 Including compliance with the General Data Protection Regulation (GDPR) in EU Member States.

also needs to reflect the specifics of hate crime victimization, such as fear of having their identity publicized (for example, sexual orientation), severe and lasting traumatization and the effect on others that share the same identity as the victim. For this reason, the INA could be separated into two parts: an assessment common to all crime victims, and one customized to hate crime victims.

There are two main approaches to conducting an INA. The first is highly formalized, based on a list of questions or questionnaires. This approach is recommended when the INA is conducted by persons without specialized training on hate crime. The second is an unscripted conversation that is defined by the outcomes. This approach has the potential to produce better outcomes when conducted by trained hate crime victim specialists. Regardless of the form, an INA requires implementation of all the principles of sensitive and respectful conduct listed in Section VI, which strongly advises specialized training for individuals working with hate crime victims.

#### **Timing, Special Arrangements for Interviewing Vulnerable Victims and Form**

In France, the Government reported that individual assessments are carried out at the earliest opportunity for all crime victims to determine whether they are at risk of secondary or repeat victimization, intimidation or retaliation, and what special protection measures they require. The INA for hate crime victims also considers the impact of discriminatory, racist, ethnic and religious motivations to decide what special protection measures the victim requires.

In the Czech Republic, a CSO reported that hate crime victims have the right to be interviewed by a trained person and to choose the gender of the interviewer. This is an important option, as it ensures that the victim is comfortable when recounting the details of a crime, particularly if it involves a sexual assault.

In Italy, the Government reported that every effort is made not to re-victimize hate crime victims. This includes making arrangements to ensure that victim interviews and hearings take place in accessible and friendly premises. These efforts include collaboration agreements between law enforcement and external agencies and associations regarding the use of hearing rooms. Protected hearing rooms are currently available in 60 police departments and in several headquarters of the Carabinieri Corps.

In Malta, the Government reported that the INA form is elaborate. All hate crime victims are asked if they want additional support from the Maltese Hate Crime Unit. If the victim agrees, they will be referred immediately to the Unit. An INA will be conducted by the Unit based on a standardized, written form during the victim's first interaction with the Unit.

In the Netherlands, there are protocols on how different criminal justice bodies should conduct INAs at different stages of the process. The protocol is used to tailor victim services to the individual needs of the victim. In reviews of its use, cases show that adequate protection has been organized, preventing secondary and repeat victimization.

## **2. *INA as a continuous process***

For the INA to be effective, it cannot be conceived of or implemented as a one-off exercise. As the victim's needs evolve over time and throughout the criminal proceedings, those providing support and working with the victim should be aware of these changes, and respond appropriately. On first contact, it may not be clear whether the incident was a hate crime, as the full nature of victimization emerges over time. This means that an INA may need to be conducted more than once, or that systems should be in place for the continuous assessment of the victim's needs throughout the life cycle of the case and after, as some victims' needs extend beyond the conclusion of the legal case.

#### **INAs Regularly Modified and Updated**

In Slovenia, the government reported that the INA is conducted on first contact with the victim but also as circumstances change throughout the life cycle of the event. Article 143.č of the Criminal Procedure Act states that the assessment of hate crime victims' needs should be conducted by the police or by the public prosecutor upon first contact. The police should prepare the initial assessment, which will be upgraded and updated by the public prosecutor if needed. However, if the crime is reported directly to

the public prosecutor, then the prosecutor will prepare the INA. Law enforcement can also invite the Social Work Centre to attend the assessment and provide additional victim support. The law also requires the INA to be updated if and when its elements change substantially. During the different stages of the criminal justice process, police offer victims psychological and physical assistance or refer them to the relevant authorities or organizations that can provide them with the necessary support.

Governments should institutionalize mechanisms that allow for the INA to be a continuous process. One option is to create a “one-stop-shop”, whereby the victim is guided by the same victim specialist or the same unit assigned to them early on in the criminal justice process. Another option is to appoint a contact point for each stage of the process, whereby each agency involved in the proceedings assigns a specific officer or unit responsible for managing the victim’s needs and conducting the INA.

#### **Automatic Referrals**

In Greece, the Government reported that if law enforcement officials determine that a hate crime victim needs urgent psychological and social support, the victim is automatically referred to the National Center for Social Solidarity to have their needs assessed. The Center provides emergency psychological and social support services to the victims of hate crime, among others.

