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# Model Guidance on Individual Needs Assessments of Hate Crime Victims



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# Model Guidance on Individual Needs Assessments of Hate Crime Victims



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# Overview

Hate crimes pose a threat to the security of individuals, and, if unaddressed, can give rise to wider scale conflict and violence. Recognizing this, participating States of the Organization for Security and Co-operation in Europe (OSCE) have committed to put in place a range of measures to address hate crimes. They have agreed to protect hate crime victims, encourage reporting, provide hate crime victims with effective access to justice and assistance, as well as to support organizations assisting victims and to build the capacity of law enforcement to interact with victims of hate crimes.<sup>1</sup> European Union (EU) Member States have also committed to EU standards on countering racism and xenophobia and protecting victims' rights.<sup>2</sup>

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated to, "assist participating States upon their request in implementing their commitments."<sup>3</sup> In pursuit of this objective, ODIHR has produced a series of resources and tools to assist and support participating States. This includes *Hate Crime Victims in the Criminal Justice System: A Practical Guide*<sup>4</sup> and, within the framework of the Enhancing Stakeholder Awareness and Resources for Hate Crime Victim Support (EStAR) project, implemented in co-operation with the Association of Counseling Centers for Victims of Right-wing, Racist and Anti-Semitic Violence in Germany (VBRG), a report on *Understanding the Needs of Hate Crime Victims*.<sup>5</sup> The EStAR project addresses how best to support hate crime victims through the development of practical tools for law enforcement, criminal justice agencies and civil society organizations (CSOs).

This model guidance was developed within the framework of EStAR and provides information on what an Individual Needs Assessment (INA) entails and how to set up a system in which INAs are both effective in achieving their goals, and sensitive and

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1 See in particular: OSCE Ministerial Council, Decision No. 9/09, "Combating Hate Crimes", Athens, 2 December 2009; and OSCE Ministerial Council, Decision No. 13/06, "Combating Intolerance and Discrimination and Promoting Mutual Respect and Understanding", Brussels, 5 December 2006.

2 Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law; 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 OSCE Ministerial Council, Decision 13/06, *op. cit.*

4 *Hate Crime Victims in the Criminal Justice System* (Warsaw: OSCE/ODIHR, 2020).

5 *Understanding the Needs of Hate Crime Victims* (Warsaw: OSCE/ODIHR, 2020).

respectful to the specific needs of hate crime victims. It serves as a tool to guide relevant state institutions, victim support services, and CSOs working in the field of hate crime victim support in designing, adapting and implementing an effective INA process. The principles outlined in this model guidance serve as a basic blueprint that can be adapted, built upon and adjusted to suit the specifics of different national contexts.

The model guidance draws on the abovementioned publications and other ODIHR research and training programmes on hate crime, as well as data collected by CSOs and other international organizations. To ensure a holistic approach to supporting victims of hate crime, it should be read together with other EStAR publications such as *The State of Support Structures and Specialist Services for Hate Crime Victims Baseline Report*,<sup>6</sup> which explains the current status of support services in the project's target countries. Countries that are beginning to develop and implement policies and practices in relation to hate crime victim support can refer to EStAR's *Model Quality Standards for Hate Crime Victim Support and other resources being created such as the Diagnostic tool to Assess Shortcomings*, the *Model Guidance on Sensitive and Respectful Treatment*.<sup>7</sup> Policy- and decision-makers responsible for designing victim support systems and structures as well as victim support practitioners are encouraged to proactively use this model guidance, along with other resources offered by EStAR, to refine and shape their policies, approaches and structures for hate crime victim support.

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

7 Links to these documents can be found on EStAR project website.

# Introduction

Anyone can be a victim of hate crime. Hate crimes are motivated by prejudice and hostility against a person's actual or perceived age, disability, gender, gender identity, sexual orientation, ethnicity, religion or belief, race or social status. An individual needs assessment (INA) is conducted to better understand the needs of a hate crime victim.<sup>8</sup> It determines appropriate action, identifies protection needs during criminal proceedings and ensures effective referrals to support providers. The information gathered during an INA enables interviewers to assess an individual's needs and tailor their offer of support accordingly.

The importance of understanding and responding to the individual needs of victims cannot be overstated. Victims of hate crime have specific needs and do not experience victimization in the same way as victims of ordinary crimes. A variety of factors play a role, such as victims' personal identity, their coping strategies and strengths, previous interaction with the criminal justice system, networks of support available to them, and the experience they have had with first responders.<sup>9</sup> "One-size-fits-all" policies and practices therefore often fail to provide the critical services that victims need in order to recover from a crime. An INA enables an individualized response and constitutes the first step to guaranteeing the full provision of services based on identified needs, with a view to ensuring victims' rights.

Law enforcement authorities coming into first contact with a victim conduct an initial INA focusing on their immediate safety and security needs. General and specialized victim support service providers, specialized victim support units within the police, or specialized CSO service providers can conduct both the initial INA and a subsequent in-depth assessment, provided those carrying out the assessments are adequately trained and support and referral mechanisms are in place. Together, these assessments provide a comprehensive picture of a victim's needs.

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8 This publication refers to people affected by a crime as "victims" in line with terminology of the main international documents and legal discourse. The term is used to capture and avoid trivialization of the serious consequences of hate crimes. However, the term "victim" should be used with caution. In many languages the term has negative connotations, and is often associated with weakness. Calling affected individuals "victims" therefore carries the danger of denying their resilience, agency and capacity to overcome the consequences of victimization. That is why many victims will not identify themselves as a "victim", despite being classed as such from a legal standpoint.

9 For a more complete discussion see: *Understanding the Needs of Hate Crime Victims, op. cit.*, note 5.

All victims, including witnesses, who report a crime or otherwise participate in the criminal justice process, as well as those who turn to service providers for support, should have their needs assessed. Given the particularly damaging impact of hate crimes, the needs of hate crime victims must be assessed comprehensively and continuously until the case is concluded in a legal sense or until a victim no longer requires or asks for support.

Following the INA, an interviewer has an understanding of the victim's needs and is able to either address them or can refer victims to other support services better positioned to offer assistance. Special protection measures during criminal procedures can also be triggered as a result of an INA. 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.

Traditionally, the administration of criminal justice was a matter that primarily involved state institutions such as the police, prosecutors, the judiciary and the offender. If the victim played any role at all, it was limited to reporting the crime against them or acting as a witness in support of the state's case. Even in countries where the legal system permits victims to be an independent party to criminal proceedings, they are often side-lined and do not receive the support necessary to allow them to meaningfully participate throughout the criminal justice process.<sup>10</sup> Victims can often experience being unable to participate as a form of secondary victimization.<sup>11</sup> Acknowledging this fact, a concerted effort has been made in recent years to recognize victims as rights holders and active participants in all stages of the criminal justice process.

This guide acknowledges that in many states, specialized victim support service providers or specialized victim support units and/or specialized staff within the police do not exist. As national stakeholders work to improve their victim support structures, alongside their INA processes, it must be stressed that conducting a needs assessment requires adequate training. In states with limited structures and resources, a first step to improve the national system is to initiate this training. It is important to involve experienced practitioners who work with victims of violence and trauma to conceptualize and deliver such training.

