



Hate  
Crime **VICTIM  
SUPPORT**

Enhancing Stakeholder Awareness & Resources  
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# Diagnostic Tool for Assessing National Hate Crime Victim Support Systems



Funded by the European Union





# Diagnostic Tool for Assessing National Hate Crime Victim Support Systems

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Designed by Homework

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# I. Background

The EStAR Diagnostic Tool is a practical tool for assessing shortcomings and strengths in national hate crime victim support structures and services. The primary purpose of the Tool is to enable hate crime victim support practitioners, officials, activists and policymakers to identify areas in their national systems that require improvement to enhance protection and support for victims of hate crime.

A hate crime is a criminal offense motivated by the perpetrator's bias against one or more protected characteristics, such as race, ethnicity, language, religion or belief, nationality, sexual orientation, gender, gender identity or disability. Hate crimes can have a deeper impact on the targeted persons and broader impact on communities than other crimes. Affected individuals suffer more severe emotional and psychological harm and, for this reason, victims of hate crimes require specific responses and services.

The participating States of the Organization for Security and Co-operation in Europe (OSCE) have committed themselves to take actions to improve support for hate crime victims. In particular, they have agreed to protect hate crime victims, encourage reporting, provide hate crime victims with effective access to justice and assistance, support organizations assisting victims, and build the capacity of law enforcement and criminal justice systems to properly investigate and prosecute such crimes.<sup>1</sup> Participating States that are also European Union (EU) Member States have, additionally, committed to EU standards on protecting victims' rights, in particular, the responsibility of states to ensure that victims of hate crime are protected, enjoy full access to justice and can receive the support they need.<sup>2</sup>

The OSCE Office for Democratic Institutions and Human Rights (ODIHR)<sup>3</sup> has been mandated to "strengthen [...] its assistance programmes, in order to assist participating

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1 OSCE Ministerial Council, Decision 9/09, "[Combating Hate Crimes](#)", Athens, 2 December 2009; OSCE Ministerial Council, Decision 13/06, "[Combating Intolerance and Discrimination and Promoting Mutual Respect and Understanding](#)", Brussels, 5 December 2006.

2 [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012, establishing minimum standards on the rights, support and protection of victims of crime.](#)

3 As the OSCE's human rights institution, the ODIHR provides support to the OSCE participating States and civil society to address, among other things, intolerance, and to 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).

States upon their request in implementing their commitments.”<sup>4</sup> To this end, ODIHR, together with the Association of Counseling Centers for Victims of Right-wing, Racist and Antisemitic Violence in Germany (VBRG)<sup>5</sup> is implementing the *Enhancing Stakeholder Awareness and Resources for Hate Crime Victim Support* (EStAR) project.<sup>6</sup> The project produced *The State of Support Structures and Specialist Services for Hate Crime Victims: Baseline Report* (EStAR Baseline Report),<sup>7</sup> which presents the results of a mapping of national hate crime victim support structures and services in the 41 states covered by the project.<sup>8</sup>

The EStAR project developed this Diagnostic Tool on the basis of the findings of the EStAR Baseline Report and inputs from EStAR’s Network of Experts,<sup>9</sup> with the aim to better target its support for states and civil society in strengthening hate crime victim support. The Tool applies recommendations coming from ODIHR’s *Hate Crime Victims in the Criminal Justice System: A Practical Guide* (Victims Guide),<sup>10</sup> and other EStAR resources.

This publication starts by outlining the importance and features of the diagnostic process. It then goes into a detailed breakdown of the main building blocks of a hate crime victim support structure and their essential elements, highlighting the nature of each element and its essential function for a robust hate crime victim support system. Some questions of inquiry are offered for consideration that can assist in a deeper analysis to determine whether such elements exist and the framework in which they are implemented.

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4 OSCE Ministerial Council, Decision 13/06, “[Combating Intolerance and Discrimination and Promoting Mutual Respect and Understanding](#)”, Brussels, 5 December 2006.

5 VBRG provides victims of right-wing, racist and antisemitic violence across Germany access to counselling and support. More information about the VBRG can be found [here](#). In 2016, RAA Saxony and VBRG published [Hate Crime Victim Support in Europe – A Practical Guide](#) (VBRG Guide), (Dresden: RAA Saxony & VBRG 2016).

6 For more information about the project, see: “[EStAR: Enhancing Hate Crime Victim Support](#)”, OSCE/ODIHR website.

7 [The State of Support Structures and Specialist Services for Hate Crime Victims: Baseline Report](#) (Warsaw: OSCE/ODIHR, 2020).

8 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, Cyprus, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine and the United Kingdom.

9 See Annex I for the EStAR Network of Experts members.

10 [Hate Crime Victims in the Criminal Justice System: A Practical Guide](#), (Warsaw: OSCE/ODIHR, 2020). The Guide assists governments and policymakers in crafting victim-centred approaches to addressing the needs of hate crime victims.

## II. Why diagnostics of a national hate crime victim support system is needed?

The EStAR Baseline Report and ODIHR's previous work with OSCE state and civil society partners raises the awareness of the fact that most participating States have not fully implemented their commitments to protect and support hate crime victims. In order to adequately and effectively support hate crime victims, the criminal justice system should be able to identify, investigate, prosecute and sentence hate crimes. In states that do not recognize and record hate crimes, hate crime victims are absent from the law, from policy and from practical responses.

States that have hate crime-specific policies in place and where criminal justice practitioners are trained on the basics of addressing hate crimes do not always put hate crime victims at the centre of their protection and assistance response. In particular, within their criminal justice systems, victims do not have effective access to justice, or they have a procedurally weak position or are at high risk of secondary victimization. This can happen for various reasons, such as:

- Authorities do not recognize bias motives in hate crimes, despite clear bias indicators;
- The criminal justice system views a victim as a source of information for investigation purposes only (victim as a witness only);
- Victims' status for participation in criminal proceedings is granted too late or there are procedural or practical impediments;<sup>11</sup>

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11 "(...) in the traditional perspective, criminal justice was – and often still is – seen and administered as a matter involving the state – represented by the police, public prosecutors and judges – and the offender, charged with having disrespected a prohibition defined by a criminal code. However, if criminal justice is a matter between the state and the offender, victims have no place in the system and, therefore, are not entitled to perform any specific role in criminal proceedings beyond serving public interests by reporting their victimisation to the police or being obliged to support the state by acting as witnesses. (...) victims often experience this devaluation as continuing the debasing treatment by the offender and hence as a form of large-scale secondary victimisation." Source and more information about different ways in which victims are granted participation status can be found in: [Victims' Rights as Standards of Criminal Justice. Justice for Victims of Violent Crime Part I](#) (Luxembourg: Publications Office of the European Union, 2019).

- The criminal justice system as a whole is very complex and disempowering towards a victim (they are traditionally not one of the principal actors in either the adversarial or inquisitorial systems); and
- Criminal justice professionals are not considerate of hate crime victims' needs and do not treat hate crime victims in a sensitive and respectful way, resulting in secondary victimization.

These issues are further exacerbated as victims face challenges in accessing victim support. As many OSCE participating States have only recently started building their general victim support systems, access to specialist support tailored to the specific needs of victims of hate crimes is available in only a few countries. Most of the specialized services are offered by civil society actors. These services, however, are often not integrated into the national victim support system and their providers have neither sufficient nor sustainable funding.

Only through determining the missing elements or those of the system that do not work well is it possible to build or strengthen the legal and policy frameworks necessary for successful hate crime victim support.

# III. The diagnostic process

The EStAR Diagnostic Tool is a practical methodology to assess shortcomings and strengths in national hate crime victim support systems. The Tool guides an assessment along a matrix of areas and essential elements that need to be in place for effective hate crime victim support. The effectiveness of a hate crime victim support system depends on laws, policies and practice in the six specific areas that make up the critical **building blocks** of a robust hate crime victim support structure:

- BLOCK 1:** Legal and policy frameworks, hate crime crimes victims' status
- BLOCK 2:** Hate crime victim support system and structures
- BLOCK 3:** Specialist support services for hate crime victims
- BLOCK 4:** Assessing hate crime victims' needs and referrals
- BLOCK 5:** Sensitive and respectful treatment of hate crime victims
- BLOCK 6:** Hate crime victims in criminal proceedings and the justice system

Each block consists of a set of **essential elements**. The diagnostic process offers a number of depth-driven questions designed to reveal the existence of each of the various elements and, thus, the overall effectiveness of each block.

The EStAR Diagnostic Tool can be used for self-assessment by individual practitioners or institutions. As the main aim of the Tool, however, is to initiate changes in the structures of hate crime victim support, the full diagnostic process involves an in-country guided diagnostic workshop inclusive of as many relevant national actors dealing with the victim support system as possible. These include representatives of the criminal justice system agencies, of the government units responsible for the organization of victim support, and of government, civil society and community-based organizations that directly provide services – both general and specialist – to the victims. The participation of all relevant national actors in the diagnostic process and a gender balance of the participants allows the analysis to include various perspectives, both sectoral- and gender-specific, providing a holistic view of existing hate crime victim support structures. Importantly, a multi-sector analysis allows for a joint identification of priority areas of response and, thus, an elaboration of action plans.

The full diagnostic process is conducted in three phases:

1. The Priority Assessment:
  - Expert Assessment – facilitators conduct an analysis of existing hate crime victim support structures through a desk review and interviews with selected stakeholders. The assessment identifies relevant national experts/participants to be invited to the workshop. Particular attention should be paid to ensuring a gender balance of the participants.
  - Stakeholder Assessment – participants complete the diagnostic online survey to assess which hate crime victim support building blocks are in critical need of attention.<sup>12</sup>
  - Tailored Agenda – the results of the diagnostic survey are aggregated and, in collaboration with national authority focal points, an agenda for the workshop is created focusing on two to three main priority areas of concern.
2. The Diagnostic Workshop:
  - Takes a look at priority areas of concern through a deeper guided analysis, including by unpacking the challenges around the essential elements and understanding areas of potential opportunities.
  - Discusses practical solutions based on the national context.
  - Provides a preliminary identification of next steps to implement these solutions.
3. The Results Report:
  - A national report with country-specific recommended action.

## 1. The Priority Assessment

A preliminary mapping of the national hate crime victim support landscape, outlining which areas are strong, weak, missing important elements, etc., takes place before the diagnostic workshop. This should be conducted by ODIHR experts or other experts in hate crime victim support. This expert assessment includes a desk review and informal interviews with relevant stakeholders. At this stage, it is essential to work closely with focal points in national authorities to help identify and facilitate stakeholder engagement. These should be affiliated with a leadership role and have a comprehensive understanding of the current hate crime victim system in place. This will help reinforce the outcomes of the diagnostic process for their practical implementation.

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<sup>12</sup> Go to <https://diagnostic.estar-project.org/> to learn more

In addition to the mapping, at this stage stakeholders conduct their own assessment through the online EStAR Diagnostic Tool. If access to online tools is a challenge, of-line diagnostic matrix sheets can be filled out (See Annex II). This process analyzes the essential elements framed within each building block by applying questions such as:

- Does this element exist (at all)?
- How is it done (what is available and what is not, what is the arrangement in place).
- Is it effective (implemented fully)?
- What are the gaps, what could/should be improved?

This mapping is conducted to highlight where further support and improvements are needed and, as such, the preliminary mapping frames the in-country diagnostic workshop, making it more in-depth and focused on priorities that need attention. While the number of respondents is not strictly determined, the group should have a gender-balanced composition of policymakers, relevant criminal justice system actors (police, prosecutors and judges) and those organizations providing hate crime victim support, so as to enable a full structural assessment.

## **2. The Diagnostic Workshop**

The diagnostic workshop includes both a deeper diagnostic exercise and discussions on solutions. This should take no more than two days. As noted above, the agenda is determined with national counterparts based on the priority assessment, to determine which of the building blocks are to be unpacked during the workshop.

A guided workshop should:

- i. Be an opportunity to network: it should create community of interest, expertise and shared understanding;
- ii. Be educational: it should explain the importance of each building block of a victim support system;
- iii. Be descriptive: it should describe the realities in the respective country;
- iv. Be analytical: it should compare this reality against the essential elements – identify what exists, how it works and what is missing;
- v. Be action oriented: it should discuss solutions, eventually arriving at national recommendations and/or a roadmap;
- vi. Be gender-sensitive: it should include relevant content and materials reflecting various gender perspectives, as well as ensure gender-balanced participation; and
- vii. Be captured: it should result in a report that outlines the current state of affairs and proposed solutions.

The participants should discuss the strengths and shortcomings within their national structures for hate crime victim support, and brainstorm potential solutions building on existing structures. Where relevant, they should explore and highlight the gender dimensions of these elements. The workshop should be facilitated. The facilitator may also draw on and provide examples of functional models from other similar contexts. The workshop will, for each of the identified priority areas, seek to answer the following questions:

- What are the barriers? What are the connectors?
- How can it be improved?
- How can such solutions be implemented?

Facilitation should be conducted by an external actor (for example, an international governmental organization (IGO), an international expert group or a specialist support provider), by a national actor, or by the two jointly. Neutrality of the facilitator is not a necessary condition – on the contrary, facilitation by a representative or an entity that has responsibility for the functioning of the victim support system or for the hate crime policy can be beneficial to convince other partners of the seriousness of the process and to champion the next steps coming out of the assessment.

### **3. The Results Report**

After the workshop, the facilitators compile the results report, which outlines the current state of the national hate crime victim support structure, the results of the priority assessment, discussion points during the workshop and a complete set of recommended actions to the authorities and other relevant actors on what they can do address the identified barriers and gaps, thus providing a preliminary action plan or roadmap that specifies the next steps, along with the responsible actors. The results report should be verified by national authority focal points to ensure local ownership and the impulse necessary for effective implementation of the recommended actions.

# IV. Building blocks for a robust hate crime victim support system

There are three essential elements that indicate a solid foundation for the existence of a hate crime victim support structure. Without these three basic elements, an effective and comprehensive system of hate crime victim support cannot exist. These elements make up the **foundational block** to the six building blocks.

## FOUNDATIONAL ELEMENTS

1. The law establishes the rights of victims of crime (in general);
2. The state organizes/co-ordinates a system to provide support to victims of crime (general victim support services); and
3. Police can and do record (potential) hate crimes as a separate or specifically flagged category of crimes.

The very base for any victim support system is the law that defines the general rights of the victims of crime. These can include many elements, but the most important ones are the recognition of individuals as victims, offering them sensitive and respectful treatment, establishing protection and support measures, and providing them with access to justice and the right to seek compensation.<sup>13</sup> Only after these basic victims' needs have become entitlements can a system respond to the needs of victims of specific crimes, such as those that have suffered from a hate crime.

While in most cases the state cannot be held responsible for the actions of individuals that constitute violations of the criminal code, it is the state that bears responsibility for the provision and co-ordination of support to victims.<sup>14</sup> A victim support system includes

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<sup>13</sup> *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 10.