### **3. Management of INA outcomes**

As INA outcomes are relevant to the investigation and prosecution of a crime, they need to be shared with the relevant criminal justice bodies. For example, the information obtained through an INA may prompt law enforcement agencies to be attentive to bias indicators, leading the police to investigate an offender’s possible bias motivation. During a trial, INA outcomes can be used to help limit in-person contact with the suspect, identify the victim’s need for transportation to court, include the victim in a victim-protection programme or assign interpreters to the victim. How INA findings are shared and with whom is critical to ensuring that sensitive personal data and other information about the victim remains secure. States have a duty to implement measures that prevent further harm and re-victimization. As a rule, pertinent information about a hate crime victim’s needs resulting from an INA should only be shared with other parties on a need-to-know basis. This may affect policies regarding what information can be included in a criminal file and restricting access of the defence to such information.

### **4. Co-ordination between CSOs and the state**

Where effective channels of communication have been established – and where CSO and law enforcement enjoy a relationship of trust – certain INA conclusions should be exchanged between the criminal justice system and CSO service providers. A consultation should be conducted between the government and CSOs working with hate crime victims with the aim of developing a shared methodological approach that can be adopted by both. Ideally, this will also allow law enforcement and CSOs to share the outcomes of the INAs they conduct, provided they have the victim’s consent.

It should be acknowledged that the two entities differ in terms of the access they can provide to services. The police can refer the victim to a CSO, while CSOs may refer a victim to another provider or accompany the victim to the police. Victims may also have to undergo an INA twice – once with the police and once with a CSO. Throughout the proceedings, many victims are supported by a CSO. For these reasons, it would simplify the process for victims if the approach of CSOs and law enforcement to conducting INAs were not fundamentally different. Introducing a thorough INA for victims, including hate crime victims, would be an important step in transforming a “police force” into a “police service.”

#### **Joint Government and CSO INAs**

In Belgium, the CSO Collectif Contre l'Islamophobie en Belgique (the Collective against Islamophobia in Belgium, CCIB) reported on its efforts to conduct INAs together with UNIA, the Belgian equality body, when they are approached by a hate crime victim. This is done to save the victim from repeating the details of the crime. UNIA plays an important role in liaising with the criminal justice system, the CSO service providers and the hate crime victim.

Governments should also set up victim contact points to help facilitate communication with victims at each stage of the proceedings. If a victim is represented by a CSO, the CSO should be in constant communication with the authorities acting as the victim contact point.

## **5. Referrals**

Referrals must be done in a timely manner and through safe channels. Information about where to refer victims must be available to those conducting INAs, including law enforcement and CSOs, in order to determine the best support provider for referral. Several types of referral systems can be used. The critical issue is to ensure that referrals happen in a manner that allows the victim to promptly access the services they need.

One option is for self-referrals. Police and service providers can make information about specialist services available online in an understandable and easy to navigate way – preferably in multiple languages – so that hate crime victims can independently seek the support they need.

### **Specialist Websites**

In Italy, the Government reported that the Reference Centre for Gender Medicine of the Istituto Superiore di Sanità (Higher Institute of Health) partnered with the national equality body, the National Anti-Racial Discrimination Office, to create an Italian government website called *infotrans.it*. The website, launched in May 2020, provides information for the transgender community, including hate crime victim support services. The website provides contact information for services that include associations, clinical centres, counselling centres and listening points. Publicly available websites are a good practice, as they allow victims to find their own resources without interacting with the criminal justice system, which some victims may be reluctant to do.

Another option is for police to inform the victim about the available services. In this option, police provide the victim with sufficient information, and it is up to the victim to decide which organization to contact and how to approach the service, if at all. However, this often leads to the sharing of incomplete information that lacks details about services, coverage and availability.

Additionally, general victim support providers can refer victims to hate crime specialist support providers. These support providers may in turn refer hate crime victims for to organizations that provide services to members of a specific community or victims of a specific strand of hate crime. In many project states, CSOs also encourage victims to report the crime to police.

### **Referrals to Specialists**

In Greece, RVRN reported that it provides Specialist support services to hate crime victims. If a member of RVRN that is in direct contact with the victim is unable to provide the necessary services, RVRN members co-ordinate to arrange for the further referral of the victim to another RVRN member that can ensure access to the needed service.

In Germany, the VBRG reported that if, for example, a person identifying as LGBTI wishes to have community engagement, the VBRG refers them to an LGBTI organization. As a specialist provider, the VBRG refers victims to the service provider that is best able to provide the services that VBRG cannot offer, under the condition that VBRG trusts the quality of their services.

## **VI. Sensitive and respectful treatment of hate crime victims in the criminal justice system**

Sensitive and respectful treatment of hate crime victims is critical not only to their well-being and the well-being of their families and communities, but also to that of society. Such treatment is key to ensuring that hate crime victims are given the necessary support and that their needs are met. Importantly, treating the victim sensitively helps to prevent secondary victimization and trauma, which can be particularly prevalent in criminal justice system settings. By treating victims respectfully and responding to their needs, criminal justice professionals contribute to building trust in law enforcement and criminal justice agencies. This in turn can encourage victims to report hate crimes, thereby strengthening the security of individuals, their communities and society as a whole.