It is essential to bear in mind that needs assessments should be conducted based on the ability to follow up or refer to other support. Therefore, interviewers should not ask questions about needs that cannot be met due to lack of necessary follow-up support.

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<sup>10</sup> *Proceedings that do justice: Justice for victims of violent crime Part II* (Luxembourg: Publications Office of the European Union, European Union Agency for Fundamental Rights, 2019), p. 21–27.

<sup>11</sup> *Ibid.*

In states with limited resources, state agencies carrying out INAs should be aware of the protocol for referring victims to appropriate CSOs or independent medical or psycho-social support providers.

EU Member States are under a specific obligation to provide victims with relevant support services. The Victims' Rights Directive establishes minimum standards for states on the rights, support and protection of victims of crime.<sup>12</sup> The Directive also obliges states to ensure that an INA is conducted for all victims of crime to determine whether they are at risk of secondary and repeat victimization, of intimidation and of retaliation, and what special protection measures they may require.<sup>13</sup>

INAs are not new; indeed, victim support services have been conducting such assessments, or "intakes", for many years. What is new, however, is the requirement that law enforcement agencies, prosecutors, judicial authorities, and others, engage in this process of identifying and responding to the specific needs of a victim. If carried out effectively in a victim-centred manner, an INA has the potential to play a key role in supporting victims' in having access to, being informed of and in exercising their rights and assisting in their recovery. An INA is the precondition for the provision of quality and comprehensive support.

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12 Directive 2012/29/EU, *op. cit.*, note 2.

13 According to Article 22 of the Victims Rights Directive, the purpose of an INA is to identify special protection measures they may require during the course of criminal proceedings, with a focus on those actions listed in Articles 23 and 24, such as adopting measures to ensure the victim is treated in a sensitive manner during investigations and taking specific actions during trial to avoid re-traumatising the victim. The INAs envisaged in this publication go beyond this, requiring the assessment of a much broader spectrum of protection and support needs such as the need for referral to psychological support or social services.

### **The essential elements to an effective INA process include:**

- ▶ An INA should be conducted upon first contact with a hate crime victim. It is important that an INA be carried out at the earliest opportunity to identify the risk of secondary and repeat victimization, of intimidation and of retaliation. The first point of contact could be the authorities or a CSO service provider depending on the specifics of a case.
- ▶ Victims have the right to understand and be understood from the first point of contact.<sup>14</sup> Individual needs cannot be identified without supporting victims to communicate those needs. This means victims have the right to receive information in an accessible and understandable language. Authorities are, therefore, obliged to ensure that interpreters, hearing devices or other specialist disability support are made available to victims. All communication should be tailored to the victim's age, maturity, intellectual and emotional capacity, literacy capacity and any mental or physical disability should be taken into account.<sup>15</sup>
- ▶ An INA should be continually updated. The needs of a victim do not remain static. The form of assistance needed right after the incident, during pre-trial investigations and during a trial may change. Assessments must be updated throughout the process to ensure a victim is receiving the necessary support that is tailored to their actual needs. Communication channels must be put in place to allow authorities in law enforcement and the criminal justice system, victim support services, and other CSO service providers to work together and, with the consent of the victim, communicate information relevant to protection needs and corresponding special protection measures.

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14 Directive 2012/29/EU, *op. cit.*, note 2, Recital 34.

15 *Ibid.*, Recital 21.

- ▶ An effective referral mechanism is necessary to ensure that victims are directed to support services, according to their identified needs. It is vital that relevant actors know what special support services are available, are sure of the quality of their services and how they are accessed. Interviewers must be cautious about asking questions about needs that cannot be met due to lack of adequate service providers. Information about available services should be provided to victims in a format that they can understand, allowing them to make informed decisions about what support they wish to access. Developed and institutionalized relationships between CSO specialist support providers and state authorities are critical to ensure that victims gain access to specialized services easily and without delay.
- ▶ The victim's preferences must be considered, as much as possible, and their privacy and the right to the protection of personal data must be respected. Systems should be put in place to ensure the wishes of the victim are taken into consideration at all stages of the needs assessment, including whether they want to benefit from special protection measures or receive other types of services or not. When INA outcomes are shared between relevant actors, the confidentiality of the victim's data must be strictly guaranteed and be conditioned on their explicit consent or applicable legal obligations.
- ▶ By focusing on an individual's needs, an INA can also uncover the impact of hate crimes on the wider community. By properly identifying needs of the affected individual and community, an INA can help design appropriate strategies for engagement by law enforcement to ensure communities' safety.

# Recognizing, Understanding and Responding to the Specific Needs of Hate Crime Victims

The direct impact of a hate crime can differ from victim to victim depending on a number of factors, including the type of incident, an individual's previous experiences, the existence or absence of social support networks, and an individual's economic, emotional and psychological resilience. A victim's age, ethnic background, gender, gender identity, sexuality, religion or belief, and disability can also affect the impact of a hate crime.<sup>16</sup>

In addition to the physical harm and psychological trauma experienced after an attack, victims, their close relations, family members and members of the wider community can often suffer socio-emotional and psychological distress. Compared to victims of non-bias motivated crimes, victims of hate crime are far more likely to suffer depression and withdrawal, vulnerability, anxiety and nervousness; an extreme sense of isolation; longer lasting fear; protracted psychosomatic symptoms; significant problems with their job or schoolwork; as well as major problems with family members or friends. As hate crimes may also target property, dealing with any physical damage may prolong and compound the feelings of emotional distress already provoked by the incident.

Individuals targeted because of a perpetrator's perception of their actual or perceived identity and characteristics fear that this can happen again at any time. The fear of repeat victimization is very common among hate crime victims. Hate crime sends a message of future victimization, not only to the primary victim, but also to others who share the victim's identity and characteristics. The community that shares the characteristic of the victim, and other groups that experience isolation, aggression and harassment, may experience the attack as if they themselves were the victim and may fear the risk of future attacks. These effects can be magnified where a community

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<sup>16</sup> *Understanding the Needs of Hate Crime Victims, op. cit.*, note 5, p. 11.

has historically been marginalized and subjected to prejudice, discrimination or even persecution.<sup>17</sup> Moreover, hate crimes can produce the feeling of decreased safety and security among people who simply know or heard about the incident, regardless of their affiliation to any particular community group.

The impacts of hate crimes are clearly wide-ranging and, therefore, meeting the complex needs of hate crime victims and all those touched by the hate crime requires the co-operation of all relevant stakeholders, particularly law enforcement agencies, judicial and court services, victim support services, and CSO service providers who each have an important role to play.

Of pivotal importance is the victim's right to understand and be understood. To understand and to be understood is a prerequisite for the victim to be able to express their needs and accept offers of assistance. When providing information, it is critical that communication should be tailored to the individual needs of the victim taking into account, for example, language needs and disabilities.<sup>18</sup> If a victim feels misunderstood this may significantly diminish their trust in the service providers' or authorities' ability to support and protect them.

The following are common types of needs and corresponding interventions:

- **Personal safety and security:** during and immediately after experiencing a hate crime, most victims feel very unsafe, exposed and in danger and may require support from law enforcement agencies in ensuring that their physical safety needs are met.