<sup>14</sup> *Ibid.*, p. 12.

laws, policies and structures that serve this purpose.<sup>15</sup> It determines what services are offered and how they are delivered. Such a support system may be either completely state-run or rely on specialist services from civil society organizations (CSOs) and private entities procured by the state (private companies, clinics, security officers, etc.). Regardless of its structure, the victim support system is meant to ensure that quality services exist in the first place, that they respond to the victims' needs, and that there is adequate state funding allowing them to be operational.<sup>16</sup>

Finally, to provide support to hate crime victims, the authorities must be able to recognize hate crimes.<sup>17</sup> By providing the tools and training to criminal justice authorities allowing them to identify and record hate crimes, the state validates the specific experience and impact of victimized individuals and communities. Only then can the needs of hate crime victims be properly addressed.

### Questions to consider:

*Does a "victim protection law" exist? Is there a system run by the state for the coordination, organization and/or direct provision of assistance to victims of crime? If not, is there an alternative arrangement in place to ensure that crime victims can receive support? How are hate crime cases recorded by the police (e.g., flagging, categorization, by hate crime provisions in the criminal code, by bias indicators, by key words in incident description)?*

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15 *The State of Support Structures and Specialist Services for Hate Crime Victims, op. cit.*, note 7, p. 8.

16 *Hate Crime Victims in the Criminal Justice System, op. cit.*, note 10, pp. 113-116.

17 *Ibid.*, pp. 55-60.

## **BUILDING BLOCK 1: LEGAL AND POLICY FRAMEWORKS, HATE CRIME VICTIMS' STATUS**

### **ESSENTIAL ELEMENTS**

1. The law and/or policy recognizes hate crime victims as a distinct and particularly vulnerable category of victims with specific needs;
2. Hate crime victims are defined in law and/or policy and can be practically recognized (through a set of criteria or a mechanism triggered when a hate crime is recorded) as such by the state bodies;
3. Hate crime victims can claim protection and support as a consequence of the harm they have suffered, and irrespective of whether they have reported the crime to criminal justice system bodies. This includes the entitlement to provision of relevant services free of charge; and
4. Hate crime victims can participate in criminal proceedings in order to seek compensation and present impact statements. The authorities recognize their status as hate crime victims/injured parties.

Owing to the particular vulnerability<sup>18</sup> of hate crime victims, they often require enhanced protection and specific support.<sup>19</sup> For these needs to be met, legislative and policy frameworks governing victim support and criminal procedures must recognize hate crime victims as a distinct and particularly vulnerable category of victim. A hate crime victim is a natural person who has suffered harm as a result of a hate crime. The harm can include injury or loss of life, material (property) and moral damage (including pain, physical, mental or emotional suffering), economic loss, loss of income and of maintenance for dependants.<sup>20</sup> Hate crime perpetrators target people for who they are, based on their actual or perceived characteristics that are essential to their identities. The impact of hate crimes, therefore, is particularly devastating to the victim and communities that share the victim's identities. It also impacts others who have also experienced

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18 The term "vulnerability" is adopted from the EU Victims' Rights Directive. Non-EU jurisdictions may prefer different terminology, such as referring to victims' "risks".

19 Please consult [Understanding the Needs of Hate Crime Victims](#) (Warsaw: OSCE/ODIHR 2020) for more information on the impact of hate crime and the needs and vulnerabilities of hate crime victims.

20 [Hate Crime Victims in the Criminal Justice System](#), *op. cit.*, note 10, p. 32.

hate victimization, such as communities that have historically been marginalized and/or subjected to discrimination, or even to persecution.<sup>21</sup>

It is only possible to formally recognize hate crime victims when hate crimes are properly identified and recorded. This triggers the mechanisms to effectively determine their specific needs and to address them in the course of the criminal case. Consequently, victims that have suffered from hate crimes can only be fully distinguished from victims of other crimes when the criminal justice system recognizes them as a distinct category.<sup>22</sup> Further, this categorization needs to be operationalized through relevant mechanisms (such as forms and IT systems used for crime registration and criminal file management, guidance and training on individual needs assessment, guidance on sensitive and respectful interviewing and treatment, and protection measures implemented during the investigation and trial to prevent secondary victimization).

In addition to general victim support services, hate crime victims require specific protection and support, due to their specific needs and vulnerability. The needs of hate crime victims are likely to be similar to those of victims who have suffered from other types of crimes; however, there are certain needs that are more likely to be present for all or most hate crime victims. It is also important to recognize that some needs may be specific to particular types of hate crime.<sup>23</sup> Given the specific vulnerability of hate crime victims, the protection and support measures addressing these needs should be granted to them free of charge<sup>24</sup> and should not be conditional on reporting the crime to the authorities.<sup>25</sup> National legal and policy frameworks should provide for early access to relevant protection and support services for hate crime victims. Where access to such services is given on the basis of a decision by a state body, the threshold for granting it should not be unreasonably high, and should be dissociated from the act of reporting a crime to the authorities and from the victim's participation in criminal proceedings.<sup>26</sup>

Equally, procedural rules must allow hate crime victims to actively participate in criminal proceedings. A lack of standing, receiving such status too late or treating victims as mere witnesses undermines victims' position in criminal proceedings, limits their access to the case materials, prevents legal actions like filing a motion or appealing a decision, and negatively affects their chances to present an impact statement and receive compensation. Facilitating hate crime victim participation in, or access to, criminal

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21 *Ibid.*, p. 9.

22 *Ibid.*, pp. 39-42.

23 *Understanding the Needs of Hate Crime Victims*, *op. cit.*, note 19, p. 16.

24 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 121.

25 *Ibid.*, p. 64.

26 *Ibid.*, p. 65.

proceedings is necessary, therefore, in order to seek compensation and present the impact the hate crime had on them. This requires authorities to recognize their status as hate crime victims/injured parties. Hate crime victims may have the need to be listened to and heard, and to have their experience acknowledged by the court. Criminal justice bodies should facilitate access of hate crime victims to the criminal justice proceedings in a way that allows them to present the impact the hate crime had on them and to seek compensation. It is important to remember, however, that not all victims will want to pursue criminal proceedings.<sup>27</sup>

## **UNDERSTANDING THE ESSENTIAL ELEMENTS**

### **1.1. The law and/or policy recognizes hate crime victims as a distinct and particularly vulnerable category of victims with specific needs.**

Hate crime victims need to be recognized as a distinct and particularly vulnerable category of victims. This is due to the specific needs they have as a result of a bias-motivated crime. The recognition of that fact should translate into relevant policies, which should ensure not only that adequate protection and support are granted to the victims, but also that they can participate in the criminal justice proceedings.<sup>28</sup> The status allowing victims to access protection and support measures and facilitating participation in the criminal process should be granted in an explicit manner, in line with clear criteria regulating how this status can be received. Victims' preferences on the ways in which they want to participate in the criminal proceedings should be taken into consideration.<sup>29</sup>

#### **Questions to consider:**

*Is there a definition of a hate crime victim in law, bylaw or a policy document? How is a hate crime victim defined? Are these definitions and criteria known and used by the state bodies, in particular, by the police?*

### **1.2. Hate crime victims are defined in law and/or policy and can be practically recognized (through a set of criteria or a mechanism triggered when a hate crime is recorded) as such by the state bodies.**

Based on the criteria specified in the legal provisions and policies of a country, there are three main ways in which hate crime victims can be practically recognized by the

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<sup>27</sup> *Ibid.*, pp. 135-138.

<sup>28</sup> *Ibid.*, p. 10.

<sup>29</sup> *Ibid.*, p. 62.

authorities. In most OSCE participating States, it is the law enforcement agencies that make the initial determination whether or not to classify a crime as a hate crime. Evidence of bias motivation, however, may not be immediately apparent, and the motivation of the perpetrator may be uncovered only in the course of investigation. It is the duty of the criminal justice system to unmask the bias motivation. Until this is achieved, the case can be introduced as a “potential hate crime”. Victim or witness perceptions should be considered as bases for preliminary classification.<sup>30</sup>

Finally, hate crime victims can also be recognized in the course of a hate crime case. Police investigators and prosecutors should treat the incident as a potential hate crime when making decisions related to a given case. The bias motivation of the perpetrator and the impact the crime had on the victim should be explicitly mentioned in the preliminary legal qualification and in the indictment. It should also be used by the prosecutors in court.<sup>31</sup> Whenever a hate crime case is identified, it should trigger a dedicated mechanism composed of standardized steps by police, victim support organizations and other institutions, aimed at assessing the victim’s needs and referring them to a proper support provider.<sup>32</sup> (For more on individual needs assessment, refer to Building Block 4).

#### **Questions to consider:**

*How are hate crime cases recorded by the police (e.g., flagging, categorization, hate crime provisions in the criminal code, bias indicators, key words in the incident description)? What mechanism (recording of a hate crime triggers further steps – “hate crime victim protocol” – e.g., calling a specialist, conducting an extended individual needs assessment, referring to a specialist service provider, etc.) or criteria (e.g., the degree of harm, the victim’s vulnerability, the victims’ perception of the crime, the circumstances of the offense, including bias motivation, the risks of intimidation or retaliation) are used to practically identify a hate crime victim?*

### **1.3. Hate crime victims can claim protection and support as a consequence of the harm they have suffered, and irrespective of whether they have reported the crime to criminal justice system bodies. This includes the entitlement to provision of relevant services free of charge.**

The provision of protection and support services to a victim should be based on the harm suffered by the victim as a consequence of a hate crime and an assessment of victim’s needs resulting from this harm. In practical terms, this can be achieved by an effective individual needs assessment procedure that helps to understand the specific

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30 *Ibid.*, pp. 40-41.

31 *Ibid.*, p. 134.

32 *Ibid.*, p. 42.

needs of a given victim and determine the protection and support measures that can be applied to meet these needs. An individual needs assessment should be followed by effective referrals to victim support organizations that have the capacity to deliver the necessary services and are able to refer the victims further to other victim support providers, in case additional or different services turn out to be necessary.<sup>33</sup>

Importantly, access to support services should not require the victim to provide proof that the harm was directly caused by the crime.<sup>34</sup> Granting support should not depend on whether a victim reports the crime to the authorities or decides to participate in criminal proceedings.

#### **Questions to consider:**

*Does the law or any policy document grant a hate crime victim the relevant status that makes them eligible to receive the required protection and support, including those provided free of charge and those independent from state agencies? What are the criteria for receiving such a status (e.g., automatically after recording a hate crime, the type of harm, the victims' perception of the crime, the circumstances of the offence, or the result of the conducted assessment)? Are there any pre-conditions for granting the status (e.g., the established causal link to a hate crime, reporting hate crime to the authorities, the victim applies to participate in the criminal proceedings, the identification of a perpetrator)? Do police record hate crime victims or particular vulnerabilities of hate crime victims?*

### **1.4. Hate crime victims can participate in criminal proceedings in order to seek compensation and present impact statements. The authorities recognize their status as hate crime victims/injured parties.**

OSCE participating States differ in terms of how victims can participate in criminal proceedings. One important difference in victims' access to criminal proceedings and protection is between jurisdictions based on civil and common law. In the former, victims usually enjoy procedural guarantees that allow them to participate in the proceedings as injured parties, including contributing to investigation by providing an impact statement as part of their testimony. Many civil jurisdictions, however, are governed by procedural rules that might hamper victims' effective participation, for example, when their status is granted to them too late. In the case of common law jurisdictions, victims are usually not treated as parties to the proceedings, and it is the state, represented by prosecutors, that acts on behalf of the victim. In both systems, victims are considered a source of

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33 For more information, see [Model Guidance on Individual Needs Assessments of Hate Crime Victims](#) (Warsaw: ODHR 2021).

34 *Ibid.*, p. 64.

evidence and benefit from witness status and protection. Some jurisdictions, however, may allow the cross-examination of witnesses, which can cause additional harm to the victim.<sup>35</sup>

There are several ways in which victims can take part in the criminal proceedings. They can act as civil parties, but this carries the risk of creating a greater burden of proof, as civil and criminal procedures use different standards. In addition to this, victims can act as private, substitute or auxiliary prosecutors.<sup>36</sup>

Regardless of the system in place, there is a period during criminal proceedings when a person who has suffered from a hate crime has not yet been recognized as a victim. They should, however, have some early access to the case file and information on the ongoing investigation.<sup>37</sup>

### Questions to consider:

*Does the law or any policy document grant a hate crime victim the relevant status to enable them to actively participate in proceedings as the victim/injured party? What are the criteria for receiving such a status? What are the victim's rights in the process?*

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35 *Ibid.*, pp. 66-67.

36 *Ibid.*, p. 69. More on possible ways in which hate crime victims can participate in criminal proceedings can also be found here: *Victims' Rights as Standards of Criminal Justice*, *op. cit.*, note 11, p. 15-21.

37 *Ibid.*, p. 70.

## BUILDING BLOCK 2: HATE CRIME VICTIM SUPPORT SYSTEM AND STRUCTURES

### ESSENTIAL ELEMENTS

1. Organizations providing specialist support specifically to victims of hate crime exist;
2. The state continuously maps available providers and takes action to fill any gaps, in order to ensure the full scope of services is available to hate crime victims from all groups and all across the country;
3. State bodies, and especially the police, know such specialist support providers, and keep updated lists with contacts and an overview of services offered;
4. Organizations providing specialist support to hate crime victims (can) receive funding from the state, in addition to funding from other sources, ensuring their uninterrupted and sustainable programming; and
5. State bodies (organizers of the victim support system and/or criminal justice system bodies) and specialist providers systematically collaborate to facilitate the provision of specialist support services of high quality to hate crime victims. Collaboration is formalized, for example, in written agreements.

Most OSCE participating States run general systems to support victims of crimes, but which are often lacking in terms of specialized hate crime victim support.<sup>38</sup> Such general systems of support to victims of crimes can be operated entirely by the state or rely on services from private and civil society organizations. In both of these cases, offering comprehensive support to a victim of any crime, and in particular to a victim of hate crime, is a task that exceeds the responsibilities and capacities of any single institution. Co-ordination between different authorities is key, therefore, to building a coherent and well-functioning victim support system. In cases where private and civil society service providers play a role, they should be well integrated into the system.<sup>39</sup>

Hate crime victims may require specific protection and assistance immediately after the incident, throughout criminal proceedings and beyond.<sup>40</sup> In this regard, all victims of all hate crimes should have access not only to general victims support services, but also to competent specialist service providers.

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38 *The State of Support Structures and Specialist Services for Hate Crime Victims*, *op. cit.*, note 7, p. 6.

39 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 113.

40 *Ibid.*, p. 57.

Authorities are responsible for ensuring the availability of all services, including specialist services, and effective referrals to appropriate service providers. This is best achieved through keeping a detailed overview of relevant service providers, the geographic area they cover and their availability. Without developing the capacity of and providing service providers with sufficient funding it will be difficult to build an effective system that caters to hate crime victims. Additionally, authorities should constantly look to fill any gaps in available services.<sup>41</sup>

Hate crime victim support systems can be more or less centralized, with authorities and providers on local or regional levels often playing a key role. References to “authorities”, “state bodies”, or “victim support organizations” are to be understood as including such regional or local bodies, organizational units or chapters.