Sensitive and respectful treatment means that criminal justice systems and other entities providing support to hate crime victims pay attention to their specific vulnerabilities, the identity or identities for which they may have been targeted, the risks they face and the needs they have as individuals. All of these factors make interviewing and collaborating with hate crime victims a complex task. The criminal justice system as a whole has a role to play in this process. However, since a victim's first interaction with the criminal justice system is almost always with a police officer, law enforcement has a special duty of care in this regard. To appropriately handle interactions with victims, criminal justice and victim support systems must be aware of the specific needs and vulnerabilities of these victims and how that translates into policies and practices. ODIHR's publication on *Understanding the Needs of Hate Crime Victims* elaborates on hate crime victims' needs and supplements the observations and guidance provided in this section.

### **Overview of findings**

#### **1. A victim-centred approach is a cornerstone of sensitive and respectful treatment**

Understanding the needs is critical to correctly respond to hate crimes and counter their damaging impact. A victim's needs for confidentiality and trust, to be understood and to be taken seriously, along with the needs specific to an individual, all have implications on how the criminal justice system should work and interact with hate crime victims. Therefore, criminal justice systems should put the hate crime victim at the centre of the process, recognizing the victim's perception and experience and giving special importance to the victim's rights and needs. Understanding the needs of those affected should be the first step in designing criminal justice and victim support policies and measures.

The victim-centred approach is an individualized approach to each hate crime victim, one that considers their personal circumstances, their traumatization and their specific needs. This individualized approach should be employed by all involved in responding to hate crimes and supporting the victims, and at all times. The victim-centred approach should also be at the centre of any government measures related to hate crime.

#### **2. Formal commitments are critical but must be translated into practice**

A high-level declaration or formal commitment to address hate crimes and ensure a sensitive response to hate crime victimization sends an important message of support and protection to the members of groups targeted by hate crime. It also demonstrates to society that the state takes a strong stance against hate crime. Some project countries reported that they have formal commitments on the protection of hate crime victims, as well as on sensitive and respectful treatment. However, these commitments often do not translate into practice, resulting in the inconsistent and at times hostile treatment of victims, leading to secondary victimization.

#### **3. Victims' bills of rights or protection acts are helpful**

Hate crime victims should be recognized as a specific category of victim. There are different types of policy documents regulating the status of victims in place in project states, such as "victims charters",

“a bill of rights for victims” or “victims protection acts”. In some project states, “victim charters” or “bill of rights for victims” delineate hate crime victims as a specific category of victims, which is critical to signal the need for a different approach. In many project states, however, “victim charters” do not even mention hate crime victims.

Some project states have passed “victims protection acts”. Some of these acts specifically mention hate crime victims, while others differentiate between “victims” and “particularly vulnerable victims”. However, the wording of such acts is often general and does not explicitly mention victims of hate crime, creating barriers to their practical implementation. In a few project states, the documents are not implemented, and there is limited awareness among law enforcement about the need for special treatment of hate crime victims.

#### **4. *Continuous co-operation yields better results***

Often, the level of support provided to and treatment of hate crime victims depends on the co-operation on the ground. A number of project states demonstrate co-operation among law enforcement and communities at a local level, allowing for more effective responses. There are myriad project-based efforts in project states; however, data indicate that training activities are discontinued and the tools developed are not used, implemented or distributed after the project end date.

#### **5. *Comprehensive approach is more effective than a sectorial measure***

The importance of a comprehensive response to addressing hate crimes is evidenced by its better effectiveness compared to ad hoc or sectorial measures. The survey revealed that project states that adopt a comprehensive approach are more likely to address the specific needs of hate crime victims and provide necessary instruction and capacity building to law enforcement and other government agencies on sensitive and respectful engagement. In addition, they are more likely to have policies and practical measures in place that facilitate sensitive treatment of hate crime victims.

### **Main elements**

The following elements help ensure that hate crime victims experience sensitive and respectful treatment.

#### **1. *Institutionalize political commitment through example, policy documents and guidance***

Governments should seek to institutionalize their commitment to the sensitive and respectful treatment of victims through the development of strategic and policy documents. They should also ensure that the criminal justice system is leading by example. Statements by the political leadership and those higher up the chain of command are important in signalling to rank-and-file officers that this type of treatment is expected. Institutional collaboration with civil society on policy formulation also is a good practice.