Victims who fear retaliation by the perpetrator may require specific protection during the investigation phase and during criminal proceedings. Providing this support and protection is the job of law enforcement agencies. Certain types of protection and support measures are often associated with certain categories of victims or crime. For example, in cases of domestic violence competent authorities can grant emergency barring orders, which ban perpetrators from entering the residence of the victim or contacting them for a certain period of time. Restraining or protection orders can also be adopted for a specified period. Where necessary, these can be issued with immediate effect at the initiative of authorities and without the involvement of either the victim or the perpetrator. While such measures are typically associated with protection of victims of domestic violence, the practice of applying these measures for hate crime victims is

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<sup>17</sup> *Ibid.*, p. 13.

<sup>18</sup> Directive 2012/29/EU, *op. cit.*, note 2, Recital 34.

increasing.<sup>19</sup> Most notably, in cases where the perpetrator is close to or known to the victim or where attackers are members of an organized hate group who can continue to terrorize the victim and their family or close relations. It is important to ensure the protection of victims from physical harm immediately after the incident and to continue to provide such protection in line with the identified risks and protection needs.

Hate crime victims who are asylum seekers or migrants with a lack of or irregular residency status of a particular country often fear they will be detained or deported if they come into contact with authorities. These individuals may require specific protection mechanisms. Programmes, such as “Safe in and Safe out” in the Netherlands, allow irregular migrants who have witnessed or been victims of a crime to enter a police station and report the crime with the guarantee that they will not be arrested or detained. Such programs can alleviate fears and encourage reporting. Where irregular migrants are participants in the criminal process, states can consider granting special residence status for the duration of the criminal investigation and trial to ensure that individuals can engage fully with the criminal justice process without fear of deportation and secondary victimization from the authorities.

- **Practical help:** this can include legal advice, medical assistance, property repairs, security arrangements for victims and their close relations, and family support.

Victims of hate crime often need practical support to deal with the consequences and impacts of a hate crime. This may include immediate medical assistance or long-term support addressing evolving needs. For example, some victims may need help to arrange temporary relocation, repair damaged personal aids such as glasses or hearing devices, removal of insulting graffiti, and assistance with obtaining personal status documents. Others may require legal advice, assistance in court or help accessing compensation.<sup>20</sup> Victims may also face very basic material challenges such as a lack of access to a phone or the Internet or inability to secure the cost of travel to the police or support organizations.

- **Emotional or psycho-social support:** victims need to be listened to, heard and understood; their perspectives about the crime’s bias motivation needs to be believed and taken seriously; and the impact of the crime acknowledged.

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19 Services of the Los Angeles LGBT Center – Family Violence Intervention Service include crime victim counselling, individual advocacy, specialized information and referral, and crime victim support in obtaining a Temporary Restraining Order.

20 *Understanding the Needs of Hate Crime Victims*, *op. cit.*, note 5, p. 18.

The need for emotional and psycho-social support is the deepest need of many hate crime victims. Some victims may need specialized and ongoing psycho-social support to help them deal with the impact and consequences of the crime. Overcoming victimization and building resilience can be assisted by facilitating short- and long-term psychological counselling, individual and/or group therapy.<sup>21</sup> For religious believers, spiritual and pastoral support from a trusted individual in their community is often important and beneficial to their recovery process.

- **Confidentiality and trust:** the experience of hate crime victims can shatter trust in society and challenge victims' sense of belonging, therefore, establishing relationships of trust and confidentiality are fundamental to the recovery process.

By establishing relationships and an environment of trust and confidentiality, victims can open up, discuss their experience, seek assistance and decide on how to move forward following the incident. It is particularly important that victims are able to trust investigators, appointed victim support contacts and other representatives of the authorities. Therefore, the authorities must take appropriate measures to protect victims' privacy and personal data, including personal characteristics, such as religion or belief, ethnicity, immigration status, gender identity and sexual orientation. These should not be revealed to third parties or the public without the victim's informed and explicit prior consent.<sup>22</sup>

- **Information and advice:** hate crime victims require information and advice about their rights and expectations when reporting the crime to the police or other authorities and organizations, as well as information about available support services.

Information should be available in a variety of formats for ease of access, e.g., online portals, helplines, social media channels, brochures, leaflets and posters in public places. The information should be accessible to people with disabilities or sensory limitations, and translated into all relevant languages.<sup>23</sup>

Victims are often hesitant to report a hate crime because they fear reprisal that could result from the perpetrator gaining access to victim's address and other personal details provided at the moment of reporting a crime. Therefore, it is crucial for law enforcement representatives to put in place strong mechanisms to protect a victim's personal data and ensure that their right to privacy and data protection are guaranteed.

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21 *Ibid.*, p. 19.

22 *Ibid.*, p. 22.

23 *Ibid.*, p. 24.

- **Navigating the criminal justice system:** victims need help to fully comprehend the criminal justice procedures pertaining to their case. Hate crime victims will need information and advice about their rights and expectations in case they decide to report the crime to the police or other authorities. To the extent possible, victims must be allowed to determine their own level of participation in criminal justice proceedings.

Not all victims of hate crime pursue their need for justice by participating in the criminal justice process. However, for those who do, the response and behaviour of criminal justice agencies has a particularly important role in determining the consequences of the victims' experience of victimization.

For victims to feel empowered and achieve a sense that justice is done and is seen to be done, it is important that they are present and able to participate throughout the criminal justice process, including during the investigation and in court proceedings.<sup>24</sup> However, during proceedings distress can often result from visual contact with the offender and the offender's family and associates. As well as contributing to secondary victimization, the fear of having to confront an offender is a major factor discouraging victims from participating in proceedings.<sup>25</sup> Allowing victims to be accompanied by a person of their choice throughout the process, CSO representatives or victim support services, is a first step to ensuring that a victim understands the process, their role in proceedings and feels secure and supported. Practical measures can also be put in place to minimise contact between the victim and the defendant. These include:

- Avoiding visual contact between victims and offenders by ensuring there are separate entrances and waiting rooms in court buildings;
- Taking measures to ensure that the victim can be heard in the courtroom without being present, for example through the use of appropriate communication technology or separate rooms, if the victim wishes.

- **Respectful, sensitive and dignified treatment:** feelings of violation can be acute among hate crime victims, and it is therefore critical that criminal justice agencies and other service providers behave professionally and respectfully, avoiding re-victimization.

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

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<sup>24</sup> Proceedings that do justice - Justice for victims of violent crime Part II, *op. cit.*, note 10, p.74.

<sup>25</sup> *Ibid.*, p. 92. Article 19 of the Victims Rights Directive recognizes this fact and provides for the right to avoid contact between the victim and offender.

interviewers are provided with comprehensive training. Guidance on the sensitive and respectful treatment of hate crime victims should be developed, distributed and used.

It is important victims of hate crime feel safe when they report hate crimes and when they are being interviewed. Creating an environment conducive to this is essential. For example, police stations should ensure confidentiality when individuals report a crime and avoid utilizing open-inquiry desks that do not ensure privacy. Victim friendly rooms with pleasant interiors and comfortable furniture, without metal bars, should be used to conduct interviews with victims of hate crime. If such premises are not available, alternative arrangements must be made to ensure the privacy and dignity of the victim. This sort of supportive environment is less intimidating than the traditional police interrogation rooms where interviews would ordinarily take place and can help to put the victim at ease.