To make the system function effectively on the ground, close co-operation and co-ordination between the state and civil society providers of services is key.<sup>42</sup> Formalized collaboration between criminal justice agencies and specialist providers can facilitate the smooth work of the system.<sup>43</sup>

## UNDERSTANDING THE ESSENTIAL ELEMENTS

### 2.1. Organizations providing specialist support specifically to victims of hate crime exist.

Hate crime victims will have some of the same needs as victims of other crimes; therefore, support can be partially provided by general victim support services. However, due to the bias nature of the crime, support providers who specialize in hate crime victimization will be able to address the specific needs of this category of victim.<sup>44</sup> Specialist support providers should be understood as those that, among other services, offer interpretation, legal assistance and psychosocial counselling to victims of hate crime specifically, preferably free of charge.<sup>45</sup> What differs them from general support providers is their knowledge of hate crime victimization. The more specialized personnel engaged in service provision are, the more likely they will be able to address the

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41 *Ibid.*, pp. 115-119.

42 Please find further resources on co-ordination here: “EStAR: Enhancing Hate Crime Victim Support”.

43 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 114.

44 *Understanding the Needs of Hate Crime Victims*, *op. cit.*, note 19, p. 36.

45 *Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012*, *op. cit.*, note 2; *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 121.

specific nature of hate crime victims' needs.<sup>46</sup> The state and its institutions must ensure that there are appropriate services available for hate crime victims.

**Questions to consider:**

*What is the organization of the national hate crime victim support system? Who provides specialist hate crime victim support (e.g., state bodies, specialized CSOs, general victim support organizations)?*

**2.2. The state continuously maps available providers and takes action to fill any gaps, in order to ensure the full scope of services is available to hate crime victims from all groups and all across the country.**

No hate crime victim support system can be effective without co-ordination and continuous mapping of available services and those entities that provide the services.<sup>47</sup> This information is not only the key to managing the system and to identifying and addressing any potential gaps, but also to effectively referring victims to support providers.

The authorities of some OSCE participating States maintain lists of organizations providing specialist hate crime victim support that allow them to facilitate victim referrals. Such a document, in order to fulfil its role, must be kept up to date, include contact information and contain information about the types of services offered, the geographical outreach of each service provider and their availability. In some states, such lists are publicly available and published on government websites. The support providers are sometimes included in the list based on an accreditation procedure.<sup>48</sup>

**Questions to consider:**

*Are services for hate crime victim support available country-wide, regionally or locally? Which services are and are not available overall and in some locales/regions? Are there any mechanisms or procedures to map the needs and gaps (e.g., types of service, location, targeted group) in the available specialist services? Do victims from often targeted, discriminated against and/or marginalized communities have access to specialist victim support?*

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46 *Ibid.*, p. 101.

47 *Ibid.*, p. 115.

48 *Ibid.*, pp. 105-106.

### **2.3. State bodies, and especially the police, know such specialist support providers, and keep updated lists with contacts and an overview of services offered.**

The list of hate crime victim support service providers should be known to the police. Officers should be able to refer a victim to the providers offering their services in their region. Whenever a specialist hate crime support provider is available, referral to specialist should take precedence over referral to the general services.<sup>49</sup> This list should also be available to the public, including other civil society support organizations, who may also seek to refer individuals to relevant support organizations. For this form of co-ordination to be effective, there should be a central mapping/information-gathering process that can also be updated by local police or local victim support units based on current information on relevant support providers in various jurisdictions.

#### **Questions to consider:**

*Are the (specialist) support providers linked with the criminal justice system actors, and how? Do the police know specialist support providers (e.g., they have a list of providers, they have direct contacts to selected providers)? Is this information publicly available, including to those CSOs referring hate crime victims for support? Is this information updated regularly?*

### **2.4. Organizations providing specialist support to hate crime victims (can) receive funding from the state, in addition to funding from other sources, ensuring their uninterrupted and sustainable programming.**

Without developing the capacity of and providing service providers with sufficient funding it will be difficult to build an effective system that caters to hate crime victims. Authorities are responsible for ensuring the availability of all services, including specialist services, and effective referrals to an appropriate service provider. Stable and long-term financial support is essential to ensure that the services are delivered in an uninterrupted manner. For specialist support organizations that operate independent of the state, funding may be crucial in securing the availability of some services. There may also be challenges in the delivery of services in remote areas of the country.<sup>50</sup>

There are numerous ways of funding the specialized victim support providers by the authorities. Some OSCE participating States offer ongoing institutional support, while

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49 *Ibid.*, p. 106.

50 *Ibid.*, pp. 115-116.

others offer project-based funding.<sup>51</sup> In some cases, the provision of funding may be linked to fulfilling the quality standards and criteria set up by the state authorities for support providers.<sup>52</sup> Depending on the participating State's governance model, the funding may come from the national, regional or local authorities.<sup>53</sup>

Moreover, in some countries the convicted perpetrators are obliged to pay a victim surcharge, which is a financial penalty that helps to provide compensation to victims or finance support services. Alternative financing sources for victim support used across the OSCE include surcharges on insurance contracts,<sup>54</sup> funds obtained by the state monopoly on gambling,<sup>55</sup> or those coming from assets confiscated in criminal proceedings.<sup>56</sup>

### **Questions to consider:**

*Is the work of the specialist providers based on activist/grassroots efforts, voluntary work, or do they offer professional services? Do service providers have sustainable and sufficient funding? Is state funding for the specialist support services available? What are the conditions for receiving funding (e.g., only certified providers, a public call, the need to meet certain requirements)? What is the nature of the funding (e.g., continuous funding, project-based, multi-year funding)?*

## **2.5. State bodies (organizers of the victim support system and/or criminal justice system bodies) and specialist providers systematically collaborate to facilitate the provision of specialist support services of high quality to hate crime victims. Collaboration is formalized, for example, in written agreements.**

Governments and CSOs must work together to provide effective support to hate crime victims. State authorities should recognize the fact that civil society service providers often enjoy higher levels of trust than law enforcement, and that co-operation is not

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51 The State of Support Structures and Specialist Services for Hate Crime Victims: *op. cit.*, note 7, p. 7.

52 Hate Crime Victims in the Criminal Justice System, *op. cit.*, note 10, p. 116.

53 The State of Support Structures and Specialist Services for Hate Crime Victims, *op. cit.*, note 7, p. 7.

54 "Ensuring Funding for Victim Support Services" (Multi-Donor Trust Fund for Justice Sector Support in Serbia, World Bank, Victim Support Europe, August 2017), p. 2.

55 Maija Helminen, "We Need to Make Sure That We Are Always Something Else": Victim Support Organisations and the Increasing Responsibility of the State in Supporting Crime Victims in Finland and Norway", *International Review of Victimology*, Vol. 25(2), 2019, p. 164. Also in: "Ensuring Funding for Victim Support Services", *op. cit.*, note 54, p. 2.

56 Findings of the "Survey of Hate Crime Victim Support" conducted by ESTAR project in 2020.

only beneficial for both types of actors, but also brings the best results for the victims.<sup>57</sup> This co-operation should be formalized with clear operational instructions.<sup>58</sup> There are three models of co-operation between the government and the CSOs across the OSCE participating States:

- The first model is based on shared responsibility, meaning that victim support is offered by both the state and independent CSOs.
- The second model foresees a single entity providing victim support. It can be either an equality body, a CSO or other dedicated institution, with other CSOs playing a supporting role and being integrated into the system.
- In the third model, in which government and CSOs work in parallel, it is often the support service providers themselves who do not want to be integrated into the government-led system.

From the victims' perspective, better integration and co-ordination is more likely to generate positive results. Whenever possible, this co-operation should be based on formal agreements establishing clear rules of engagement.<sup>59</sup>

#### **Questions to consider:**

*Is co-operation between the state and the CSOs – specialist support providers – institutionalized? Do CSO providers of specialist support and law enforcement/ criminal justice actors communicate about individual victim files? Is there regular exchange of information, taking into account applicable personal data protection standards?*

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57 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 32.

58 *Ibid.*, p. 42.

59 *The State of Support Structures and Specialist Services for Hate Crime Victims*, *op. cit.*, note 7, pp. 10-11.

## **BUILDING BLOCK 3: SPECIALIST SUPPORT SERVICES FOR HATE CRIME VICTIMS**

### **ESSENTIAL ELEMENTS**

1. Hate crime victims can – by law or policy - receive the highest standard of services available to other categories of particularly vulnerable victims;
2. Services typically required by hate crime victims are defined in a document and connected with the needs of such victims;
3. At a minimum, the following services can be claimed free of charge once a victim is classified as a hate crime victim: protection (including shelter), urgent medical assistance, psychosocial counselling, legal consultation and representation, and interpretation and translation services;
4. Professional quality standards are established and the quality of delivery of the specialist services is controlled – by the state and/or the providers themselves – on the basis of defined quality standards; and
5. Those delivering the specialist support to hate crime victims have received appropriate, targeted training.

Specialist support to hate crime victims can be understood as victim support, including legal advice and representation, psychosocial, and emotional and counselling services, as well as medical care, provided by experts with understanding of hate crime victimization and the needs specific to hate crime victims. These services and the professionals who deliver them are of key importance for the victim in the process of overcoming the consequences of a hate crime.<sup>60</sup>

Practice across the OSCE region shows that a specialist support provider can belong to one of many categories of organizations. First of all, it can be an organization defined as a specialist support provider in the adopted standards, meeting all the criteria listed in these standards. It can also be an organization that provides support to all victims of crimes or one that caters specifically to one or more targeted groups, either as a community-based organization or as a provider of a specific service required by a particular group. Furthermore, it can be an organization that provides a focused general service and hires another provider to offer additional services, tailored for hate crime victims. Finally, it can be an organization that has trained its staff on hate crimes and hate crime victimization to provide support to hate crime victims.<sup>61</sup>

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60 *Ibid.*, p. 13.

61 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 120.

Any protection and support services offered to hate crime victims should be driven by a victim-centred approach, i.e., an individualized approach to each hate crime victim that considers their personal circumstances, their traumatization, and their specific needs and vulnerabilities.<sup>62</sup>

A legal/policy framework, developed on the basis of typical needs of victims of hate crime, should provide a list of minimum services guaranteed for hate crime victims. Such a framework should also define the extent to which others (family members and other indirect victims; witnesses, including victims without injured party status, etc.) are entitled to receive this support.<sup>63</sup>

The following should be provided free of charge to hate crime victims: protection (including shelter, where needed), urgent medical assistance, psychological counselling, legal consultation and representation, and interpretation and translation services.<sup>64</sup> The state should ensure the quality of the offered services through developing quality standards, together with the service providers, as well as by providing methodological guidance or facilitating training opportunities on applying the quality standards.<sup>65</sup>

## UNDERSTANDING THE ESSENTIAL ELEMENTS

### **3.1. Hate crime victims can – by law or policy – receive the highest standard of services available to other categories of particularly vulnerable victims.**

Many jurisdictions offer enhanced rights to certain categories of victims. Very often, special protection and support measures are granted to victims of terrorism, domestic violence, sexual violence or trafficking in human beings. Trauma suffered by hate crime victims can often be comparable to what these victims suffer and, therefore, hate crime victims should be entitled to the same enhanced level of support.<sup>66</sup>

The nature of a hate crime is that it affects not only the direct victims, but also their families and entire communities they belong to. Therefore, victim support services, such as protection measures, including shelter and safe accommodation, immediate medical support, psychological help, legal advice and interpretation or translation, should also

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62 *The State of Support Structures and Specialist Services for Hate Crime Victims*, *op. cit.*, note 7, p. 25.

63 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 121.

64 *Ibid.*

65 *Ibid.*, p. 116.

66 *Ibid.*, p. 121.

be offered to any close relations of the victim who need support.<sup>67</sup> The scope to which these services should be extended to other individuals should be determined during the individual needs assessment procedure.

**Questions to consider:**

*Is there a legal or policy document that guarantees hate crime victims' access to the services available to other categories of particularly vulnerable victims (e.g., victims of terrorism, domestic violence, sexual violence or trafficking in human beings), under the same or comparable conditions? Are these policies implemented in practice, i.e., known to and used by the state and non-state providers?*

**3.2. Services typically required by hate crime victims are defined in a document and connected with the needs of such victims.**

The specific impacts of hate crime result in some common needs among hate crime victims. Understanding these needs and the ways in which hate crimes affect the victims is key in defining the relevant response to hate crime. The most common needs of hate crimes victims include the need for personal safety and security, practical help, emotional and psychosocial support, confidentiality and trust, information and advice, support in navigating the criminal justice system and respectful and dignified treatment.<sup>68</sup>

Specialist support services for hate crime victims must be based on the actual, identified needs of the individual victim. This includes individualized assessments of the victim's medical, legal, psychosocial support, counselling, language, financial and other needs. All of the offered services should be outlined in a policy or guidance document that allows for their uniform approach.<sup>69</sup>

**Questions to consider:**

*Are specialist support services for hate crime victims and the providers of such services defined in law/policy, and how? Do such policies refer to the needs of hate crime victims, and how?*

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67 *Ibid.*, p. 33.

68 *Understanding the Needs of Hate Crime Victims*, *op. cit.*, note 19, p. 16.

69 *The State of Support Structures and Specialist Services for Hate Crime Victims*, *op. cit.*, note 7, p. 20.

### **3.3. At a minimum, the following services can be claimed free of charge once a victim is classified as a hate crime victim: protection (including shelter), urgent medical assistance, psychosocial counselling, legal consultation and representation, and interpretation and translation services.**

Victims of hate crime often face additional financial and material challenges as a consequence of the crime, e.g., related to the loss of income or work. It is essential that basic support services are free of charge.<sup>70</sup> Many OSCE participating States have introduced rules to give access free of charge to basic protection and support services to all crime victims. These, however, often fall short of the needs of hate crime victims, who may require protection and support immediately after the incident, throughout criminal proceedings and beyond. The state should ensure not only that protection and support is granted to hate crime victims at the expense of the state, but also that it meets the criteria of specialist hate crime victim support.<sup>71</sup>

#### **Questions to consider:**

*Are the following services offered free of charge: protection (including shelter), urgent medical assistance, psychosocial counselling, legal consultation and representation, and interpretation and translation services? Under what conditions? What other services are offered?*

### **3.4. Professional quality standards are established and the quality of delivery of the specialist services is controlled – by the state and/or the providers themselves – on the basis of defined quality standards.**

High professional standards for delivering services to hate crime victims are key in meeting the victims' needs. Quality standards can specify the quality of service required, serve as guidelines in setting up new services, and provide measures for evaluation of the services that are delivered.<sup>72</sup> Setting minimum quality standards for hate crime victim support ensures the equal provision and consistency of the offered services across the country, regardless of the victim's place of residence, legal status in the country or the size and capacity of the service provider.<sup>73</sup> Such minimum quality standards should address the entitlements of the victim and the competencies of the staff delivering support services, as well as provide information on service organization

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70 *Understanding the Needs of Hate Crime Victims*, *op. cit.*, note 19, p. 26.

71 *The State of Support Structures and Specialist Services for Hate Crime Victims*, *op. cit.*, note 7, pp. 15-16.

72 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 13.

73 *Model Quality Standards for Hate Crime Victim Support* (Warsaw: OSCE/ODIHR 2021), p. 7.

and management.<sup>74</sup> These standards should be reviewed through an independent, academic review process.