#### **2. *Ensure that policies and procedures enabling sensitive treatment are in place***

Governments should ensure that policies and procedures are in place that address the sensitive and respectful treatment of victims, as well as practical arrangements to enable such treatment. These policies should be aimed at ensuring the professional treatment of all victims. They should include important aspects, such as sensitive communication with victims, the availability of interpreters, the accessibility of premises, the creation of a friendly and non-threatening interviewing environment which is gender and diversity sensitive (including allowing the victim to be accompanied by a person of the victim’s choice).

#### **3. *Build capacity and provide guidance to criminal justice professionals***

Governments should ensure that criminal justice professionals are regularly trained on various forms of hate crime and the groups affected by them. Training initiatives should also enhance the skills of

criminal justice professionals in recognizing hate crimes and identifying bias, and communicating with and on treating hate crime victims in a professional, respectful and sensitive manner.<sup>20</sup>

This should be complimented by clear and practical guidance and instructions for criminal justice professionals, including on communication with victims. Such guiding documents should highlight the various elements of communication applicable to all victims – such as a victim-focused approach – including active listening, informing, explaining the situation and validating the victim’s experiences. Additionally, guidance should cover specific aspects of interviewing hate crime victims, including recommended language, prevention of re-victimization and specifics of various groups, their needs and environment. The implementation of the above principles should be facilitated through regular and compulsory training opportunities.

#### **4. Increase consultation and outreach to CSOs and victim communities**

Governments should foster co-operation with CSOs working with victims targeted by different strands of hate crime, and also take measures to improve knowledge among law enforcement of discriminated and marginalized communities whose members are often targeted by hate crimes. This should include collaboration with civil society on policy formulation and capacity building of the criminal justice professionals.

#### **5. Designate “special” law enforcement officers**

Designating specific police officers to work with hate crime victims can provide victims with a sense of security, enabling them to share their experience and seek justice. This can be a hate crime liaison officer who accompanies victims as their case progresses through the system, or a special reception officer that acts as a point of first contact for victims. Appointing community liaison officers for minority communities or under-represented communities is another effective way to ensure that hate crime victims not only report hate (and other types of) crimes, but also feel supported in the criminal justice system.

#### **6. Collect data**

Without data, it is impossible to know the nature and scope of a problem and create solutions to address it. Governments and criminal justice bodies – including the police and the judiciary – need to register and record hate crimes, and publish segregated data regularly.

Importantly, criminal justice agencies should keep data on the treatment of victims and their satisfaction with how they were treated within the criminal justice system. This provides important feedback on how to further improve the system.

#### **7. Create oversight mechanisms**

Governments should create oversight mechanisms to provide a meaningful venue for victims to file complaints about problematic treatment.

### **Approaches and response measures**

The following approaches and measures are intended to help implement the above elements to ensure that hate crime victims are treated in a sensitive and respectful manner. The measures proposed below represent a variety of actions, initiatives and tools that can be put in place to facilitate the criminal justice system’s sensitive and respectful treatment of hate crime victims. To ensure the system works effectively, all elements should be addressed in light of the national legal, policy and historical contexts.

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<sup>20</sup> ODIHR offers specialized Training against Hate Crimes for Law Enforcement (TAHCLE) which is designed to improve police skills in recognizing, understanding and investigating hate crimes. Additionally, ODIHR offers a programme designed to improve responses to hate crimes by prosecutors, Prosecutors and Hate Crimes Training (PAHCT). For more information, see: <<https://www.osce.org/odihr/tahcle>> and <<https://www.osce.org/odihr/pahct>>.

## 1. **Increase information, consultation and outreach**

Governments should proactively increase their knowledge of different groups frequently targeted by hate crime, the needs and vulnerabilities of these groups and their environment. Governments should foster co-operation with CSOs working with victims of different strands of hate crime. Measures should also be taken to improve knowledge among law enforcement of discriminated and marginalized communities whose members are often targeted for hate crimes. This will help to ensure that the relationship of law enforcement with such communities is based on a historical and social understanding of their situation. This could also take form of institutionalized co-operation in advisory groups, or as a part of joint projects.

### **Provide Different Types of Knowledge Transfers**

In Portugal, the Government reported that the CSO International Lesbian, Gay, Bisexual, Trans and Intersex Association in Portugal (ILGA-Portugal) has held a number of specialist training events for police on the needs of the LGBTI community. The Commission for Citizenship and Gender Equality also published a *Handbook of Hate Crimes Against LGBTI Persons: Training for a Professional Police Response*, based on the Council of Europe's manual.<sup>21</sup> The Manual provided the basis for the training events, and is now available across the country due to the Government's dissemination.

In Lithuania, the Government reported that it has published a practical guide for law enforcement titled *Cooperation with Communities Vulnerable to Hate Crimes*. The Guide provides information on the historical context, demographics and culture (such as celebrations, important places and characteristic clothing) of such communities, as well as the ways in which they are targeted by hate crime.<sup>22</sup>

In Sweden, the Government reported that a comprehensive set of measures led by the authorities was put in place. For instance, measures involving the transgender and Roma communities included co-operation meetings with the communities, supporting community members serving in the police forces, national conferences and police training events with the participation of community members.