Where multiple interviews are necessary, to reduce trauma it is beneficial for these interviews to be conducted by the same person, whether a police officer, prosecutor or victim counsellor. If the victim so wishes, they should be able to request that interviews are conducted by a person with whom the victim can more easily identify or feel comfortable. For example, some victims may prefer to be interviewed by someone of the same gender. Where a victim of a hate crime has been attacked because of hostility against their membership of a particular community, for example Jewish or Muslim religious communities, being interviewed by a person from this community may also be beneficial. In the Netherlands a network of LGBTI police officers, “Pink and Blue”, proactively reach out to LGBTI victims offering support.

It is important to increase diversity and representation within law enforcement, criminal justice agencies and victim support structures. Members of under-represented minority groups, including religious or belief minorities, should be actively recruited to work in the police, prosecution, the judiciary and support services and equal opportunities for progression in their careers ensured.<sup>26</sup>

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26 ECRI General Policy Recommendation N° 11 On Combating Racism and Racial Discrimination in Policing, adopted on 29 June 2007.

# Implementing an Effective Individual Needs Assessment Process

The needs of hate crime victims may be complex and require a co-ordinated response of a number of actors to provide the services needed for a full recovery. Practicalities differ across states and organizations with regard to who conducts INAs and how they are undertaken. Nonetheless, there are certain good practices that can be adopted, or adapted and integrated into state systems to maximize the effectiveness and impact of any INA process. Therefore, guidelines on how to conduct INAs to ensure a consistent and systematic approach and application across the entire hate crime victim support system are particularly useful.

## 1. The objectives of an INA

It must be understood that each victim has specific needs and identifying these should be the only purpose for carrying out an INA, both by criminal justice agencies and other service providers. Crimes motivated by multiple biases may exacerbate the impact on a victim. Therefore, an intersectional understanding of the impact of hate crime targeting several intersecting characteristics of an individual and their subsequent needs is critical.

Ensuring that an INA is conducted for every victim of a hate crime further ensures that all relevant actors are able to communicate and respond to the evolving needs of a hate crime victim throughout the life cycle of a case.

The objectives of an INA are to:

- 1) understand the needs of a hate crime victim;
- 2) determine corresponding protection and support interventions;
- 3) identify special protection needs during criminal proceedings; and
- 4) ensure effective referrals.

## **2. When does an INA process begin and who is responsible for conducting it?**

The INA process should begin upon first contact with a hate crime victim.

An INA should be carried out at the earliest opportunity, to identify the risk of secondary and repeat victimization, intimidation and retaliation.<sup>27</sup> It is therefore generally understood that an INA should be conducted at the point of first contact with a victim so that any required support or protection measures can immediately be put in place.

Who initiates the evaluation process will differ depending on the specific circumstances of each case. For example, when a hate crime is reported to the authorities it is usually the police who first come into contact with the victim. Alternatively, a hate crime could be reported to a prosecutor, the ombudsperson, a specialized victim support organization, a grassroots community organization, or come to the attention of authorities as a result of investigations into another crime. Moreover, if a victim has been seriously injured, their first contact point may be with hospital staff who, in turn, are responsible for ensuring the victim is connected with police or social services. In each of these instances, the entity who comes into first contact with a victim is responsible for beginning the process of ensuring there is an individual evaluation of the victims' needs.

## **3. Who conducts INA?**

Multiple entities and actors are responsible for assessing hate crime victim needs, at various stages. Only properly trained individuals providing specialist support to hate crime victims should be conducting INAs, for example victim support services, specialized victim support units within the police, or specialized CSO service providers who are well positioned to collect this information. Ideally, an INA should be carried out by a team of two people. In countries where there are no specialized units or specialist support services, it must be stressed that only trained individuals should conduct the needs assessment. Furthermore, there should be adequate means for follow-up and response to the information gathered before proceeding with the INA process.

Victims' needs pertinent to their participation in the criminal proceedings have to be assessed by prosecutors, judges, court officials and respective victim services within these agencies. To ensure a victim-centred approach, it is advisable to have one person (e.g., prosecutor, victim support officer) assigned to the case from start to finish.

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<sup>27</sup> Directive 2012/29/EU, *op. cit.*, note 2, Article 22.

Prosecutors, court personnel and judges who are responsible for hate crimes should also receive specialized training in conducting an INA.

The primary role of police officers who come into contact with the victim at the scene of the crime itself is to ensure that the physical safety and security needs of the victim are assessed and addressed. Once this initial assessment has been done, an in-depth INA covering the psycho-social and other needs of the victim should be conducted as soon as possible thereafter by a trained professional. Then prosecutors, for example, in addition to assessing special protection measures that a victim might benefit from, will have to make an assessment of the victim's ability to testify in court and prepare them accordingly. In this way an INA process is complemented by the appropriate actors throughout the process.

#### 4. What information is collected in an INA?

At the very minimum, an INA should capture enough information to allow an interviewer to understand the needs of an individual, identify what protection measures and support services are necessary to assist in their recovery, and refer the victim to the relevant support provider. If a victim is physically injured, a victim's medical needs must be attended to before any assessment of other needs takes place.

##### **The following information should be captured by an INA:**

General information about the victim, unless the person chooses to stay anonymous:

- Name, gender, date of birth and contact details. This kind of identifying information may be subjected to data protection laws. Depending on the legal framework in a given country, certain legal arrangements may need to be put in place before any information of this type can be shared. The victim's consent is a prerequisite for recording, storing and sharing their data.

Communication needs:

- Does the victim have any specific communication needs? For example, do they require an interpreter, hearing devices or other specialist disability support? Is the victim sufficiently emotionally stable to give an account of the events? Does the victim need the presence of a confidant or a trustee, respectively?

### Details of the crime:

- What is the type of crime?
- What are the circumstances under which it occurred?
- Who or what was the crime directed at (e.g., the victim, family members, close relations or property)?
- What was the damage suffered (e.g., physical injury, psychological harm, damaged property)?
- If an individual believes they suffered due to their nationality, citizenship, religion or belief, ethnicity, nationality, language, disability, sex, sexual orientation, gender identity, social class, etc. the possible bias motivation of the crime should be recorded, *regardless* of the interviewer's own personal assessment.

### Is there any immediate risk to the victim or any immediate support needs?

- Does the victim fear any immediate harm?
- Does the victim know the offender, or are there any other factors that put them at heightened risk of immediate harm?
- Has the victim previously been a victim of crime, and therefore at greater risk of repeat victimization?

### What is the impact of the crime?

- How affected is the victim by what has happened?
- Have the victim's relationships been affected? Are they feeling isolated?
- Who else has been affected and how (e.g., family, close relations, community)?
- What is the continuing impact of the hate crime on the victim's day-to-day life?

### What mid or long-term support or protection measures can be put in place to address any needs identified?

- What type of support does the victim want?
- What type of support has been identified as necessary?

## 5. How is an INA conducted?

Two main approaches to conducting an INA are commonly employed: using a questionnaire or having an unscripted conversation that is guided by the outcome. Each of these alternatives are considered below.

### The use of questionnaires

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 at 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. To avoid the interaction appearing overly structured, questionnaires should be used to guide a broader conversation and not be applied rigidly. Those conducting the assessment should be able to amend the questionnaire by adding relevant questions and disregarding others that may not be relevant or impossible to address due to, for example, a lack of specialist support services.