These services can be provided by specialist victim support units operated by the government, supported by qualified civil society providers. Irrespective of whether such services are provided by public or non-public entities, the government must be involved in co-ordinating their availability and provision, ensuring their quality and securing their funding. If, however, funding is received from the state and other intergovernmental organizations, it should be ensured that contracts do not compromise the impartiality of the support offered by specialist hate crime victim support services.<sup>75</sup>

#### **Questions to consider:**

*Is the quality of the specialist services defined, and how? Who is in charge of developing the quality standards for state and non-state providers? How is the quality of specialist service delivery controlled (e.g., through government accreditation, licensing, linked to the funding, or another method) and are these mechanisms adequate (i.e., they do not limit the scope of hate crime victim support)? Who is in charge of quality control for state and non-state providers?*

### **3.5. Those delivering the specialist support to hate crime victims have received appropriate, targeted training.**

Support staff trained in hate crime victimization and possessing adequate qualifications related to the types of services that are delivered, differentiates specialist support providers from general support providers. In order to address the needs of hate crime victims, it is critical that support staff have the knowledge of the specific needs of hate crime victims and understand the impact hate crimes have on individuals and communities.<sup>76</sup>

In order to be relevant, the training on hate crimes for specialist support provider staff must not be a one-time exercise but, rather, become a continuous effort on the part of all the support providers that come into contact with victims.<sup>77</sup> The training should cover skills in recognizing hate crimes, addressing the intersectional character of hate crime, supporting victims and preventing secondary victimization.<sup>78</sup> Such training should en-

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74 *Ibid.*, p. 8.

75 *Ibid.*, p. 34.

76 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 101.

77 *Ibid.*, p. 25.

78 *Ibid.*, p. 31-32.

sure that personnel coming into contact with victims do so in a victim-centred, sensitive and respectful manner.

**Questions to consider:**

*How is capacity building for staff (including volunteers) working with hate crime victims organized? Are these efforts of an ad hoc/project-based or a compulsory/continuous nature? Does the state co-ordinate and/or fund these efforts?*

## **BUILDING BLOCK 4: ASSESSING HATE CRIME VICTIMS' NEEDS AND REFERRALS**

### **ESSENTIAL ELEMENTS**

1. The vulnerabilities/risks and needs of each hate crime victim are assessed individually, in a process called the Individual Needs Assessment (INA), by an entity of first contact (police and/or CSO) in order to identify appropriate support;
2. The needs are assessed continuously or repeatedly throughout the lifecycle of a hate crime, and corresponding structures for needs assessment and support (such as an appointed official in charge) are available at all stages of the criminal justice process;
3. Those conducting an INA have received appropriate training and methodological guidance;
4. The INA form and content are based on an established methodology, to ensure consistency and transferability of INA outcomes across the system. The state (criminal justice system) and CSOs collaborate to achieve such consistency;
5. An INA is based on the consent of the hate crime victim and conducted with the hate crime victim. It uses such channels of communication with the victim that can both lead to an outcome and also protect the victim from re-victimization. If necessary for ensuring the victim's immediate safety, an INA can be carried out without the victim's consent, on the basis of already available information;
6. INA outcomes are effectively translated into protection measures implemented throughout the criminal justice process. INA outcomes are treated as confidential and protected from misuse; they are, in particular, protected from the defendant; and
7. As follow-up to an INA, the hate crime victim is promptly either directly assisted or referred to a support provider. To that end, INA outcomes, with the victim's consent, can be shared between those conducting an INA and those providing support. Throughout the INA and referral process, the hate crime victim's preferences (including not seeking support) are respected.

The criminal justice system should be organized to pay attention to the vulnerability of the victims of hate crime, the identity or identities for which they may have been targeted, the risks they face, and the needs they have.<sup>79</sup> To determine the relevant protection measures and assistance required, and to identify available providers of such services, the vulnerabilities (e.g., being underaged, pregnant, having a mental or physical disability, being repeatedly victimized, being at risk of retaliation, having communication difficulties, having dependent children, health problems, alcohol or drug dependence, etc.) and the needs of each hate crime victim should be established through an INA. Furthermore, as the support needs of those affected by hate crimes evolve with time and over the course of criminal proceedings, the criminal justice system should be able to track and detect these changing needs.<sup>80</sup>

Using a standardized methodology for INAs helps ensure a consistent approach by all actors involved at different stages of the criminal proceedings. Similarly, in national systems where CSOs often conduct the initial and in-depth assessment, it is important to have mechanisms for sharing the conclusions of an INA between service providers and criminal justice system agencies.<sup>81</sup>

Multiple entities and actors are responsible for assessing hate crime victim needs at various stages. However, an INA should be done on first contact with the victim, and it can be performed either by trained law enforcement officers, a support service or a CSO. Importantly, non-reporting of the crime to the police should not prevent these entities from assessing the needs of a victim.<sup>82</sup>

An INA usually takes the form of an interview or a series of interviews. Relevant information can also be collected through other channels. The process should result in a set of conclusions about the hate crime victim's needs and corresponding protection and support measures. Once a victim's needs and required services have been determined, the relevant providers must be identified. Many hate crime victims may, in fact, not need specialist support. Those who do, per findings of the INA, should be referred to service providers that can best address the identified needs. It should be remembered that the victim has a right not to seek support.<sup>83</sup> An INA process should end with concrete recommendations that result in support and protection measures. An INA must not be

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79 *Ibid.*, p. 79.

80 *Model Guidance on Individual Needs Assessments of Hate Crime Victims*, *op. cit.*, note 33, p. 23.

81 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 100.

82 *Ibid.*, p. 97.

83 *Ibid.*, pp. 95-100. See also: *Model Guidance on Individual Needs Assessments*, *op. cit.*, note 33.

an activity for its own sake, and interviewers should not ask questions about needs that cannot be met due to a lack of necessary follow-up support.<sup>84</sup>

The INA process remains the cornerstone of any robust hate crime victim support policy and plays a key role in supporting victims in a meaningful way. While hate crime victims can make use of one-size-fits-all policies and services to a certain extent, only an individualized approach based on properly identified needs can make a real difference in the effective support of hate crime victims.<sup>85</sup>

## UNDERSTANDING THE ESSENTIAL ELEMENTS

### **4.1. The vulnerabilities/risks and needs of each hate crime victim are assessed individually, in a process called the Initial Needs Assessment (INA), by an entity of first contact (police and/or CSO) in order to identify appropriate support.**

Hate crime victims face increased risks after a hate incident and have particular protection and support needs. These might be different depending on the bias motivation of the perpetrator, the identity of the victim, the nature of the incident and other factors.<sup>86</sup> It is important, therefore, to take a victim-centred approach when determining a victim's needs.

Two main approaches to conducting an INA are commonly employed: using a questionnaire or having an unscripted conversation. The use of a questionnaire is well suited to situations where an INA is being conducted by people without specialized training (such as volunteers engaged in victim support services or patrol officers arriving at a crime scene). Questionnaires reduce the risk of the interviewer failing to address something that may be essential to determining the protection needs of a victim. The second option is an unscripted conversation. This approach has the potential to produce better outcomes when conducted by trained hate crime victim specialists who are aware of the specific impacts of hate crimes on individuals and the wider community.<sup>87</sup>

The initial interview in the INA process should capture enough information to allow an interviewer to understand the needs of an individual, to identify what protection measures and support services are necessary to assist in their recovery, and to refer

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84 *Model Guidance on Individual Needs Assessments*, *op. cit.*, note 33, p. 8.

85 *Ibid.*, p. 7.

86 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 96.

87 *Model Guidance on Individual Needs Assessments*, *op. cit.*, note 33, p. 22.

the victim to the relevant support provider. To this end, the INA interviewer should collect data related to victim's name, gender, date of birth and contact details, unless the person chooses to remain anonymous, learn about victim's potential specific communication needs, and collect information about the details of the crime. It is essential to establish any immediate risk to the victim or immediate support needs. If a victim is physically injured, a victim's medical needs must be attended to before any assessment of other needs takes place. Next, an INA process should establish the impact the crime has had on the victim and identify mid- and long-term support or protection measures that can be put in place.<sup>88</sup>

The process of an INA also includes an in-depth assessment that follows the initial interview. This should be designed in a way allowing for an assessment, in more detail, of the social and psychological needs of a victim following a hate crime, and should only be completed by trained professionals, such as victim support services, specialized victim support units within the police or specialist CSO service providers. Ensuring that a similar methodology is used during the initial and in-depth assessment makes it more effective and prevents secondary victimization resulting from repeatedly going over the same questions.

#### **Questions to consider:**

*Is an INA conducted by the police on first contact? Who (what organizations, what / units/functions/individuals within these organizations, i.e., police, state and non-state service providers) conducts the assessment of hate crime victims' needs on first contact? How is the INA (assessment of both vulnerabilities/risks and needs of each hate crime victim) organized?*

#### **4.2. The needs are assessed continuously or repeatedly throughout the lifecycle of a hate crime, and corresponding structures for needs assessment and support (such as an appointed official in charge) are available at all stages of the criminal justice process.**

The protection and support needs of hate crime victims may change with time. To be responsive to these changes, the INA process must be repeated continuously. This requires repeating the needs assessment of the hate crime victim every time that circumstances change and, at least, when reaching another milestone in the course of the criminal case, such as the trial phase.<sup>89</sup> The needs of hate crime victims evolve as their cases and healing progress. In many cases, victims still need support well after the trial.

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<sup>88</sup> *Ibid.*, pp. 20-21.

<sup>89</sup> *Ibid.*, p. 10, 23.

This is the reason why the assessment of the victim's needs should not be a one-time exercise, limited to a certain timeframe.

The INA process should be updated either at the initiative of the authorities, the victim support organizations or the victims themselves. Victims should be encouraged to reach out in case their situation changes in any way that might indicate the need for revision of the protection and support measures that were granted to them.<sup>90</sup>

**Questions to consider:**

*Is the assessment repeated or is there a mechanism for continuous assessment throughout the course of the case? By whom? How is the INA process organized on a policy level?*

**4.3. Those conducting an INA have received appropriate training and methodological guidance.**

The individuals conducting INAs for hate crime victims, in particular specialized victim support units within the police, staff of social services, case workers for the CSOs and victim support centre specialists, should have the knowledge and skills to work with people who have experienced hate crime victimization.<sup>91</sup> Without this professional preparation and knowledge about the specificities of hate crime victimization, certain elements of the assessment are likely to be overlooked and, importantly, this may increase the risk secondary victimization.

There should be written guidance or instruction on how to appropriately conduct an INA.<sup>92</sup> In addition, personnel who conduct interviews and otherwise engage with victims of hate crimes should be adequately trained. Many police services have specialist victim support units. Where these specialized units do not exist, it is important that the state ensures that interviewers are provided with comprehensive training.<sup>93</sup> Adequate training ensures that the INA is relevant to victims' needs and that protection and support measures are properly recommended.

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90 EVVI : *Evaluation of Victims* (Paris: Ministère de la Justice, 2015), p. 17, in : *Model Guidance on Individual Needs Assessments*, *op. cit.*, note 33, p. 23.

91 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 101.

92 *Model Guidance on Individual Needs Assessments*, *op. cit.*, note 33, p. 26.

93 *Ibid.*, pp. 16-17.

### Questions to consider:

What kind of training is given to those conducting the needs assessment within criminal justice agencies, state and non-state providers? Are the training programmes of ad hoc/project-based or compulsory/continuous nature? Who funds these efforts?

#### **4.4. The INA form and content are based on an established methodology to ensure consistency and transferability of INA outcomes across the system. The state (criminal justice system) and CSOs collaborate to achieve such consistency.**

INAs can be performed by different entities within the criminal justice system. In order to ensure that the results of assessments conducted by different institutions are comparable and transferable among the police, prosecutors, judges, service providers and civil society, there should ideally be one agreed methodology on how such assessments should be completed.<sup>94</sup> Representatives of both government and civil society should cooperate on the development of this methodology to ensure it encompasses all relevant elements and that critical INA outcomes can be shared.<sup>95</sup>

Agreeing on a unified methodology on how to conduct INAs allows the outcomes to be easily and effectively shared between different institutions, provided there is the victim's consent to do so. This can also help avoid conducting too many interviews with the victim and exposing them to secondary victimization by dwelling on the traumatic experience.<sup>96</sup>

The needs of an individual victim are the key factors in determining the support and protection measures to be granted. It is important, therefore, that the victim understands the purpose of the assessment.<sup>97</sup> The victim is then more likely to be engaged in the process. It is also important that any assessment records the victim's answers, rather than the opinions of the interviewer.<sup>98</sup> The purpose of the INA is always to identify how the victim has been affected, to record their perceptions of the incident and ultimately, to provide support, based on the identified needs.

The authorities must, however, take appropriate measures to protect victims' privacy and personal data, including personal characteristics. Information shared between

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94 *Ibid.*, p. 29. Also in: *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 100.

95 *Model Guidance on Individual Needs Assessments*, *op. cit.*, note 33, p 29.

96 *Ibid.*

97 *Ibid.*, pp. 24-25.

98 *Ibid.*, p. 25.

relevant actors must ensure victims' rights to privacy and data protection, and respect national laws concerning data collection, storage and disclosure.<sup>99</sup>

**Questions to consider:**

*Is there a shared methodology or established guidance for those conducting INAs?*

*Is there any on co-ordination of methodologies among those conducting INAs?*

**4.5. An INA is based on the consent of the hate crime victim and conducted with the hate crime victim. It uses such channels of communication with the victim that can both lead to an outcome and also protect the victim from re-victimization. If necessary for ensuring the victim's immediate safety, an INA can be carried out without the victim's consent, on the basis of already available information.**

The police, support providers and CSOs that conduct an INA should always seek the informed consent of the victim, meaning that the victim should be well aware of the purpose of the exercise and their role in determining the outcomes, including on deciding to share their data with other entities.<sup>100</sup> Consent to share INA outcomes allows for effective referrals and provision of support.

An INA might also use other sources of information. With the victim's consent, the caseworkers can, for example, talk to their lawyer or other intermediaries.<sup>101</sup> The victim should have the right to withdraw consent at any moment in the course of the procedure.<sup>102</sup> There might also be cases where the victim does not agree to an INA. In these instances, it may still be possible to assess and secure some basic support and ensure protection based on the available information. Also, in exceptional cases where there are legal safeguarding duties towards some types of victims, such as children and vulnerable adults, protection measures and referrals can be made regardless of whether the victim has consented.<sup>103</sup>

It is equally important to accommodate the victim's preferences related to channels of communication (e.g., by telephone, by email, in person) or the place for interviews, which can be of the victim's choosing and should ideally be gender- and diversity-friendly, as well as safe.<sup>104</sup>

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99 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 86-87.

100 *Ibid.*, p. 102.

101 *Ibid.*

102 *Model Guidance on Individual Needs Assessments*, *op. cit.*, note 33, p. 42.

103 *Ibid.*

104 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 102.