In the United Kingdom, outreach, consultation and institutional collaboration with civil society on policy resulted in the 2007 launch of a standing group that advises the government on policy and strategy regarding hate crime. The group, named the Independent Advisory Group on Hate Crime, includes victims, academics, policymakers and CSO groups, such as Community Security Trust, Stop Hate UK, Tell MAMA, Stonewall and Galop.

In the Czech Republic, In IUSTITIA reported conducting research in 2018 on hate crime and hate crime victims' rights in the criminal justice system. Based on that research, In IUSTITIA developed a guide, *Prejudicial Crimes: A Handbook for Judges and Prosecutors*.<sup>23</sup>

## 2. **Clarify institutional commitment to and policy on sensitive and respectful treatment**

Governments should clearly and consistently communicate to criminal justice officials that sensitive and respectful treatment of hate crime victims is expected and essential. Communications and policies should reflect the need to avoid re-victimization and commit to play a proactive role in the healing process of victims. It is important that policies on the treatment of hate crime victims are developed

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21 "Policing Hate Crime Against LGBTI Persons: Training for a Professional Police Response", Council of Europe, May 2017, <<https://rm.coe.int/prems-030717-qbr-2575-hate-crimes-against-lgbti-web-a4/1680723b1d>>; English version: <<https://www.ci.gov.pt/2019/06/manual-policiamento-crimes-odio-pessoas-lgbti-disponivel-online/>>.

22 "Recommendations for Law Enforcement Officials on How to Cooperate with Communities Vulnerable to Hate Crime", Ministry of the Interior of the Republic of Lithuania, May 5, 2020, <<https://vrm.lrv.lt/en/news/recommendations-for-law-enforcement-officials-on-how-to-cooperate-with-communities-vulnerable-to-hate-crime>>.

23 "Prejudicial Crimes: A Handbook for Judges and Prosecutors [Předsudečné Trestné činy: Příručka pro soudce a státní zástupce]," 2014, <<https://www.in-ius.cz/dwn/prirucka-sz/hc-prirucka-pro-sz-a-soud-web.pdf>>.

and easily accessible. This should be expressed as a statement of rights and implemented through policy measures.

#### **Clear Guidance for Victim Treatment**

In the United Kingdom, the National Policing Hate Crime Strategy states that: “The police service is committed to reducing the harm hate crime causes, increasing the confidence of victims, and working with partners to identify and prosecute those who commit such crimes”. Including an explicit goal within the written strategy is a good example of a clear, unequivocal statement that sets the tone and expectations for police behaviour towards victims.<sup>24</sup>

#### **Written Guidance**

In Spain, the Government reported that it has a protocol for law enforcement on how to ensure the provision of sensitive assistance for victims. The protocol, discussed in Section III, offers guidance to law enforcement on victim treatment, and includes topics such as the use of interpreters, preserving intimacy, medical assistance and referrals to CSOs. Written guidance helps ensure that law enforcement are able to put the theory of “sensitive and respectful treatment” into practice through concrete measures to support victims.<sup>25</sup>

### **3. Enact measures to enable sensitive and respectful treatment**

Governments should ensure practical measures are in place to facilitate sensitive and respectful treatment. Practical measures include the availability of interpreters, the accessibility of premises, the provision of information, creating a friendly and non-threatening interviewing environment, the use of a uniform, allowing the victim to choose the gender of the interviewer, and specialized hate crime and community liaison officers.

Such measures also include building the prerequisites for sensitive treatment within criminal justice bodies, in particular by changing the organizational culture, addressing institutional bias and increasing the diversity of criminal justice professionals. The survey data reveal good practices in some project states, which are listed below.

#### **Use of Interpreters**

In Slovakia, the Government reported that interpreters are available to facilitate communication in the victim’s native language. This service extends to both court proceedings and therapeutic support. In the Czech Republic, In IUSTITIA responded that they provide interpreters for counselling services, while the state provides interpretation services during criminal proceedings.

#### **Easily Accessible Information and Special Protection Measures**

In Ireland, the Government reported that the Garda Victim Service Offices (GVSO) are the central point of contact for victims of crime and trauma in each An Garda Síochána (national police service) Division. The GVSO has translated its victim information booklet into 38 languages and made it available on its website along with a copy of the Victims Charter.<sup>26</sup> The Victims Charter addresses elements of specific protection for targeted communities, depending on the needs of the victim. The Charter explicitly mentions measures for victims belonging to target groups, such as people with disabilities, victims of racist crimes and victims who identify as LGBTI.