A sample questionnaire, containing both a template for an initial INA (to be used by law enforcement) and an in-depth INA (to be used by professionals trained to conduct in-depth social and psychological assessments) can be found in Annex A and used for guidance.<sup>28</sup>

### Unscripted conversation

The second option is an unscripted conversation guided by outcomes. In the Netherlands, for example, police officers interview victims without a script but are required to complete an online form in the case management system indicating the victim's specific vulnerabilities and recommending special protection measures. This necessitates that police officers conducting these types of assessments should be well trained and equipped with knowledge on how to guide such a 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.

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<sup>28</sup> Annex A: SAMPLE INDIVIDUAL NEEDS ASSESSMENT – including both the initial and in-depth assessment.

## An INA is not static and should be continuously updated throughout the life cycle of a case.

The protection and support needs of a victim do not remain the same throughout the life cycle of a case. Therefore, the INA process does not end once an initial INA has been conducted. Instead, the process must be repeated throughout the case so that the evolving and changing needs of a victim are met.

An INA can be reviewed and updated at the initiative of the authorities, victim support organizations and/or the victim themselves. Indeed, victims should be encouraged to contact authorities if, and when, their circumstances change.<sup>29</sup> Victims of hate crimes often feel that the authorities are not doing enough to respond to hate crimes and often perceive them as hostile towards their group.<sup>30</sup> With this in mind, it should not be the victim's responsibility to manage their case and protection needs. A system in which the authorities and relevant support services take the initiative to follow-up and ensure that measures within their competencies are amended and adjusted in line with the victim's changing needs is essential. Similarly, prosecutors and court authorities are responsible for ensuring that victims' needs are met during the trial process and should conduct an assessment relevant to victims' needs in the courtroom when a case comes before them.

During the process of updating an INA, it is important that a victim is not asked the questions previously answered and is not excessively questioned or asked to repeat information. Possible needs of the victim should be derived from already available information, where possible. Being forced to repeat and describe the incident multiple times risks re-traumatizing the victim. Ideally, there should be no need for multiple interviews covering the same information as INA outcomes should be shared. However, if necessary, the number and length of interviews should be determined by the victim.

At all stages, it should be clear to the victim who they should contact about their case. Ideally, a victim should receive the contact information of one person for inquiries at the police, prosecutor's office and specialized victim support services. Ideally, the same contact person would accompany the victim throughout the case.

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29 *EVVI : Evaluation of Victims* (Paris: Ministère de la Justice, 2015), p. 12.

30 *Hate Crime Victims in the Criminal Justice System, op. cit.*, note 4, p. 31.

## 6. Ensuring INAs are sensitive to the needs of hate crime victims

The design of INAs should be sensitive to the specific needs of hate crime victims.

Regardless of whether an INA is scripted or unscripted, it should be sensitive to the specific needs of hate crime victims and the impacts of hate crime. For example, hate crime victims may fear having certain aspects of their identity publicized (for example, their sexual orientation or legal residence status) and therefore all efforts must be made to protect the privacy of victims.

Victims of hate crimes are targeted for who they are, or are perceived to be, and the crime can potentially impact the wider community, as well as the individual themselves. The number of individuals affected may therefore be greater than the actual victim themselves. In this way, hate crimes can alienate targeted communities from the state, in particular from law enforcement and criminal justice bodies, and lead to conflicts between communities as a result of retaliatory attacks and, in extreme cases, civil unrest or widespread social disturbance.<sup>31</sup> Victim support services will need to take this into account and perhaps even contact a wider pool of indirect victims. The INA should therefore contain questions to ensure known impacts of hate crimes are explicitly considered. Examples of these types of questions are included in Annex A.

Irrespective of whether a questionnaire or an unscripted conversation has been used, by the end of the evaluation the interviewer should have a clear and detailed understanding of the level or risk of secondary and/or repeat victimization, of intimidation and of retaliation towards the victim, and be able to determine what interventions would be useful to address specific support needs. The interviewer should be able to conclude what protection measures are necessary and what support measures or referrals may be appropriate.

## 7. Ensuring a victim-centred approach

The victim's preferences should be considered as much as possible, including if they do not want to benefit from special protection and support measures.

At the core of all INAs should be the concerns of the victim. The victims' needs are the key factor in determining what support and protection measures can be offered to them. It is therefore important that the victim understands why the assessment is being

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<sup>31</sup> *Understanding the Needs of Hate Crime Victims*, *op. cit.*, note 5, p. 8.

conducted as their understanding will likely affect their engagement in the process. Before beginning any assessment, it is important to ensure the victim's safety by putting in place appropriate safeguards. The purpose of an INA and the questions being asked should be clearly explained before proceeding with the assessment.

Some victims who do not initially contact law enforcement agencies may not wish to report the case to the authorities. In these instances, those conducting an INA must respect their wishes. However, in some jurisdictions certain types of crime, if shared with a CSO for example, trigger mandatory reporting requirements. This should also be made clear to the victim at the outset. In these cases, where victims are obliged by the system to participate in the process it is extremely important they are informed accordingly and, if requested, accompanied by a member of a victim support team, ideally of a CSO or a lawyer who can ensure the victim understands what is happening and represent the victim's interests.

It is necessary that any assessment records the victims' answers and not the opinion of the interviewer; indeed, the purpose is to assess how the victim is affected and to record their own perceptions of the incident. Whether or not there is eventually a hate crime conviction is another matter – it is not the purpose of an INA to gather evidence to secure such a conviction. It is crucial a victim is trusted and their perception is taken seriously.

For many targets of hate crime, secondary victimization can lead to even more humiliation, degradation and isolation, which will have an even greater impact on their emotional and psychological health and their social and economic well-being. The response and behaviour of the representatives of criminal justice agencies, and professionals in institutions supporting victims of crime (including those in medical and psychological services, lawyers and legal services, social workers and CSO support services), can therefore have a critical impact on hate crime victims.<sup>32</sup>

Practical measures should therefore be in place to facilitate sensitive and respectful treatment of victims. These include, but are not limited to:

- Ensuring interpreters are available so a victim can freely communicate;
- Using simple, easy-to-understand language if need be;
- Ensuring all communication is sensitive (interviewers should introduce themselves to the victim and refrain from any inappropriate behaviour including abusive or biased language, expressions of disbelief and inappropriate comments or “jokes” in particular on the basis of any protected characteristic);

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<sup>32</sup> *Understanding the Needs of Hate Crime Victims, op. cit.*, note 5, p. 14.

- Focusing on the suspect’s potential motivation and not on the identity of the victim;
- Creating a friendly and non-threatening interviewing environment that allows for privacy;
- Allowing the victim to talk to an interviewer of the gender of their choice;
- Avoiding wearing uniforms by interviewers in cases where it might intimidate vulnerable victims; and
- Even when not guaranteed by law, considering arrangements to allow the victim to be accompanied and supported by a CSO representative, other victim support lawyer, a family member, a fellow member of their religious or belief community or any other person the victim wishes to be there, if no conflicting interests prevail.

Criminal justice representatives and victim support organizations should be provided with specific training and practical guidance on how to conduct INAs in a victim-sensitive manner.