### Questions to consider:

*Is the victim's consent to conducting the INA sought? Is information already available from other sources (e.g., hospital, media) being used? What are the channels of communication with the victim in conducting the assessment?*

## **4.6. INA outcomes are effectively translated into protection measures implemented throughout the criminal justice process. INA outcomes are treated as confidential and protected from misuse; they are, in particular protected, from the defendant.**

As noted previously, an INA process can only be deemed effective if it translates into recommendations for concrete support and protection measures implemented throughout the criminal justice proceedings. Protection and support measures refer to a broad range of actions that can be taken by law enforcement agencies, court officials and victim support services to address physical protection, psychological and other needs.<sup>105</sup> Special protection measures can be necessary in the case of victims who, for example, fear retaliation by the perpetrator. Certain types of protection and support measures are often associated with certain categories of victims or crime. These measures can prove particularly effective in cases where the perpetrator is close to or known to the victim, or where attackers are members of an organized hate group who continue to terrorize the victim and their family or close relations.

Special protection mechanisms can also be useful in cases of hate crime victims who are asylum seekers or migrants with a lack of or irregular residency status of a particular country, who often fear they will be detained or deported if they come into contact with authorities.<sup>106</sup> These conclusions, however, contain sensitive data that the victim has shared. As such, they should be handled with utmost confidence and shared in a secure manner only with those service providers identified to be necessary.<sup>107</sup> Particular attention must be given to protecting the INA data from the defendant, in order to protect the victim from potential misuse of this data and re-victimization.<sup>108</sup>

Protecting a hate crime victim's privacy is an important element of the protection measures that can be granted to the victim by the authorities. There are many risks related to the misuse of personal data shared during the INA process. These include, for example, revenge by the defendant's family or a hate group they belong to, or risks related to

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105 *Model Guidance on Individual Needs Assessments*, *op. cit.*, note 33, p. 8.

106 *Ibid.*, p. 13.

107 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 86.

108 *Ibid.*, p. 105.

uncovering the victim's gender identity or legal residency status.<sup>109</sup> Personnel conducting the assessment should, therefore, strictly follow the rules on data protection and try to identify these risks in the course of their assessment. As a result, all hate crime victims should have the right to not disclose their contact information and other details from the criminal file. In some OSCE participating States, contact details of a CSO representing or supporting the victim can be listed in the file instead of the victim's data.<sup>110</sup> It is a good practice to keep INA outcomes separately, to divide the criminal file into different segments, and to differentiate between the access rights for relevant actors, such as the court, judicial clerks, victim support organization, defence counsel, prosecutor, etc.<sup>111</sup>

**Questions to consider:**

*Are INA outcomes used in the criminal justice process, and how? What protection measures are being applied? How are INA outcomes treated and protected from misuse, in particular by the defendant?*

**4.7. As follow-up to an INA, the hate crime victim is promptly either directly assisted or referred to a support provider. To that end, INA outcomes, with the victim's consent, can be shared between those conducting an INA and those providing support. Throughout the INA and referral process, the hate crime victim's preferences (including not seeking support) are respected.**

Based on the recommendations formulated as a result of the INA, the hate crime victim should be either assisted by the police (e.g., in securing protection and security measures) or support provider conducting the assessment, or referred to another support provider offering the required services. Relevant referrals to support providers, who address the identified specific needs of individual victims, constitute the most effective way to support hate crime victims in their recovery.<sup>112</sup> Victims should be treated as partners in the process, and their preferences should always be taken into consideration. This might include the victim's wish not to seek support and protection.<sup>113</sup> As noted previously, it is essential that INAs are conducted based on the ability to follow up or refer to other support.<sup>114</sup>

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109 *Ibid.*, p. 86.

110 *Ibid.*, p. 87.

111 *Ibid.*

112 *Model Guidance on Individual Needs Assessments*, *op. cit.*, note 33, p. 24-25.

113 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 106.

114 *Model Guidance on Individual Needs Assessments*, *op. cit.*, note 33, p. 8.

Based on the list of service providers, the police may provide the victim with the contact details of the service provider, act as a mediator and contact the service provider on behalf of the victim, or they can give the victim's contact details to the service provider. The latter option requires consent from the victim and attention to EU General Data Protection Regulation considerations, where relevant. Sometimes, specialist service providers are proactive in contacting victims. Regardless of which procedure is applied, the police have to make sure that the victim receives relevant, up-to-date information and understands it. Again, every victim has the right not to seek support.<sup>115</sup>

**Questions to consider:**

*Are INA outcomes used to refer to relevant service provision? Do different actors conducting the assessment communicate about the outcomes of the assessment process? In particular, is there exchange of information between CSOs, victim support and police? Do INA and referral processes take into consideration the hate crime victim's preferences?*

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<sup>115</sup> *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, pp. 107-109.

## **BUILDING BLOCK 5: SENSITIVE AND RESPECTFUL TREATMENT OF HATE CRIME VICTIMS**

### **ESSENTIAL ELEMENTS**

1. The authorities demonstrate commitment to supporting hate crime victims – publicly through statements, examples and written communication, and also within hierarchies. Hate crime victims’ specifics, rights, needs are published in a document available to all police officers and criminal justice officials;
2. Policymaking involves consultation with community-based, victims’ and CSOs as equal partners;
3. Training and guidance on sensitive and respectful treatment, in particular interviewing of hate crime victims, exist and are available to police officers and criminal justice officials;
4. Specialist “victim” officers (with special training, including on hate crime victimization) are immediately available or on call;
5. Measures and checks are in place for the victim’s safety and the prevention of re-victimization, in particular: measures in place to avoid over-interviewing and exposure to the defendant; that the victim can be accompanied by a person of choice at any procedural step or interview; and that premises where interviews with hate crime victims are conducted are accessible and friendly;
6. Information about next steps and rights is provided early, comprehensively and in an accessible, non-formalistic manner. Interpreters and translated materials are readily available for relevant languages (not only official languages);
7. Victims’ feedback about the way they were treated in the criminal justice system is monitored, and the data collected and used to improve victims’ interactions with the police, prosecutors and courts; and
8. Independent oversight and complaint mechanisms are in place and available to the victims and can deal with complaints about secondary victimization and non-sensitive and non-respectful treatment. Investigation of police misconduct is also independent.

Sensitive and respectful treatment of hate crime victims is a necessary condition for the proper application of the victim-centred approach in providing hate crime victim support. Victims’ voices must be heard, and their experience must be taken seriously by the authorities.<sup>116</sup> A victim’s first contact and subsequent interactions with the crimi-

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<sup>116</sup> *Ibid.*, p. 43.

nal justice system are a reflection of how a society views and responds to hate crime. Treating the victims in a sensitive and respectful manner, therefore, contributes to trust in the criminal justice process, empowers victims and reduces potential space for secondary victimization.<sup>117</sup> It is the responsibility of states to ensure that victims of hate crime are protected, enjoy full access to justice and can receive the support they need, while ensuring their sensitive and respectful treatment.

Secondary victimization occurs through inappropriate treatment of the hate crime victim by law enforcement or other criminal justice professionals. These officials tend to focus on the individual incident reported to them, while the victims often see their experience in a wider perspective of several criminal or non-criminal incidents that have a mutually reinforcing impact on the victim.<sup>118</sup> In addition, criminal justice officials might have insufficient knowledge of the nature of hate crimes, which leads them to underestimate the impact these crimes have on individuals and communities.<sup>119</sup> These problems should be addressed on both the individual and institutional levels. This places an added responsibility on law enforcement and criminal justice system professionals to recognize and understand the impact of hate crime and a victim's vulnerability to repeated victimization, in order to prevent secondary victimization within the criminal justice system. To appropriately handle interaction with victims, criminal justice and victim support systems need to be aware of the specificities and vulnerabilities of these victims; they need to be trained on sensitive and respectful communication (interviewing) with hate crime victims. Instructions for criminal justice professionals should guide their treatment of hate crime victims, and practical measures should be put in place to accommodate these victims and facilitate sensitive treatment.<sup>120</sup>

Acknowledging the victim's perception of the incident as a hate crime is the first step towards ensuring sensitive and respectful treatment. All officials coming into contact with victims should be properly trained, and specialized personnel with in-depth knowledge on hate victimization should be made available on request.<sup>121</sup> Special procedural measures aimed at easing the proceedings for the victims, such as the avoidance of excessive interviewing, limiting exposure to the defendant, allowing the victim to be accompanied by a person of their choice, or adjusting the interviewing premises, can all contribute to a positive experience of the victim with the criminal justice system.<sup>122</sup>

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117 *Ibid.*, pp. 31-32.

118 [Model Guidance on Sensitive and Respectful Treatment of Hate Crime Victims in the Criminal Justice System](#) (Warsaw: OSCE/ODIHR 2021), p. 7.

119 [Ensuring Justice for Hate Crime Victims: Professional Perspectives](#) (Luxembourg: FRA, 2017), p 46.

120 [Hate Crime Victims in the Criminal Justice System](#), *op. cit.*, note 10, pp. 79-85.

121 *Ibid.*, p. 83.

122 *Ibid.*, pp. 79-85.

Clear and understandable information provided to hate crime victims also empowers them and allows them to regain agency in the process. If treated in an improper way, the victims should be provided with meaningful mechanisms to provide their feedback or file complaints.<sup>123</sup> These mechanisms should have third-party oversight and should inform changes to guidance and protocol. The above-mentioned measures should be based on insights provided by civil society and community-based organizations.<sup>124</sup>

All of the above should be developed in collaboration with the affected communities and with hate crime victims' needs in mind. In particular, governments should foster co-operation with CSOs<sup>125</sup> working with different communities or groups targeted by hate crime and collaborate with them on policy formulation and building the capacity of criminal justice system professionals. Police have a particularly important role to play, as they are often the first point of contact for the victims of hate crime. The principles of this block, however, apply similarly to all officials encountering the victims of hate crime, whether within criminal justice system bodies or otherwise.

## **UNDERSTANDING THE ESSENTIAL ELEMENTS**

### **5.1. The authorities demonstrate commitment to supporting hate crime victims – publicly through statements, examples and written communication, and also within hierarchies. Hate crime victims' specifics, rights, needs are published in a document available to all police officers and criminal justice officials.**

To treat the victims in a sensitive and respectful way means to be professional, respectful, non-discriminatory and informed about hate crime victimization, to have an individualized approach, to be respectful of the victim's choice of identity, to be free of bias, to avoid "labelling", and to be empathic, as well as to use sensitive language and correct terminology when referring to a victim's characteristics. Criminal justice authorities, and the police in particular, should express their commitment to these behaviours and always act according to these principles to eliminate all forms of bias when dealing with victims.<sup>126</sup>

State authorities, including the police, are hierarchically organized structures. In such institutions, a commitment by the leadership to maintain a bias-free environment is of high importance. Police commanders and other leaders should communicate the

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123 *Ibid.*, p. 140.

124 *Ibid.*

125 *Ibid.*, p. 25.

126 *Ibid.*, p. 81.

importance of sensitive and respectful treatment through their personal example, periodic reminders to the staff and enforcement through disciplinary action, if necessary. It is also up to the institution's leaders to ensure that interviews with hate crime victims are only conducted by trained and prepared professionals.<sup>127</sup> Guidelines for all staff and for officers specialized in hate crime, as well as other relevant documents, should reinforce these measures and define standards of respectful and sensitive behaviour.<sup>128</sup>

Communicating the adopted standards, policies or codes of behaviour vis-à-vis the public, as well as proactive communication about successful hate crime investigations, prosecutions or judgments, can go a long way towards increasing the public's and victims' trust in authorities, as they are able to see the committed response to hate crime through its application of the law within a criminal justice process.

### **Questions to consider:**

*Is the police hierarchy committed to diversity in the police and the sensitive treatment of victims? How is this expressed (e.g., in policy documents, statements by leaders, data on diversity in the force)? What steps have been taken to eradicate bias and institutional intolerance in the police? Does a public policy document (on the rights, needs of victims) address hate crime victims specifically?*

## **5.2. Policymaking involves consultation with community-based, victims' and CSOs as equal partners.**

Civil society and community-based organizations play a vital role in delivering support to hate crime victims.<sup>129</sup> The co-operation between the government and these entities does not have to be limited to the provision of services and the exchange of information. Engaging with civil society at an early stage of policy planning and using their input and experience can play a significant role in making the policies more relevant and better adjusted to the needs of communities.

The involvement of civil society and community-based organizations in policymaking that influences their target groups can be a simple and effective tool to ensure these policies address the needs of the population. This can only be the case, however, if the government treats these organizations as equal partners, respects the important role they play in hate crime victim support, and values their input and makes sure that it is taken into consideration.<sup>130</sup> In some OSCE participating States, such co-operation

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127 *Ibid.*

128 *Ibid.*, p. 84.

129 *Ibid.*, p. 46.

130 *The State of Support Structures and Specialist Services for Hate Crime Victims*, *op. cit.*, note 7, p. 4.

takes an institutionalized form, and the government consults civil society on a regular basis.<sup>131</sup>

**Questions to consider:**

*When developing a victim protection policy document, does the state consult community-based victims' and civil society organizations? What is the format of these organizations' participation? Does the policy reflect the views of these organizations?*

**5.3. Training and guidance on sensitive and respectful treatment, in particular interviewing of hate crime victims, exist and are available to police officers and criminal justice officials.**

The police are often the first responders and points of contact for hate crime victims. For fear of not being taken seriously by the officers and being treated in an insensitive manner, many victims never report their experience. To help build a culture of trust, it is imperative that training and guidance on how to treat hate crime victims in a sensitive and respectful manner is a requirement for police officers and other criminal justice professionals. It is also necessary that this training is part of a continuous learning structure to reinforce behavioural changes and learning objectives.

There should ideally be two types of training available to police officers and other criminal justice professionals. The first, dedicated to all staff, should cover, at a minimum, standards for sensitive and respectful treatment, as well as explain basic concepts related to hate crimes and their impact on individual victims and entire communities. The second, dedicated to specialized police officers, prosecutors and judges, should build the same skills as the general training, but also explain the difference between a hate crime victim and a victim of other crimes; provide definitions of relevant terms (such as “gender”, “LGBTI”, etc.); discuss hurtful language, biased questions and victim blaming; provide guidance on empathetic approaches, dealing with emotions and trauma; explore how to manage the expectations of the victim; and suggest procedures for handling hate crime cases.<sup>132</sup>

**Questions to consider:**

*Do police, including frontline officers, and criminal justice professionals receive training and/or have guidance on sensitive and respectful treatment, in particular, in the interviewing of hate crime victims? Is this training adequate? Is this training mandatory?*

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131 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 51.

132 *Ibid.*, p. 82-83.