#### **Victim Charters**

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24 “Hate Crime Operational Guidance”, UK College of Policing, 2014, <<https://www.college.police.uk/What-we-do/Support/Equality/Documents/Hate-Crime-Operational-Guidance.pdf>>.

25 “Action Protocol” [Protocolo de Actuación] Spanish Ministry of the Interior, <<http://www.interior.gob.es/documents/642012/3479677/PROTOCOLO+ACTUACION/99ef64e5-e062-4634-8e58-503a3039761b>” \h>

26 “Victim Information”, Garda Victim Service Offices, <<https://www.garda.ie/en/victim-services/garda-victim-service/garda-victim-service-offices-qvso-.html>>.

In France, the Government reported that each police station has a charter, *Accueil du Public Assistance aux Victims*, which details victims' rights and police duties on first contact with victims and in victim support. The charter is also posted online.<sup>27</sup>

#### **Limiting Victim Contact with the Suspect**

According to the Government's survey response, Italy takes several steps to ensure that vulnerable victims do not have contact with the suspect. It also takes steps to limit the contact between the victim and the criminal justice system by assessing whether contact is truly necessary and giving the option to tape interviews.

#### **Policy of Respectful Treatment**

In Norway, the Government responded that the Norwegian Police use a model called *Kreativ* during interviews, which is similar to the English Peace Model and aim to treat everyone with respect. The Model promotes communication, legal protection, ethics, empathy, active listening and trust through openness.

In Slovakia, the Government responded that law enforcement can consult with a psychologist on conducting interviews, and also have the possibility of having a psychologist present during interviews. Furthermore, victims can be accompanied by a person of their choice to provide psychological and moral support. Such personalized professional mental health support can be a critical factor in preventing re-victimization and in allowing victims to share their story with criminal justice officials.

#### **Special Liaison Officers**

Good practices include appointing a range of special liaison officers. The Irish Government responded that Ireland has instituted several types of special liaison officers who are appointed to work with minority communities at the local level. There are currently a total of 384 Garda Ethnic Liaison Officers, as well as a Garda Racial Intercultural and Diversity Office, who provides specialist advice and assistance to victims of hate and racist crimes where required or deemed necessary. Finally, there are LGBTI liaison officers within the national police service, An Garda Síochána, who are trained to provide support to victims and encourage reporting among members of the LGBTI community.

#### **4. Guidance and training, including on conducting interviews with hate crime victims**

Interviewing hate crime victims should be based on an awareness of the typical needs of hate crime victims and knowledge of the situation of different victim groups. However, all victims should be treated as a unique person with specific individual needs and not as a representative of their entire group, as this could lead to their re-victimization.

There are two important steps to this process. The first is to enhance and improve the treatment of all victims. The second is to develop tailored guidelines on the treatment of hate crime victims. The implementation of these guidelines should be monitored to ensure that they are implemented, and not merely published. Continuous training programmes should be held in place of one-time training events.

#### **Guidelines and Training Initiatives on the Treatment of Victims**

The Belgian Government responded that there are specific guidelines for the local and federal police regarding the treatment of victims of all crimes. These guidelines cover aspects of treatment, such as receiving victims in a polite and respectful manner, providing practical assistance to victims of crime and offering information and referral to the appropriate services.<sup>28</sup>

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27 "Public Welcome Assistance to Victims [*Accueil du Public Assistance aux Victims*]", French Ministry of the Interior, <<http://www.seine-saint-denis.gouv.fr/content/download/1030/8352/file/charte%20accueil%20du%20public.PDF>>.

28 "Joint Circular No. COL 13/2013 of the Minister of Justice, the Ministry of the Interior, and the College of Public Prosecutors to the Court of Appeal", June 17, 2013, <[https://www.unia.be/files/Z\\_ARCHIEF/14129\\_en\\_-\\_circulaire\\_col\\_13-2013.pdf](https://www.unia.be/files/Z_ARCHIEF/14129_en_-_circulaire_col_13-2013.pdf)>.

In Slovakia, the Government responded that it trains police, probation and mediation officers on vulnerable victims. Judges also regularly participate in training initiatives on criminal law or human rights at the Judicial Academy of the Slovak Republic.

In Slovenia, the Government reported on its efforts to train social workers offering support services to hate crime victims. The Ministry of Labour, Family, Social Affairs and Equal Opportunities, in cooperation with the Social Chamber of Slovenia, organized two workshops on hate crime victim support in 2019 attended by 148 participants. The Social Work Centres Community conducted a similar training for Social Work Centre experts.