An INA is not a one-off exercise, but instead a collaborative process implemented incrementally, in stages and involving different entities. As a broad range of actors are involved in the INA process it is important that they are all adequately trained and supplied with practical guidance in how to conduct an INA in each circumstance. States should ensure that the services provided are to a sufficient standard.<sup>33</sup>

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33 Recital 61 of the Victims Rights Directive makes it clear that, “persons who are likely to be involved in the individual assessment to identify victims’ specific protection needs and to determine their need for special protection measures should receive specific training on how to carry out such an assessment.”

# Managing INA Outcomes

Effective communication channels between and within the criminal justice system and CSO service providers are essential to an effective INA.

Once a victim's needs have been identified, the next step is to take action and put in place the necessary protection or support interventions. This is achieved through referral mechanisms (addressed in the following section) and the sharing of INA outcomes. For example, if certain support needs have been identified by the authorities, such as the need for psychological counselling, a mechanism should be in place for an efficient and seamless referral to a specialist provider.

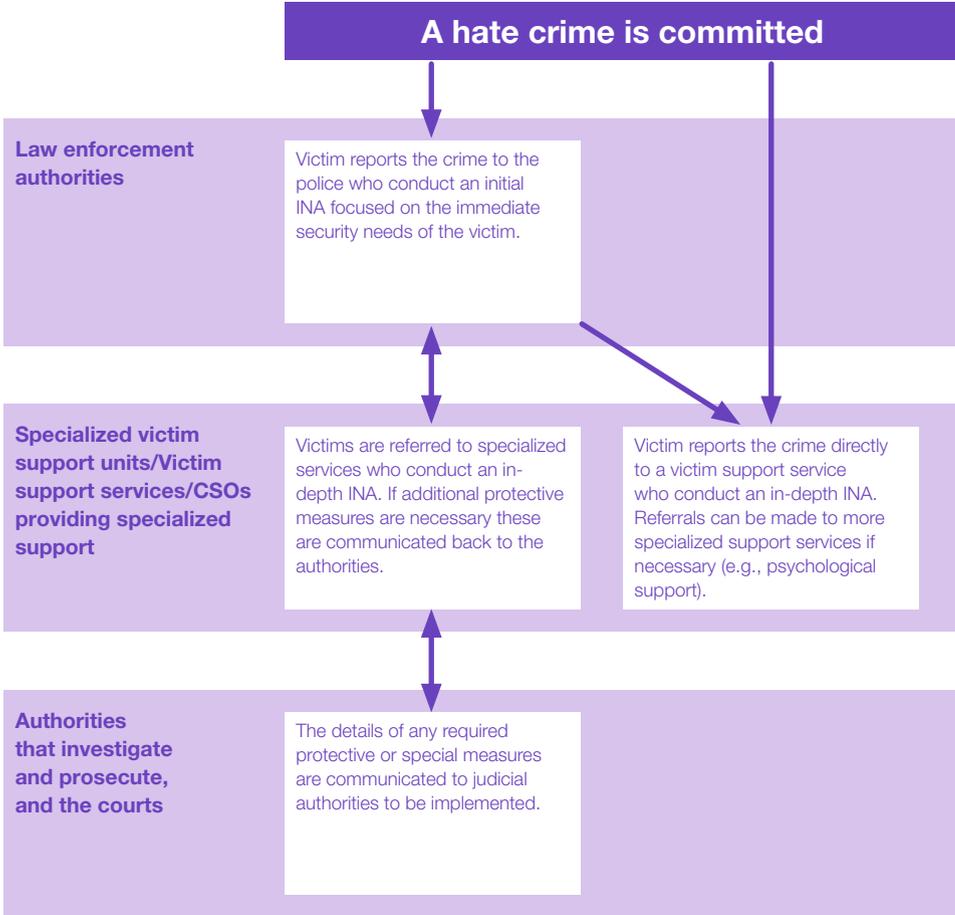
Specialist support services may also request that certain victim support measures be implemented during the investigation and prosecution of a crime, requiring that the necessary information be shared with and among the relevant criminal justice bodies. It is essential that the process by which these measures are requested and granted is formalised. A system should be put in place whereby legal representatives and victim support services are able to contact relevant criminal justice bodies and request such measures easily and efficiently. The ability to secure such arrangements should not depend on an organizations' standing or personal relationships, but be part of the structural arrangement between the various stakeholders.

Effective and institutionalised communication channels between actors ensure that an INA can be continually updated in light of the changing needs of the victim as the process unfolds. For example, when the police and public prosecutors use the same case management system, needs and protection measures identified by the agency that first comes into contact with the victim are automatically reflected in the other's system. With the consent of the victim, information from the initial assessment is sent to the victim support office; therefore, key actors able to provide relevant support are already informed of a victim's possible individual needs.<sup>34</sup>

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34 S. Leferink, R. Kool, L. Hinrichs, A. Sas, E. Zuiderveld, "Vociare National Report: the Netherlands", Victim Support Europe, 2019, p. 67.

The key communication channels are demonstrated here:



Information shared between relevant actors must ensure victims' rights to privacy, data protection and respect national laws concerning data collection, storage and disclosure.

When sharing information, it is important to keep in mind confidentiality and data protection issues. The information being collected throughout the INA process is extremely sensitive. For example, the health, sexual orientation or immigration status of an individual, if made public, may put them at risk for further victimization, retaliation or deportation. The identifying information collected throughout the INA process may also be subjected to data protection laws. Depending on the legal arrangements in a given country, certain legal arrangements may need to be put in place before any information can be disclosed to or shared with other actors.

Effective communication between the criminal justice system and CSO service providers is essential. However, victims may not want to disclose information on their needs with other actors and this should be respected. The sharing of information among relevant actors should be encouraged as it enables practitioners to make informed decisions about what actions they should take. Every reasonable effort should, therefore, be made to build and establish trust between criminal justice authorities and CSOs supporting victims.

**As a rule, pertinent information about a hate crime victim's needs should be kept separately from the case file.**

The content of the INA should not be shared with the offender/perpetrator's legal defence team/legal representation as it may increase the risk of repeated victimization and retaliation.<sup>35</sup> Consequently, the individual assessments should be kept separately from the case file during pre-trial investigation and trial. Victims should be provided with detailed information on data protection measures and should be specifically asked for consent when it comes to several state agencies sharing information stemming from an INA. Victims should be made aware of how their data will be used when they are asked for their consent to the assessment. National legislation should ensure victim's data security and protection.

Where there is more than one victim support service, data sharing agreements can be set up with relevant specialist support providers. Whatever data sharing agreement is in place, it is important that victims are given sufficient information to exercise their rights which include the choice to consent or decline the processing of their data, being asked to provide informed consent for the sharing of their information with other services, and being advised about the circumstances under which the confidentiality of their information might be waived.

Ideally, a shared methodological approach to INAs between law enforcement and CSOs should be adopted to allow them to share the outcomes of the INAs they conduct more easily and effectively, provided they have the victim's consent. This would limit the number of times a victim is required to undergo an INA and ease the flow of information between these two important actors.

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<sup>35</sup> *Hate Crime Victims in the Criminal Justice System, op. cit*, note 4, p. 30.