#### **5.4. Specialist “victim” officers (with special training, including on hate crime victimization) are immediately available or on call.**

Training of criminal justice personnel should result in creating a pool of specialized law enforcement personnel who can support the victim when a potential hate crime case is being investigated. Even the most comprehensive training course will not bring positive change if it is not followed by a consequent policy of using the skills and knowledge in practice. The trained specialists should be immediately available, or available on call, to support the victim in the process of investigation and interviewing; they should be engaged in hate crime cases as soon as possible.<sup>133</sup>

The immediate involvement of a staff member trained on hate crimes can be beneficial for both the victim and the officials leading the case. Victims of hate crimes may be suffering from post-traumatic stress disorders, and this should be acknowledged by the authorities. These disorders can manifest themselves in sudden outbursts of emotion, in victims not appearing for appointment, not answering telephone calls, or in other ways. It is important that officers handling the case recognize these reactions and how the behaviour is connected to trauma. In many cases, it might be additionally required to ask for a psychologist’s assistance, which should also be made available.<sup>134</sup>

##### **Questions to consider:**

*Are specialist “victim” officers (with special training, including on hate crime victimization) who can assist available or on call? Is psychological support for the victim immediately available or on call to assist the interviewing officer?*

#### **5.5. Measures and checks are in place for the victim’s safety and the prevention of re-victimization, in particular: measures in place to avoid over-interviewing and exposure to the defendant; that the victim can be accompanied by a person of choice at any procedural step or interview; and that premises where interviews with hate crime victims are conducted are accessible and friendly.**

Principles of sensitive and respectful treatment encompass a number of measures that can be applied in order to enhance a victim’s positive interactions with authorities and their overall experience with the criminal justice system. These should include avoidance of repetitive interviewing, ensuring that the victim does not have to be exposed to the defendant during the trial, if they choose not to, and allowing a support person of their choice or representative from a support organization to accompany them at any

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<sup>133</sup> *Ibid.*, p. 79.

<sup>134</sup> *Ibid.*, p. 84.

procedural step, from initial interviews through court proceedings. Interviewing must take place in a private, accessible and comfortable environment.<sup>135</sup> These measures contribute to sensitive and respectful treatment of the hate crime victims. By avoiding over-interviewing, criminal justice professionals do not make a victim to go through the traumatizing experience repeatedly. By limiting exposure to the perpetrator, the criminal justice system protects those victims whose well-being might be affected by such contact. Allowing the victim to bring a trusted person who can provide emotional support helps to deal with the psychological trauma induced by a hate crime.<sup>136</sup>

Finally, adapting premises for interviewing hate crime victims can ease the level of stress related to the interview. Such interviews usually take place in police stations, prosecutor's offices or court buildings, while practice shows the positive effects of adapting facilities where victims will be interviewed with the aim of creating a gender- and diversity-sensitive, friendly and non-intimidating environment, such as a quiet and secluded room, without typical police artefacts, or providing for childcare while the victim is interviewed.<sup>137</sup>

#### **Questions to consider:**

*What are the measures in place to ensure minimizing the interviewing of the hate crime victim? What are the measures in place ensuring the hate crime victim is not exposed to the defendant, in the case the hate crime victim wants to limit such exposure? What are the rules for accompanying the victim? Can the person accompanying be a person of the victim's choice? Can they accompany the victim at any procedural step or interview? Are premises where interviews with hate crime victims are conducted accessible and friendly to all victims, including to victims with physical disabilities?*

### **5.6. Information about next steps and rights is provided early, comprehensively and in an accessible, non-formalistic manner. Interpreters and translated materials are readily available for relevant languages (not only official languages).**

All victims of crime have a right to be informed about the proceedings, about their rights in these proceedings and about the status of their case. The general information typically includes contact information, information about victims' rights, procedures, stages of criminal proceedings and next steps, as well as information about available support.

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135 *Ibid.*, p. 79-85.

136 *Ibid.*

137 *Ibid.*

Additionally, hate crime victims should receive information about available specialist support services.<sup>138</sup>

All information should be provided to the victim in a clear and understandable way. The obligation to inform the victim cannot be just a ticking-the-box exercise. Handing leaflets to a victim is usually not sufficient, because the victim might not understand the local language or not be familiar with legal terms. It is a good practice, therefore, to have the main information prepared in the main languages of the country, including minority languages. Regardless of whether information is conveyed orally, in person or via online tools, it should always be delivered in a gender- and diversity-sensitive manner. Officers providing explanations should ensure that the victim has understood the message.<sup>139</sup>

### **Questions to consider:**

*How and when is information about the process, next steps and victims' rights provided? Is it easily understandable and accessible for all victims, including for victims who do not speak the official language and for victims with disabilities? Are interpreters and translated materials readily available for other relevant languages?*

## **5.7. Victims' feedback about the way they were treated in the criminal justice system is monitored and the data collected and used to improve victims' interactions with the police, prosecutors and courts.**

Criminal justice system actors should conduct a systematic evaluation of victim's feedback related to their treatment by the state officials.<sup>140</sup> This data can inform the nature and scope of the problem, if any, and provides indicators of how to address it in a relevant way. This is equally true for both the general and the specialist hate crime victim support providers.

In most OSCE participating States, mechanisms are not in place to control and evaluate the treatment of hate crime victims, or victims in general, by the criminal justice system. There are some good practices, such as evaluation questionnaires handed to the victims towards the end of the proceedings, which are reviewed by officials other than those who handled the victim, as well as conducting independent assessment and research, such as of the victim experience in the criminal justice proceedings, leading to the formulation of recommendations on how to improve the performance of

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138 *Ibid.*, p. 88-91.

139 *Ibid.*, p. 91.

140 *The State of Support Structures and Specialist Services for Hate Crime Victims, op. cit.*, note 7, p. 31.

the institutions. Some victim support providers also carry out self-evaluation with their clients.<sup>141</sup>

**Questions to consider:**

*How is the quality of treatment of the victims by the criminal justice professions being monitored and assessed? Is victim satisfaction monitored and data collected?*

*How is data collected used to improve treatment?*

**5.8. Independent oversight and complaint mechanisms are in place and available to the victims and can deal with complaints about secondary victimization and non-sensitive and non-respectful treatment. Investigation of police misconduct is also independent.**

Independent oversight mechanisms make it possible for hate crime victims to complain about problematic treatment.<sup>142</sup> Such a complaint body should be available and accessible to victims in the event they need to report misconduct by officials. Importantly, this body should be independent, in order to maintain the highest possible level of objectivity.

In addition to the independent oversight institution, hate crime cases must be actively monitored by the supervisors of the professionals handling them. It is recommended that supervisors and managers instigate and conduct mandatory checks of hate crime casework to ensure that it is being addressed properly.<sup>143</sup>

**Questions to consider:**

*What are the available oversight and complaint mechanisms in place for victims? Do these mechanisms deal with complaints about secondary victimization and non-sensitive and non-respectful treatment? How is the independence of the investigation ensured?*

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141 *Ibid.*

142 *Ibid.*, p. 27.

143 *Model Quality Standards for Hate Crime Victim Support*, *op. cit.*, note 73, p. 28.

## **BUILDING BLOCK 6: HATE CRIME VICTIMS IN CRIMINAL PROCEEDINGS AND THE JUSTICE SYSTEM**

### **ESSENTIAL ELEMENTS**

1. Systems and mechanisms to support and protect the victim (including conducting an INA and using its outcomes for protection) are integrated into all stages of the criminal proceedings;
2. Investigators and prosecutors grant the hate crime victim access to the case file to the extent necessary for the exercise of their rights;
3. Investigators and prosecutors inform the hate crime victim of key developments in the case in a timely manner, and consult them about key investigation and prosecution decisions that impact their position;
4. First responders, investigators and prosecutors acknowledge, record and pursue in their actions and decisions the bias motivation of the crime, the victim's perception of the crime as a hate crime and the impact of the crime on the victim. An effective mechanism is in place to challenge the decision not to investigate or not to prosecute the crime as a hate crime;
5. The hate crime victim can present the impact of the crime in court, and this is taken into account in sentencing. Cross-examination of impact statements by the defence is not allowed;
6. The hate crime victim can claim compensation through the criminal proceedings. Compensation is effectively provided by the perpetrator or the state for suffered harm, which includes the added harm from hate crime victimization (both inherent in all hate crime victims and individual);
7. The bias motivation and the impact of a hate crime are explicitly addressed in the sentencing judgement. In the case of plea agreements or out-of-court settlements, the bias element and impact of hate crime are reflected on, and the victim is consulted on this course of action;
8. Restorative justice measures require consent of the hate crime victim. Restorative justice officers, facilitators and mediators are trained on hate crime victimization; and
9. An effective and independent judicial or extra-judicial mechanism is available to hate crime victims to review their complaints about breaches of rights by the criminal justice system bodies.

A hate crime victim's experience must be recognized by the criminal justice system. When criminal justice agencies expressly confirm or acknowledge a bias motivation, this sends a message that hate crimes are treated seriously and can be immensely important in preventing such crimes. Victims' active participation in the proceedings – including by presenting an impact statement and seeking compensation – can help validate their experience, and forms part of an official acknowledgement of the seriousness of hate crimes.<sup>144</sup> The criminal justice system also needs to have the capacity and structures to respond to hate crime victims' evolving needs and to provide/refer to support.

Many hate crimes are investigated and prosecuted as ordinary crimes, and the bias motivation of the perpetrator remains unrecognized. This sends a negative message to the victim and the entire community to which the victim belongs.<sup>145</sup>

In most civil law jurisdictions, a hate crime victim can participate as an injured party in the proceedings, under the condition that they meet the legal criteria and are granted participation status. As a participant, the victim applies for compensation or reparations from the perpetrator and can expect to receive a judgment ordering such recompense. In some common and civil law jurisdictions, the victim or a representative organization can institute a private prosecution or join as an accessory or subsidiary prosecutor. Such prosecutions can usually only be initiated in cases of petty offences. The victim also has a right not to participate and not to make a claim in the proceedings.<sup>146</sup>

A victim's active participation in the criminal proceedings can take different forms, including presenting a statement on the impact that the hate crime had on them, seeking compensation, submitting evidence, participating in fact finding, attending preliminary hearings and asking questions in trial or challenging the decisions of the authorities.<sup>147</sup> The effective participation of hate crime victims in criminal proceedings can be achieved not only by integrating the support and protection mechanisms for hate crime victims at all stages of the process, but also by ensuring that the victim's perspective and preferences are considered at all times.

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144 *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 133.

145 *Ibid.*, p. 133.

146 *Ibid.*, p. 135.

147 *Ibid.*, p. 136-137.

## UNDERSTANDING THE ESSENTIAL ELEMENTS

### 6.1. Systems and mechanisms to support and protect the victim (including conducting an INA and using its outcomes for protection) are integrated into all stages of the criminal proceedings.

The authorities should recognize the potential hate crime victim upon first contact. The perception of the victim that the incident was motivated by bias should be recorded in the case file, and this should trigger the application of a hate crime victim response protocol – a set of procedures and protection measures designed to address the needs of hate crime victims. Police investigators and prosecutors should treat the incident as a potential hate crime when taking decisions that shape the course of the proceedings. This includes the application of protection and support measures, based on an INA.<sup>148</sup>

As noted previously, hate crime victims' needs can change as the criminal proceedings progress and/or there are other changes in the victim's personal or professional situation, or the impact of support received thus far. This is why it is so important to be able to reassess the victim's needs at different stages of the proceedings, including at the trial stage, and appoint an official responsible for this process.<sup>149</sup> It is essential to set up a system that allows the authorities and relevant support services to take initiative, follow-up and ensure that measures within their competences are properly adapted to the changing needs of the victims.<sup>150</sup> The first step in establishing such a mechanism is nominating dedicated personnel at the prosecution offices and courts, tasked with communicating with the victims and victim support services. While the victims are encouraged to inform the authorities about the changes in the circumstances influencing their ongoing needs, by no means should they be directly responsible for these follow-ups.<sup>151</sup>

#### Questions to consider:

*How is the INA continued/repeated; how are INA outcomes used for referral and the provision of protection, and how is support to hate crime victims ensured in later stages of the proceedings – prosecution, trial, post-sentencing? Are there structures available for this?*

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148 *Ibid.*, p. 133-134.

149 *Model Guidance on Individual Needs Assessments*, *op. cit.*, note 33, p. 23.

150 *Ibid.*

151 *Ibid.*

## **6.2. Investigators and prosecutors grant the hate crime victim access to the case file to the extent necessary for the exercise of their rights.**

The right to information is essential for effective participation of the victim in the criminal proceedings. It is the role of the authorities to make sure that the victim understands and comprehends the information provided and that they have access to the case file to the extent necessary to exercise their rights.<sup>152</sup> The victim should have access to the initial crime report, including a description of the crime and the harm they suffered. Victim's access to their case file should only be limited by reasonable investigation needs or personal data protection regulations.<sup>153</sup>

### **Questions to consider:**

*Can the hate crime victim access the case file during the criminal proceedings? Is this done continuously? What are the limitations to the victim's access? How does access differ depending on the procedural status of the victim (injured party, private prosecutor, witness)?*

## **6.3. Investigators and prosecutors inform the hate crime victim of key developments in the case in a timely manner, and consult them about key investigation and prosecution decisions that impact their position.**

Quite often, victims report a lack of interaction or contact with those leading their cases. Communication between the criminal justice system and the victim is key to making the victim a partner of the investigation/prosecution, to providing their best evidence, and to maintaining trust in the authorities. Keeping the victim engaged with the criminal justice process is also positive for the victim's agency, and can even help the healing. All engagement should be respectful of a victim's preference as to the extent of their involvement.

The authorities should inform the victim about any developments in the criminal proceedings in a timely manner. Victims should also be consulted about key decisions related to the investigation and prosecution that may impact their position in the criminal proceedings.<sup>154</sup> At the same time, victims' preferences related to the types of information they want or do not want to receive should also be taken into consideration.

It is particularly important that the prosecutors inform the victim when they decide to not pursue the case as a hate crime when they press charges for the base offence. This

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<sup>152</sup> *Hate Crime Victims in the Criminal Justice System*, *op. cit.*, note 10, p. 138.

<sup>153</sup> *Ibid.*, p. 139.

<sup>154</sup> *Ibid.*, p. 140.

may potentially have a major impact on the victim's position in the proceedings, their preferences and their needs as a hate crime victim.<sup>155</sup> This information should be communicated with respect to the victim's ability to understand the situation. Avoidance of legal jargon is recommended.

**Questions to consider:**

*Do the authorities keep the victim informed in a timely manner about the key developments in the case? Do the authorities consult the victim about key investigation and prosecution decisions that impact their position? Does the process respect the victim's wishes as to information they want or do not want to receive?*

**6.4. First responders, investigators and prosecutors acknowledge, record and pursue in their actions and decisions the bias motivation of the crime, the victim's perception of the crime as a hate crime and the impact of the crime on the victim. An effective mechanism is in place to challenge the decision not to investigate or not to prosecute the crime as a hate crime.**

The criminal justice agencies are required to record and pursue the bias motivation behind the crime in their actions and decisions if there are potential indicators the incident was a hate crime. They must take into consideration the victim's perception of the crime and the impact that it had on the victim. In the case a decision is taken not to prosecute the crime as a hate crime, the victim should have effective ways to challenge it.<sup>156</sup>

The decision not to prosecute the crime as a hate crime not only sends a negative message to the victim, but also to the affected community and other individuals and groups who may have experiences as victims of hate crime. This decision also has very practical repercussions, such as that the victim can never obtain adequate compensation, so this decision may effectively deprive the victim of their rights. Should they choose, the victim should be able to effectively challenge this decision through an existing legal mechanism.<sup>157</sup>

**Questions to consider:**

*Do the authorities record the bias motivation, the impact and the victims' perception as a potential hate crime victim? Does recording bias motivation trigger the application of a hate crime victim protocol requiring the investigators and prosecutors to pursue the crime's bias motivation? Is bias motivation made explicit in the*

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<sup>155</sup> *Ibid.*, p. 141.