In Sweden, the Government responded that the Swedish Crime Victim Authority, *Brottsoffermyndigheten*, is the national authority responsible for the needs and rights of victims. It has included hate crime victims in its training activities and conferences. Victim Support Sweden, *Brottsofferjouren*, is the major CSO supporting crime victims, and has developed information leaflets for victims of hate crime in several languages as part of its *Swevic* project.<sup>29</sup>

## 5. Improving the system

Efforts should continuously be made to improve the system and methods of dealing with victims of hate crime. Good practices in this regard include collecting data on victim satisfaction through effective methods, such as victimization surveys, research and ad hoc questionnaires. Complaint mechanisms should also be in place. The mechanism should not only address procedural flaws but also be available when individual victim support is not handled effectively.

### Solicit Victim Feedback

In Malta, victims are encouraged to file an evaluation form where they can share their personal perceptions about the service received from the Maltese Hate Crime Unit. This is filled out towards the end of their interaction with the Maltese Hate Crime Unit.

In the United Kingdom, an independent assessment is conducted to offer recommendations on what can be improved. In addition, each regional hate crime group has police and Crown Prosecution Service (CPS) representatives who are tasked with reviewing performance. The CPS also has its own hate crime strategy that commits it to “improving the accuracy and completeness of relevant data”.<sup>30</sup>

In the Netherlands, the authorities commissioned research on the special needs of hate crime victims within the criminal justice system, and the extent to which the Dutch criminal procedure and victim support currently meet those needs.<sup>31</sup>

### Complaint Mechanisms

In Ireland, the Government reported that it has created several complaint mechanisms, including through GVS0 – the central point of contact for victims in Ireland. The GVS0 allows a victim who is unhappy with the service provided by the national police service, to provide questions, suggestions or feedback on their treatment to the relevant Garda Superintendent. Another mechanism is provided by the Garda Síochána Ombudsman Commission (GSOC), the main function of which is to deal with complaints from members of the public about conduct of members of the Garda Síochána. A GSOC investigation focuses on establishing independent evidence of any criminal offence or breach of discipline by a member of An Garda Síochána. If evidence is found, the GSOC reports this to the Office

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29 “Together against Hate Crime”, Swedish Polisen, 2019,

<[https://www.brottsofferjouren.se/uploads/userfiles/files/ENGELSKA\\_SWEVIC.pdf](https://www.brottsofferjouren.se/uploads/userfiles/files/ENGELSKA_SWEVIC.pdf)>.

30 “Hate Crime Strategy 2017-2020”, Crown Prosecution Service,

<<https://www.cps.gov.uk/sites/default/files/documents/publications/CPS-Hate-Crime-Strategy-2020-Feb-2018.pdf>>.

31 “Special Needs of Victims of Hate Crime with Regard to Criminal Proceedings and Victim Support [Speciale behoefte van slachtoffers van hate crime ten aanzien van het strafproces en de slachtofferhulp]”, Scientific Research and Documentation Center (WODC), 2020, <<https://www.wodc.nl/onderzoeksdatabase/2922-speciale-behoefte-van-slachtoffers-van-hate-crime.aspx>>.

of the Director of Public Prosecutions or the Garda Commissioner, who then decide what, if any, further action they will take. Victims are also informed of the possibility to challenge the decision not to prosecute, as well as other legal decisions.

In Greece, the Government reported that a National Mechanism for the Investigation of Arbitrary Incidents of the Greek Ombudsman has, among other things, a specific investigative power for incidents of blatantly unlawful conduct. This includes torture or other violations of human dignity as provided for in Article 137a of the penal code; incidents related to unlawful or wrongful violations of life, health, physical integrity or personal freedom; and incidents related to the unlawful use of firearms and racist behaviour.

## VII. Concluding remarks

This report provides an overview of the state of in hate crime victim support in the 41 EStAR project countries. It maps what is being done, presents selected practices from project states and, by outlining the main elements of functional victim support systems and approaches, offers suggestions on how to establish and improve hate crime victim support structures at the policy and practical levels. Although many individual good practices have been reported and identified, the report notes the lack of a comprehensive, victim-centred approach towards hate crime victim support in the project countries. This results in missed opportunities to properly support hate crime victims and facilitate their access to justice and specialist support services – both of which are crucial to facilitating their recovery and helping them regain their sense of agency and empowerment.

The mapping survey undertaken by the EStAR project reveals that the thematic areas of hate crime victim support included in the report (namely, hate crime victim support structures, specialist support services, INAs and referrals, and sensitive and respectful treatment of hate crime victims) are indeed the areas where more expertise and practical guidance are required in order to assist project countries in addressing the gaps or improving their existing structures and services.

The EStAR project will use the results of this report to work with project states to develop practical tools and training workshops. The training workshops will enhance the capacity of governments, criminal justice system practitioners, victim support specialists and civil society to design measures and policies to assist victims of hate crime. The tools developed will provide guidance on support structures for hate crime victims, practical recommendations on the treatment of hate crime victims and on carrying out individual needs assessment, as well as effective models for cross-sectoral co-operation.