# Setting up Effective Referral Mechanisms

A referral mechanism is the means of connecting victims of crime to the support services that they need to assist their recovery from the events leading to their victimization.<sup>36</sup> For EU Member States facilitating referrals to victim support services from the authorities, or other relevant actors is an obligation under the Victims' Rights Directive. With no framework for referrals, non-EU OSCE participating States are encouraged to consider facilitating referrals to directly benefit victims and to work to adopt appropriate policies and/or guidance protocols in the development of an effective referrals system. Collaboration and co-ordination across a range of service providers in this process is key.<sup>37</sup>

Develop and institutionalize relationships between CSOs specialist support providers and the authorities to enable victims' access to specialized services as early as possible.

Referrals between different service providers must be done in a timely manner and through safe channels minimizing the number of referrals required. The police and generic victim support services should be aware of all those providing specialist services. The information on service providers should be regularly updated and the quality of their services assured. Direct case-based collaboration among generic and specialist victim support services must be established.

In some countries, a self-referral system is in place in which information regarding specialist providers is made available online in an understandable and easy to navigate way (including in multiple languages) so that hate crime victims can independently seek the support they need.

Another option is for police to inform victims about available services. In this case, police provide the victim with sufficient information, and it is then up to the victim to decide which organization or service to contact, if at all. However, it must be understood

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<sup>36</sup> Directive 2012/29/EU, *op. cit.*, note 2.

<sup>37</sup> For more information see: *Manual of Effective and Secure Referrals of Victims* (VICTORIA: Best Practices in Victims' Support: Referrals, Information and Individual Assessment, 2020).

that simply providing information on existing services does not constitute an effective referral. Information must be presented in an easy-to-understand manner that enables victims to make informed decisions.

Alternatively, mandatory referrals could be required. In these cases, the police or other authorities may pass the victim's contact information to a victim support provider who in turn contacts the victim. Any exchange of personal information must be done with the explicit consent of the victim. In some systems, under special data-sharing agreements, CSOs have access to police recording data (with victim consent) and can review police records to reach out to victims who might require their services.<sup>38</sup>

A promising practice adopted in the London Borough of Greenwich in the United Kingdom specifically for hate crime victims is the creation of a specialist multi-agency support panel made up of statutory and non-statutory providers. The panel meets once a month. Services can refer individuals to the panel or individual cases can be discussed. The aim is to be able to respond to the needs of victims quickly and efficiently. It allows services to work together in identifying and providing the help victims need, for example if housing issues are evident as a result of the victimization, then the relevant services on the panel can respond with a view to resolving the problem quickly.<sup>39</sup>

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38 Information Sharing Agreements are available at the "True Vision" website, the United Kingdom police hate crime portal.

39 "Review of Victim Services in London, Full report to MOPAC", London City Hall, 2014, p. 17.

# Conclusions:

## The Keys to Conducting a Successful INA

The INA is a key instrument to ensure a victim-centred approach to address the needs of hate crime victims. It constitutes the first step to protecting victims' rights and ensuring that all necessary services are provided. This individualized response system is needed to ensure that victims can fully recover from a hate crime and help them regain their sense of agency, empowerment, security and well-being.

All hate crime victims must receive an in-depth INA that comprehensively describes their circumstances and their reaction to the crime. To ensure that the INA process works efficiently, states, victim support services and CSO specialized service support providers can take the specific action set out below.

States should ensure that:

- **INAs are conducted upon first contact with a hate crime victim.** If an initial INA is conducted by law enforcement authorities upon reporting, an in-depth assessment should be conducted as soon as possible by trained victim support professionals within law enforcement specialized units or CSO specialist support providers;
- **INAs are continually updated throughout the life cycle of a case.** Necessary communication channels should be put in place to allow actors in the criminal justice system, victim support services and CSO service providers to work together and, with the consent of victims, communicate information relevant to protection needs and special measures throughout the life cycle of a case; and
- **An effective referral mechanism system is in place.** Relationships between CSO specialist support providers and the authorities should be developed and formalised in order to enable victims' access to specialized services as early and seamlessly as possible.

In addition to ensuring the structural elements are in place, states, victim support services and CSO specialized service support providers should ensure that:

- **INAs are designed to be sensitive and responsive to the specific needs of hate crime victims and take into account the impact of hate crimes.** The INA process is aimed at understanding needs of a hate crime victim on a case-by-case basis and with full consideration of each person's unique characteristics and situation;
- **INAs take into account the personal communication needs of a victim.** The INA process should be tailored to the individual's communication needs to ensure that the victim's right to understand and be understood is respected;
- **Individuals conducting INAs are sufficiently trained on hate crimes and how to conduct INAs in a victim-sensitive manner.** Victims are entitled to quality support services and states and other relevant actors must ensure that those providing services can meet certain quality standards;
- **The victim's preferences are considered as much as possible.** Systems should be put in place to ensure the wishes of the victim are taken into consideration at all stages, including if they do not want to benefit from special protection and support measures; and
- **Referral mechanisms should respect the victims' right to privacy and data protection and respect national laws concerning data collection.** When information is shared between relevant actors, attention should be paid to the privacy of the victim and consent should be sought for both the collection and disclosure of information.

Detailed checklists of actions to be taken by law enforcement agencies and specialized CSO service providers can be found in Annex B to this guide.

# Annex A:

## Sample Individual Needs Assessment – including both the initial and in-depth assessment

An INA comprises both an initial assessment and an in-depth assessment. Ensuring that certain information is captured in each phase can enhance the effectiveness of the INA process. Below, the key information to be captured in each phase is outlined, and example questions are provided. These are not provided with the goal of replacing existing questionnaires, but rather can be used to evaluate and expand or adapt current INA questionnaires to ensure they are comprehensive and effective. Alternatively, the information below can be used as a starting point for designing and implementing new INA templates.

Before beginning an INA, it is important to ensure that a victim feels safe. Creating an environment conducive to this is crucial. An interview could be conducted in a safe place chosen by the victim, or in a victim friendly room on police premises. It is also necessary to explain to the victim in a clear and transparent manner why the INA is being conducted and how it will be followed up. It is imperative that the victim understands that participation is voluntary and consents to both the collection and sharing of information. The length of any interview should be determined by the victim and it is important that interviews are not overly long, are not rushed and do not require victims to repeat the same information over and over again, risking re-traumatization.

Prior to the assessment, the victim needs to be informed of and understand:

- that an INA is to take place and what it is;
- their rights and likely next steps;
- their rights to privacy and data protection;

- that consent to an INA interview is required and they have the choice to withhold this; and
- the possibility to be accompanied by a person of their choice and be informed of any other rights the law may confer (such as the possibility to request an interviewer of a certain gender).

## **PART 1: AN INITIAL ASSESSMENT**

The purpose of an initial assessment is to assess the immediate safety and protection needs of the victim following a hate crime, as well as the possible impact on the community and related concerns. This part of the assessment will often, but not always, be conducted by police officers. The initial needs assessment precedes the investigation. Its purpose is to ensure the safety of the victim and not to gather evidence for use in a subsequent criminal trial. Information regarding the wider impact of the crime on the community is likely to be relevant for police community engagement officers whose role it is to reassure and protect communities in the aftermath of a hate crime incident, and prevent escalation or retaliation.

A victim's physical condition, mental health and emotional stability must be determined before proceeding with the assessment. If the victim does not appear to be sufficiently composed to be able to give an account of the events, the interviewer should allow more time for them to relax or should allow the victim to participate in the interview in the presence of a next of kin, friend or confidant.