<sup>156</sup> *Ibid.*

<sup>157</sup> *Ibid.*

*preliminary legal qualification and in the indictment? Is it used as an argument by prosecutors in court? Is there a mechanism available to the hate crime victim to challenge the decision not to investigate or prosecute as a hate crime?*

### **6.5. The hate crime victim can present the impact of the crime in court, and this is taken into account in sentencing. Cross-examination of impact statements by the defence is not allowed.**

What makes a hate crime different from an ordinary crime is its wide and devastating impact on the individual and the community. Therefore, as part of their right to be heard, victims of hate crimes should be allowed to present this impact before the court. Such a statement should ideally be presented in writing and read aloud during the trial. The court should then take this statement into consideration when deciding on the sentence. Cross examination of such a statement by the defence should not be allowed.<sup>158</sup> Hate crimes are message crimes – they send a message of exclusion to entire communities.<sup>159</sup> For this reason, some OSCE participating States also allow community impact statements to be presented during the trial.<sup>160</sup> A victim's participation presents a more complete picture of the consequences of a crime motivated by bias.

#### **Questions to consider:**

*Can hate crime victims present impact statements to inform the sentencing? Is the court bound to take the statement into consideration when deciding on the sentence? Can the impact presentation be challenged by the defence?*

### **6.6. The hate crime victim can claim compensation through the criminal proceedings. Compensation is effectively provided by the perpetrator or the state for suffered harm, which includes the added harm from hate crime victimization (both inherent in all hate crime victims and individual).**

Hate crime victims should have the right to claim compensation, understood as material redress to the harm the victim suffered. There are three main schemes of providing compensation to victims: the sentenced perpetrator is ordered to provide compensation to the victim as part of the criminal proceedings, the perpetrator is sentenced in the criminal proceedings and the victim can pursue compensation from the perpetrator through a civil lawsuit, or the state compensates the victim. Whichever system is in

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<sup>158</sup> *Ibid.*, p. 137.

<sup>159</sup> *Ibid.*, p. 7.

<sup>160</sup> *Ibid.*, p. 53.

place, the compensation should take into consideration the increased harm the victim suffered as a result of the hate crime.<sup>161</sup>

All the three models of providing compensation have distinct advantages and disadvantages for hate crime victims. Sentencing the perpetrator to provide compensation might be the most practical one, but the standard of proof in a criminal proceeding is likely to be much higher than in a civil lawsuit. In cases of both criminal and civil proceedings, the amount of compensation may be higher than what the perpetrator can afford. Finally, the state system is often subsidiary, has limited financial means and is used only if the perpetrator cannot pay the sentenced amount.<sup>162</sup>

### **Questions to consider:**

*Can hate crime victims present compensation claims through the criminal proceedings, and how (as the injured party, through private, accessory or subsidiary prosecution, referral to civil proceedings)? Is there a mechanism enabling full and effective compensation, by the perpetrator or the state, for the suffered harm in place in criminal or civil proceedings or otherwise? Does the calculation of compensation take into account the harm to the dignity inherent in all hate crime victims (including physical and mental suffering and emotional harm), and the individual impact?*

## **6.7. The bias motivation and the impact of a hate crime are explicitly addressed in the sentencing judgement. In the case of plea agreements or out-of-court settlements, the bias element and impact of hate crime are reflected on, and the victim is consulted on this course of action.**

The court ruling can provide a powerful statement about the nature of the committed crime. At the same time, hate crime victims often underline the need to have the reasons for the attack reflected in the judgment. This is why it is very important that the ruling explicitly address the bias motivation behind the perpetrator's actions. In cases when a process of plea bargaining is employed, the authorities should make sure that the bias element of the crime is not dropped and that it remains reflected in the sanction.<sup>163</sup>

The judgment should also clarify when aggravated sentencing has been applied directly because of a bias motivation. It should explain what evidence led the court to conclude that a hate crime was committed and should explicitly address the impact of the crime

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<sup>161</sup> *Ibid.*, p. 148.

<sup>162</sup> *Ibid.*, p. 149.

<sup>163</sup> *Ibid.*, p. 145.

on the victim.<sup>164</sup> Details presenting the impact on the victim are important to substantiate the decision on compensation.

#### **Questions to consider:**

*Are the bias motivation and impact of a hate crime explicitly addressed in the sentencing judgment? Does the judgment explain what evidence led the court to conclude that a hate crime occurred and explicitly address the impact of the crime on the victim, as well as how that impacted the sentencing decision? When issuing public statements or communicating with the media, do relevant court officials explain the impact of the case and specifically address the motivation of the perpetrators? Do policies in place on plea bargaining or out-of-court settlement require the inclusion of the bias element and the impact on the victim, as well as consultation with the victim?*

### **6.8. Restorative justice measures require consent of the hate crime victim. Restorative justice officers, facilitators and mediators are trained on hate crime victimization.**

Restorative justice is an approach that focuses less on punishing the offender and, instead, emphasizes the need to repair the harm caused by the crime.<sup>165</sup> In the OSCE region, restorative justice solutions are still rare, but they continue to develop. They should not be used in cases of serious and violent offences, but can be used for less serious infractions or in parallel to regular criminal proceedings. The outcome of the restorative justice procedure is usually an agreement between the victim and perpetrator. This can include restitution, community service or any other penalties designed to repair the harm caused to the victim or their community. It is important that the process is voluntary and that the victim can withdraw at any point. In hate crime cases, the basic facts acknowledged by both parties should include the bias motivation of the committed crime.<sup>166</sup>

The possible advantage of restorative justice solutions lies in the idea of putting the victim at the centre of the process. Such a solution can empower the victim, make their voice heard, explore the underlying bias and the harm suffered, and involve the entire community. This may lead to the improvement of the overall emotional well-being of some hate crime victims. At the same time, restorative justice solutions must be used

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<sup>164</sup> *Ibid.*, p. 13.

<sup>165</sup> *Ibid.*, p. 154.

<sup>166</sup> *Ibid.*, p. 154-155.

with caution and are best led by professionals trained in hate crime and its impact on victims.<sup>167</sup>

**Questions to consider:**

*Is there a restorative justice process available? Do policies on restorative justice (including mediation) require the informed consent of the victim and ensure that the process and agreement address the bias motive? Are restorative justice officers trained on hate crimes and the needs of hate crime victims? How are affected communities and civil society groups involved in the development of restorative justice programmes?*

**6.9. An effective and independent judicial or extra-judicial mechanism is available to hate crime victims to review their complaints about breaches of rights by the criminal justice system bodies.**

In the case there is a breach of victims' rights by a criminal justice body, victims should have effective means to file complaints and to have them reviewed by independent judicial or extra-judicial bodies. The reasons for filing such a complaint may concern treatment by the police, deficiencies in the needs assessment process, problems with referrals or provided services, failure to grant a hate crime victim status or any other procedural right.<sup>168</sup>

The complaints by the victims should be filed with an independent body, either inside or outside of the criminal justice system. If the complaint is about a decision taken by the authorities, it should never be filed with the body that issued the contested decision. Following the complaint, the shortcomings in justice delivery should be examined and properly addressed.<sup>169</sup>

**Questions to consider:**

*Are there complaint mechanisms in place that enable the victim to challenge all decisions affecting the victim's rights (e.g., their treatment by the police, deficiencies in the needs assessment, problems with their referral and the services provided, failure to grant them hate crime victim status or any other procedural rights)? Are such complaints dealt with by an independent body?*

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<sup>167</sup> *Ibid.*, p. 155-156.

<sup>168</sup> *Ibid.*, p. 109, 129, 140.

<sup>169</sup> *Ibid.*, p. 140.

# V. How can ODIHR facilitate the diagnostic process?

Government officials can request ODIHR's assistance in facilitating a diagnostic assessment. ODIHR's facilitation takes the form of a diagnostic workshop based on this Tool, resulting in a report with recommended action points – as explained in section IV. The workshop should be preceded by a self-assessment using the online Diagnostic Digital Tool, the results of which will be used in the facilitated workshop. Interested official(s) or an OSCE participating State's government entity(-ies) can request ODIHR's assistance by contacting the Tolerance and Non-Discrimination Department using any available channel. No formal requirements are prescribed for such request.

Carrying out the assessment requires specific preparation – substantive, organizational and logistical – and the requesting entity will have an essential role in this process. Those national partner(s) requesting ODIHR's facilitation should ensure they have the knowledge, expertise and resources necessary to effectively go through this process. Partnering with another government entity or CSO to request ODIHR's assistance to ensure sufficient expertise and resources are available is possible. Detailed roles and responsibilities of the partners will be agreed during the initial scoping discussion.

From the time of request, carrying out of the full assessment and production of the Report should take no longer than six months. In most cases, depending on the capacity of ODIHR, the national partner and other circumstances, the required time will be shorter. In general, the main steps in the diagnostic exercise and the roles of ODIHR and partner(s) include:

- Request and initial discussion between the requesting entity and ODIHR about:
  - The state of hate crime victim support;
  - Other essential national partners to be involved;
  - Preferred prioritization of areas/building blocks the assessment should focus on;
  - The capacity of all involved entities; and
  - A detailed implementation plan and timeline.
- ODIHR conducts a preliminary research and request input from the national partner for this fact-finding exercise.
- The national partner(s) identify and approach other entities and individuals with a role in hate crime victim support.

- An online meeting involving all the relevant actors can be organized to present the implementation plan and brainstorm the process.
- ODIHR and the national partner(s) agree on the date, duration, venue, participants and agenda for the diagnostic workshop.
- The conduct of a priority assessment exercise using the online Diagnostic Digital Tool. The envisaged participants in the workshop will be asked to fill out the Tool questions individually (this requires at least a month from the launch of the online Diagnostic Digital Tool to the preparation of the survey report).
- The facilitated workshop is carried out in the country being assessed.
- ODIHR drafts the Workshop Report with recommended action points, finalizes it jointly with the national partner, and sends it to the national partner for dissemination to the participants and other actors, as relevant.

CSOs, international organizations and/or their field missions can also approach ODIHR to discuss how an assessment using this Tool could be carried out in a specific country. ODIHR will explore possibilities and propose steps towards such an assessment, including by involving government officials. This scenario does not constitute a request for assistance within the meaning of the OSCE commitments.

# Annex I:

## EStAR Expert Network

### Members

| <b>Country</b>                | <b>Government members</b>   | <b>CSO members</b>                                 |
|-------------------------------|---|--|
| <b>Albania</b>                | Directorate of Counter Terrorism, Albanian State Police                                     | Institute for Activism and Social Change           |
| <b>Armenia</b>                | Department for Crimes Against Public Security of the Prosecutor General's Office of Armenia | Pink Armenia                                       |
| <b>Austria</b>                | Federal Agency for State Protection and Counter Terrorism, Federal Ministry of Interior     | ZARA - Civil courage and anti-racism work          |
| <b>Belgium</b>                | Belgian Equality Body Unia  | Collective against Islamophobia in Belgium (CCIB)  |
| <b>Bosnia and Herzegovina</b> | Cantonal Court Bihać  | Association for Democratic Initiatives (ADI)       |
| <b>Bulgaria</b>               | Prosecutor General's Office   | Bulgarian Helsinki Committee                       |
| <b>Croatia</b>                | Service for Victim and Witness Support, Ministry of Justice                                 | Victim and Witness Service Support Croatia (VWSSC) |
| <b>Cyprus</b>                 | Office for Combating Discrimination, Police   | Migrant Information Centre – MiHub                 |
| <b>Czech Republic</b>         | Criminal Law Unit, Ministry of Justice  | In IUSTITIA  |
| <b>Denmark</b>                | National Centre of Crime Prevention, National Police  |  |
| <b>Estonia</b>                | Department of Victim Support and Prevention Services, National Social Insurance Board       | Estonian Human Rights Centre                       |
| <b>Finland</b>                | Ministry of Justice   |  |

| <b>Country</b>         | <b>Government members</b>  | <b>CSO members</b>   |
|------------------------|--|--|
| <b>France</b>          | Expertise France   | The International League Against Racism and Anti-Semitism (LICRA)            |
| <b>Georgia</b>         | Office of the Public Defender  | Tolerance and Diversity Institute  |
| <b>Germany</b>         | Support for Victims of Crime Unit, Federal Ministry of Justice and Consumer Protection | ZEBRA – Centre for victims of right-wing attacks                             |
| <b>Greece</b>          | Department on Combating Racism, Hellenic Police  | Racist Violence Recording Network (RVRN)                                     |
| <b>Hungary</b>         |  | Háttér Society   |
| <b>Iceland</b>         | Bjarkarhlid – Center for violence survivors  | Throskahjalp – National Association of People with Intellectual Disabilities |
| <b>Ireland</b>         | Community Safety Policy, Ministry of Justice   | European Centre for the Study of Hate, University of Limerick                |
| <b>Italy</b>           | Gender Violence and Vulnerable Victims Unit, Ministry of Interior                      | COSPE – Cooperation for the Development of Emerging Countries                |
| <b>Latvia</b>          | Ministry of Justice  | Latvian Centre for Human Rights  |
| <b>Lithuania</b>       | Public Security and Migration Policy Department, Ministry of Interior                  | Lithuanian Gay League (LGL)  |
| <b>Malta</b>           | Victims Support Unit, National Security and Law Enforcement, Ministry for Home Affairs |  |
| <b>Moldova</b>         | Office of the Prosecutor General of the Republic of Moldova                            | The Information Centre “GENDERDOC-M”   |
| <b>Montenegro</b>      | Division for International Judicial Cooperation, Ministry of Justice                   | LGBT Forum Progress  |
| <b>Netherlands</b>     | Ministry of Justice and Security   | Victim Support Netherlands   |
| <b>North Macedonia</b> | Basic Public Prosecution Office Skopje   | Helsinki Committee for Human Rights  |
| <b>Norway</b>          | Oslo District Police   | Romano Kher  |
| <b>Poland</b>          |  | Anti-discrimination Education Society  |

| <b>Country</b>   | <b>Government members</b>   | <b>CSO members</b>                                  |
|--|---|---|
| <b>Portugal</b>  | Department of European Affairs<br>Directorate General of Justice<br>Policy      | Portuguese Association for<br>Victim Support (APAV) |
| <b>Romania</b>   |   | Center for Legal Resources                          |
| <b>Serbia</b>  | Office of the Public Prosecutor   | Da se Zna!  |
| <b>Slovakia</b>  | Human Rights Division, Ministry<br>of Justice                                   | The Islamic Foundation in<br>Slovakia               |
| <b>Slovenia</b>  | European Affairs and<br>International Cooperation Unit,<br>Ministry of Justice  | Union of Roma in Slovenia                           |
| <b>Spain</b>   | National Office Against Hate<br>Crimes, Ministry of Interior                    | Movement Against Intolerance<br>(MCI)               |
| <b>Sweden</b>  | Swedish Crime Victim Authority  | Victim Support Sweden                               |
| <b>Switzerland</b>   | Federal Commission against<br>Racism  | Network for Victims of Racism                       |
| <b>Turkey</b>  | Human Rights Department,<br>Ministry of Justice                                 |   |
| <b>Ukraine</b>   | Human Rights Directorate,<br>National Police                                    | Social Action Centre                                |
| <b>United<br/>Kingdom</b>  | National Online Hate Crime Hub  | Galop   |
| <b>International<br/>organizations<br/>and other<br/>multilateral<br/>institutions</b> | CEC – Conference of European Churches   |   |
|  | CEJI – A Jewish Contribution to an Inclusive Europe                             |   |
|  | DG JUST – Directorate-General for Justice and Consumers,<br>European Commission |   |
|  | ENAR/Dokustelle – European Network against Racism                               |   |
|  | ENIL –European Network for Independent Living                                   |   |
|  | ERRC – European Roma Rights Centre  |   |
|  | FRA – EU Agency for Fundamental Rights  |   |
|  | VSE – Victim Support Europe   |   |