Taking into consideration the findings of this report, the EStAR project will focus additional attention on improving structures for hate crime victim support by strengthening co-operation and integrating the efforts of state and civil society. Other areas of support will include building the capacity of criminal justice systems to protect, engage with and assist hate crime victims, as well as strengthening specialist support services for hate crime victims. It is only through a comprehensive and collaborative approach that hate crime victims can be effectively supported in their journey of recovery from all effects of hate crime, from physical to mental, social to financial.

## Annex 1: EStAR Network of Experts

Albania	Directorate of Counter Terrorism, Albanian State Police
	Institute for Activism and Social Change
Armenia	Department for Crimes Against Public Security of the Prosecutor General's Office of Armenia
	Pink Armenia
Austria	Federal Agency for State Protection and Counter Terrorism, Federal Ministry of Interior
	ZARA - Civil courage and anti-racism work
Belgium	Belgian Equality Body Unia
	The Counter Islamophobia Collective in Belgium (CCIB)
Bosnia and Herzegovina	Cantonal Court Bihać
	Association for Democratic Initiatives (ADI)
Bulgaria	Prosecutor's Office
	Bulgarian Helsinki Committee
Croatia	Service for Victim and Witness Support, Ministry of Justice
	Victim and Witness Service Support Croatia (VWSSC)
Cyprus	Office for Combating Discrimination, Police
	Migrant Information Centre- MiHub
Czech Republic	Criminal Law Unit, Ministry of Justice
	In IUSTITIA
Denmark	National Centre of Crime Prevention, National Police
Estonia	Department of Victim Support and Prevention Services, National Social Insurance Board
	Estonian Human Rights Centre
Finland	Office of Ombudsman for Equality
	Victims Support Finland
France	Court of Paris
	The International League Against Racism and Anti-Semitism (LICRA)
Georgia	Office of the Public Defender
	Tolerance and Diversity Institute
Germany	ZEBRA - Centre for victims of right-wing attacks
Greece	Department Combating Racism, Hellenic National Police
	Racist Violence Recording Network (RVRN)
Hungary	Háttér Society
Iceland	Bjarkarhlid - Center for violence survivors
	Throskahjalp - National Association of Intellectual Disabilities
Ireland	Ministry of Justice
	Immigrant Council of Ireland
Italy	Gender Violence and Vulnerable Victims Unit, Ministry of Interior
	COSPE - Cooperation for the Development of Emerging Countries
Latvia	Ministry of Justice

	Latvian Centre for Human Rights
Lithuania	Public Security and Migration Policy Department, Ministry of Interior
	Lithuanian Gay League (LGL)
Malta	Victims Support Unit, National Security and Law Enforcement, Ministry for Home Affairs
	Victim Support Malta
Moldova	The Information Centre "GENDERDOC-M"
Montenegro	Division for International Judicial Cooperation, Ministry of Justice
	LGBT Forum Progress
Netherlands	Ministry of Justice and Security
	Victim Support Netherlands
North Macedonia	Basic Public Prosecution Office Skopje
	Helsinki Committee for Human Rights
Norway	Oslo District Police
	Romano Kher
Poland	Unit for the European Migration Network and Combating Human Trafficking, Ministry of the Interior and Administration
	Campaign against Homophobia
Portugal	Department of European Affairs, Ministry of Justice
	Portuguese Association for Victim Support (APAV)
Romania	Center for Legal Resources
Serbia	Office of the Public Prosecutor
	Da se Zna!
Slovakia	Human Rights Division, Ministry of Justice
	The Islamic Foundation in Slovakia
Slovenia	European Affairs and International Cooperation Unit, Ministry of Justice
	Union of Roma in Slovenia
Spain	Hate Crime National Office, Ministry of Interior
	Movement Against Intolerance (MCI)
Sweden	Swedish Crime Victim Authority
	Victim Support Sweden
Switzerland	Federal Commission against Racism (FCR)
	Network for Victims of Racism
Turkey	Human Rights Department, Ministry of Justice
Ukraine	Human Rights Directorate, National Police
	Social Action Centre
United Kingdom	Hate Crimes Programme
	Galop
International organizations and other multilateral institutions	CEC - Conference of European Churches
	CEJI - A Jewish Contribution to an Inclusive Europe
	DG JUST - Directorate-General for Justice and Consumers, European Commission
	ENIL - European Network for Independent Living

	ERRC - European Roma Rights Centre
	FRA - EU Agency for Fundamental Rights
	VSE - Victim Support Europe

*\*Membership as of October 2020*