\* Membership as of November 2021



Annex II:

Hate crime victim support  
system diagnostic matrix

## FOUNDATIONAL BLOCK: Critical features of a hate crime victim support system

### HATE CRIME VICTIM SUPPORT SYSTEM DIAGNOSTIC MATRIX

| Critical features of a hate crime victim support system | Overall assessment:  |
|---|--|
|   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |

| Essential elements   | Diagnostic<br><i>Answer here:<br/>how does it work;<br/>what doesn't work, why.</i> | Assessment<br><i>Tick one: green-yellow-red.</i>   | Solution<br><i>Answer here: If red or yellow, describe here what needs to happen to make things better.</i> |
|--|---|--|---|
| 1. The law establishes the rights of victims of crime (in general).  |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |
| 2. The state organizes/co-ordinates a system to provide support to victims of crime (general victim support services). |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |
| 3. Police can and do record (potential) hate crimes as a separate or specifically flagged category of crimes.          |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |

# BUILDING BLOCK 1: Legal and policy frameworks, hate crime crimes victims' status

## HATE CRIME VICTIM SUPPORT SYSTEM DIAGNOSTIC MATRIX

|   |  |   |  |
|---|--|---|--|
| 1. Legal and policy frameworks, hate crime crimes victims' status |  | <b>Overall assessment:</b>  |  |
|   |  | <input type="checkbox"/> Inexistent/Ineffective                       |  |
|   |  | <input type="checkbox"/> Somewhat effective/Requires some improvement |  |
|   |  | <input type="checkbox"/> Effective                                    |  |

| Essential elements  | Diagnostic<br><i>Answer here: how does it work; what doesn't work, why.</i> | Assessment<br><i>Tick one: green-yellow-red.</i>   | Solution<br><i>Answer here: If red or yellow, describe here what needs to happen to make things better.</i> |
|---|---|--|---|
| 1. The law and/or policy recognizes hate crime victims as a distinct and particularly vulnerable category of victims with specific needs  |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |
| 2. Hate crime victims are defined in law and/or policy and can be practically recognized (through a set of criteria or a mechanism triggered when a hate crime is recorded) as such by the state bodies.  |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |
| 3. Hate crime victims can claim protection and support as a consequence of the harm they have suffered, and irrespective of whether they have reported the crime to criminal justice system bodies. This includes the entitlement to provision of relevant services free of charge. |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |
| 4. Hate crime victims can participate in criminal proceedings in order to seek compensation and present impact statements. The authorities recognize their status as hate crime victims/injured parties.  |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |

## BUILDING BLOCK 2: Hate crime victim support system and structures

### HATE CRIME VICTIM SUPPORT SYSTEM DIAGNOSTIC MATRIX

#### 2. Hate crime victim support system and structures

#### Overall assessment:

- Inexistent/Ineffective
- Somewhat effective/Requires some improvement
- Effective

| Essential elements   | Diagnostic<br><i>Answer here:<br/>how does it work;<br/>what doesn't work, why.</i> | Assessment<br><i>Tick one: green-yellow-red.</i>   | Solution<br><i>Answer here: If red or yellow, describe here what needs to happen to make things better.</i> |
|--|---|--|---|
| 1. Organizations providing specialist support specifically to victims of hate crime exist.   |   | <input type="checkbox"/> Inexistent/ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |
| 2. The state continuously maps available providers and takes action to fill any gaps, in order to ensure the full scope of services is available to hate crime victims from all groups and all across the country. |   | <input type="checkbox"/> Inexistent/ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |
| 3. State bodies, and especially the police, know such specialist support providers, and keep updated lists with contacts and an overview of services offered.  |   | <input type="checkbox"/> Inexistent/ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |
| 4. Organizations providing specialist support to hate crime victims (can) receive funding from the state, in addition to funding from other sources, ensuring their uninterrupted and sustainable programming.     |   | <input type="checkbox"/> Inexistent/ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |

| <b>Essential elements</b>  | <b>Diagnostic</b><br><i>Answer here: how does it work; what doesn't work, why.</i> | <b>Assessment</b><br><i>Tick one: green-yellow-red.</i>  | <b>Solution</b><br><i>Answer here: if red or yellow, describe here what needs to happen to make things better.</i> |
|--|--|--|--|
| 5. State bodies (organizers of the victim support system and/or criminal justice system bodies) and specialist providers systematically collaborate to facilitate the provision of specialist support services of high quality to hate crime victims. Collaboration is formalized, for example, in written agreements. |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |

## BUILDING BLOCK 3: Specialist support services for hate crime victims

### HATE CRIME VICTIM SUPPORT SYSTEM DIAGNOSTIC MATRIX

|   |  |
|---|--|
| <b>Overall assessment:</b>  |  |
| <input type="checkbox"/> Inexistent/Ineffective                       |  |
| <input type="checkbox"/> Somewhat effective/Requires some improvement |  |
| <input type="checkbox"/> Effective                                    |  |

| <b>Essential elements</b>  | <b>Diagnostic</b><br><i>Answer here: how does it work; what doesn't work, why.</i> | <b>Assessment</b><br><i>Tick one: green-yellow-red.</i>  | <b>Solution</b><br><i>Answer here: If red or yellow, describe here what needs to happen to make things better.</i> |
|--|--|--|--|
| 1. Hate crime victims can – by law or policy – receive the highest standard of services available to other categories of particularly vulnerable victims.  |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 2. Services typically required by hate crime victims are defined in a document and connected with the needs of such victims.   |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 3. At a minimum, the following services can be claimed free of charge once a victim is classified as a hate crime victim: protection (including shelter), urgent medical assistance, psychosocial counselling, legal consultation and representation, and interpretation and translation services. |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |

| <b>Essential elements</b>  | <b>Diagnostic</b><br><i>Answer here: how does it work; what doesn't work, why.</i> | <b>Assessment</b><br><i>Tick one: green-yellow-red.</i>  | <b>Solution</b><br><i>Answer here: if red or yellow, describe here what needs to happen to make things better.</i> |
|--|--|--|--|
| 4. Professional quality standards are established and the quality of delivery of the specialist services is controlled – by the state and/or the providers themselves – on the basis of defined quality standards. |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 5. Those delivering the specialist support to hate crime victims have received appropriate, targeted training.   |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |

## BUILDING BLOCK 4: Assessing hate crime victims' needs and referrals

### HATE CRIME VICTIM SUPPORT SYSTEM DIAGNOSTIC MATRIX

#### 4. Assessing hate crime victims' needs and referrals

#### Overall assessment:

Inexistent/Ineffective  
 Somewhat effective/Requires some improvement  
 Effective

| Essential elements  | Diagnostic<br><i>Answer here:<br/>how does it work;<br/>what doesn't work, why.</i> | Assessment<br><i>Tick one: green-yellow-red.</i>   | Solution<br><i>Answer here: If red or yellow, describe here what needs to happen to make things better.</i> |
|---|---|--|---|
| 1. The vulnerabilities/risks and needs of each hate crime victim are assessed individually, in a process called the Initial Needs Assessment (INA), by an entity of first contact (police and/or CSO) in order to identify appropriate support.                     |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |
| 2. The needs are assessed continuously or repeatedly throughout the lifecycle of a hate crime, and corresponding structures for needs assessment and support (such as an appointed official in charge) are available at all stages of the criminal justice process. |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |
| 3. Those conducting an INA have received appropriate training and methodological guidance.  |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |
| 4. The INA form and content are based on an established methodology to ensure consistency and transferability of INA outcomes across the system. The state (criminal justice system) and CSOs collaborate to achieve such consistency.                              |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |

| <b>Essential elements</b>   | <b>Diagnostic</b><br><i>Answer here: how does it work; what doesn't work, why.</i> | <b>Assessment</b><br><i>Tick one: green-yellow-red.</i>  | <b>Solution</b><br><i>Answer here: if red or yellow, describe here what needs to happen to make things better.</i> |
|---|--|--|--|
| 5. An INA is based on the consent of the hate crime victim and conducted with the hate crime victim. It uses such channels of communication with the victim that can both lead to an outcome and also protect the victim from re-victimization. If necessary for ensuring the victim's immediate safety, an INA can be carried out without the victim's consent, on the basis of already available information. |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 6. INA outcomes are effectively translated into protection measures implemented throughout the criminal justice process. INA outcomes are treated as confidential and protected from misuse; they are, in particular protected, from the defendant.   |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 7. As follow-up to an INA, the hate crime victim is promptly either directly assisted or referred to a support provider. To that end, INA outcomes, with the victim's consent, can be shared between those conducting an INA and those providing support. Throughout the INA and referral process, the hate crime victim's preferences (including not seeking support) are respected.                           |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |

## BUILDING BLOCK 5: Sensitive and respectful treatment of hate crime victims

### HATE CRIME VICTIM SUPPORT SYSTEM DIAGNOSTIC MATRIX

|  |  |                            |  |
|--|--|----------------------------|--|
| <b>5. Sensitive and respectful treatment of hate crime victims</b> |  | <b>Overall assessment:</b> | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |
|--|--|----------------------------|--|

| <b>Essential elements</b>  | <b>Diagnostic</b><br><i>Answer here: how does it work; what doesn't work, why.</i> | <b>Assessment</b><br><i>Tick one: green-yellow-red.</i>  | <b>Solution</b><br><i>Answer here: If red or yellow, describe here what needs to happen to make things better.</i> |
|--|--|--|--|
| 1. The authorities demonstrate commitment to supporting hate crime victims – publicly through statements, examples and written communication, and also within hierarchies. Hate crime victims' specifics, rights, needs are published in a document available to all police officers and criminal justice officials. |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 2. Policymaking involves consultation with community-based, victims' and CSOs as equal partners.   |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 3. Training and guidance on sensitive and respectful treatment, in particular interviewing of hate crime victims, exist and are available to police officers and criminal justice officials.   |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 4. Specialist "victim" officers (with special training, including on hate crime victimization) are immediately available or on call.   |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |

| <b>Essential elements</b>  | <b>Diagnostic</b><br><i>Answer here: how does it work; what doesn't work, why.</i> | <b>Assessment</b><br><i>Tick one: green-yellow-red.</i>  | <b>Solution</b><br><i>Answer here: If red or yellow, describe here what needs to happen to make things better.</i> |
|--|--|--|--|
| 5. Measures and checks are in place for the victim's safety and the prevention of re-victimization, in particular: measures in place to avoid over-interviewing and exposure to the defendant; that the victim can be accompanied by a person of choice at any procedural step or interview; and that premises where interviews with hate crime victims are conducted are accessible and friendly. |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 6. Information about next steps and rights is provided early, comprehensively and in an accessible, non-formalistic manner. Interpreters and translated materials are readily available for relevant languages (not only official languages).  |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 7. Victims' feedback about the way they were treated in the criminal justice system is monitored and the data collected and used to improve victims' interactions with the police, prosecutors and courts.   |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 8. Independent oversight and complaint mechanisms are in place and available to the victims and can deal with complaints about secondary victimization and non-sensitive and non-respectful treatment. Investigation of police misconduct is also independent.   |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |

## BUILDING BLOCK 6: Hate crime victims in criminal proceedings and the justice system

### HATE CRIME VICTIM SUPPORT SYSTEM DIAGNOSTIC MATRIX

| 6. Hate crime victims in criminal proceedings and the justice system  |   | Overall assessment:  |   |
|---|---|--|---|
|   |   | <input type="checkbox"/> Inexistent/Ineffective  | <input type="checkbox"/> Somewhat effective/Requires some improvement                                       |
|   |   | <input type="checkbox"/> Somewhat effective/Requires some improvement  | <input type="checkbox"/> Effective  |
| Essential elements  | Diagnostic<br><i>Answer here: how does it work; what doesn't work, why.</i> | Assessment<br><i>Tick one: green-yellow-red.</i>   | Solution<br><i>Answer here: if red or yellow, describe here what needs to happen to make things better.</i> |
| 1. Systems and mechanisms to support and protect the victim (including conducting an INA and using its outcomes for protection) are integrated into all stages of the criminal proceedings.   |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |
| 2. Investigators and prosecutors grant the hate crime victim access to the case file to the extent necessary for the exercise of their rights.  |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |
| 3. Investigators and prosecutors inform the hate crime victim of key developments in the case in a timely manner, and consult them about key investigation and prosecution decisions that impact their position.  |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |
| 4. First responders, investigators and prosecutors acknowledge, record and pursue in their actions and decisions the bias motivation of the crime, the victim's perception of the crime as a hate crime and the impact of the crime on the victim. An effective mechanism is in place to challenge the decision not to investigate or not to prosecute the crime as a hate crime. |   | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |   |

| <b>Essential elements</b>   | <b>Diagnostic</b><br><i>Answer here: how does it work; what doesn't work, why.</i> | <b>Assessment</b><br><i>Tick one: green-yellow-red.</i>  | <b>Solution</b><br><i>Answer here: if red or yellow, describe here what needs to happen to make things better.</i> |
|---|--|--|--|
| 5. The hate crime victim can present the impact of the crime in court, and this is taken into account in sentencing. Cross-examination of impact statements by the defence is not allowed.  |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 6. The hate crime victim can claim compensation through the criminal proceedings. Compensation is effectively provided by the perpetrator or the state for suffered harm, which includes the added harm from hate crime victimization (both inherent in all hate crime victims and individual). |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 7. The bias motivation and the impact of a hate crime are explicitly addressed in the sentencing judgement. In the case of plea agreements or out-of-court settlements, the bias element and impact of hate crime are reflected on, and the victim is consulted on this course of action.       |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 8. Restorative justice measures require consent of the hate crime victim. Restorative justice officers, facilitators and mediators are trained on hate crime victimization.   |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |
| 9. An effective and independent judicial or extra-judicial mechanism is available to hate crime victims to review their complaints about breaches of rights by the criminal justice system bodies.  |  | <input type="checkbox"/> Inexistent/Ineffective<br><input type="checkbox"/> Somewhat effective/Requires some improvement<br><input type="checkbox"/> Effective |  |