### **I. Communication needs**

It is necessary to identify if a victim has any specific communication assistance needs, either because of a disability or because of a post-traumatic stress disorder or any other impairment. It is also imperative they understand their rights in terms of communication support. If a person is having difficulty understanding information or communicating, adjustments should be made either by ensuring that simple terminology is used, avoiding jargon, and, if necessary, to provide sign interpretation, translation or other communication support. If there are still difficulties, the victim should be asked if there is a person who may accompany them to support their communication needs. With the victim's permission, ask if they would like further information or to be referred to available services. Some needs may not be immediately obvious. Possible questions to ask include:

- *Do you feel comfortable with conducting this conversation in [language]? I am asking because I will contact an interpreter if this will help you to understand and express yourself.*
- *Do you feel comfortable reading in [language]? I am asking because I will give you information about organizations that can support you further and I have brochures available in different languages.*
- *Can you summarize why we are having this conversation? I am asking because I want to make sure we have explained our procedures well.*

## II. General information

If the victim does not wish to stay anonymous, general information should be collected including name, date of birth, and contact details. It is important to confirm with the victim that it is safe to contact them on the number, email or at the address that they provide. The victim should be informed about how the information they provide is used in establishing their support needs. For example:

- *What is your name and age? I am asking this question because I need to establish your identity and need to verify whether you are a minor.*
- *What is your address? I am asking this question because we need to assess the safety of your neighbourhood and because we might need to contact you at your place of residence.*
- *What is your phone number or email address? I am asking this question because we might need to contact you regarding the processing of your case.*
- *Would you like us to record your gender? I am asking because it might play a role in the establishment of special protection measures.*
- *Do you want to give us the contact details of your lawyer, your trustee or any other contact person you trust? I am asking because we will contact this person in case we cannot reach you.*

Last Name:	First Name:	Gender:	Date of birth/reported age:
Address:	Email:	Phone number:	Lawyer/contact person:

### III. Details of the hate crime and its impact

Date of crime:	Time:	Location (including City/Region)	File number (if reported to the police)

The following questions can be asked to determine the circumstances of the crime. Attention should be paid to the assessment of the incident given by the victim. Some of the below questions may have already been answered by the victim, when first reporting/recording the crime. If that is the case, such questions should not be asked again and instead, this information should be drawn from the police records. For example:

- *Please tell us what happened in your own words.* From the victim's description interviewers can identify the type of crime such as:

Verbal harassment	Vandalism of property
Cyberbullying/Internet harassment	Use of force/harm/threats at work
Intimidation/Obstruction of movement	Robbery
Threat to harm	Sexual assault
Physical attack	

- *Where did the incident occur?* This information can assist interviewers to determine whether any security measures are required and to identify other possible victims of the same incident if it occurred in a public place or community location.
- *What occurred before, during or after the incident?* For example, name calling, slurs, derogatory speech, threats of violence, cyberbullying, symbols/graffiti, intimidation, obstruction of movement, property damage.
- *What do you think made the person target you or the person whose victimization you witnessed?* The victim or witness might have a perception of the perpetrator's bias motivation towards their age, disability, gender, gender identity, sex, sexual orientation, ethnicity, nationality, religion or belief, race, social or legal status. Bias motivation might be directed at a combination of intersecting identity characteristics.
- *How has the incident affected you?* For example, have they been physically injured, or emotionally harmed, are they fearing for their immediate social networks (family, friends, neighbours, wider community) or has property been damaged.
- *What harm has this caused to anyone else in your community?*
- *On a scale of one (somehow) to five (extremely), how severely has this incident(s) impacted you?*

#### IV. Assessment of Immediate Risk to the Victim

To assess the potential immediate risk to the victim, the following questions could be asked:

- *Do you know the offender? (e.g., are they a family member or close relation, employer, member of a group, law enforcement)*
- *Has the same offender(s) caused you or people you know problems before?*
- *Do you fear further harm from the same offender or people connected with them?*
- *What information and practical help do you need right now?*

#### V. Community concerns

Information regarding the wider impact of the crime on the community is likely to be relevant for local CSO or community networks to organize solidarity actions and support, as well as for police community engagement officers whose role it is to reassure and protect communities in the wake of a hate crime incident and to de-escalate potential inter-community tensions. The following questions could be asked to assess community impact:

- *Have there been similar incidents in your area because of hostility to people from particular backgrounds?*
- *Do you think that this incident is or could be a reaction to other incidents or events elsewhere?*
- *Do you think that people's reaction to your incident could cause more problems between people from different backgrounds living in your area? How?*

The interviewer should be able to answer the following question and make recommendations based on the above information:

- *Is there a risk of good community relations being adversely affected as a result of this incident and any likely subsequent consequences?*

#### VI. Recommended follow-up actions

Based on the information provided above, interviewers should be in a position to advise on next steps with regard to the immediate physical and security needs of a victim. For example, if the victim has indicated that they fear immediate harm, they may recommend protection measures to be implemented in line with national law. Interviewers should be able to answer the following questions:

- *As a result of the incident what is the risk of the victim (and those they are close to) suffering serious harm (including significant physical and emotional harm and any substantial adverse effect on their day-to-day activities caused by fear and alarm or distress)?*
- *What referrals are necessary? (For example, do they have immediate security concerns requiring referral to law enforcement, or the prosecutor's office? Do they have communication needs requiring engagement of a translator? Do they need to be referred for medical attention? Should they be referred to victim support services, social services, or specialist hate crime support providers?)*

## **PART 2: IN-DEPTH ASSESSMENT**

An in-depth INA is designed to assess, in more detail, the social and psychological needs of a victim following a hate crime and should only be completed by trained professionals. For example: victim support services, specialized victim support units within the police, or specialist CSO service providers who are well positioned to collect this information and in turn to recommend any support measures related to the social or psychological needs of the victim.

As noted previously, in some countries specialist units and support services may not be available, if this is the case it must be stressed that specialized training is required for the individuals who will conduct the in-depth INA assessment. And again, this assessment should not be undertaken unless there is a clear understanding and ability to follow-up on the information gathered and refer victims to other support programmes. It is essential the victim is not re-victimized during the INA process.

### **I. Impact of the hate crime, desired protection and support**

The views of the victim should be at the centre of all decisions on what support they require. Interviewers should not ask more questions than necessary and try to use open-ended questions, listen actively and speak sensitively and respectfully. Responses to the questions are the basis for determining how the victim has been impacted by the crime and guides the assessment of the type of support needed (e.g., social support, psychological support) and if a referral to a specialist professional should be considered (e.g., trauma therapist, social worker). The following questions can be asked:

- *Were you injured or were you hospitalized? Are you still suffering from pain? How are you today?*

These questions aim to determine whether the victim needs medical attention and whether they need to be referred to a specialist. Some victims wish to receive compensation for pain and suffering. For this purpose, it is necessary and important to document information about the degree of injury and, if necessary, ask for their perception on the motive of the crime. In some countries, documents that prove the degree of an injury and the hate motive are necessary in order to receive compensation payments from special Hate Crime Victim Compensation Funds.

- *How affected do you feel by what has happened?*

This question is a starting point for assessing the various levels of impact the hate crime might have had on the victim (psycho-social, economic, etc.)

- *How do you feel about coping with your situation and carrying on? How concerned are you about what might happen in the future?*

Keep in mind that reactions such as anxiety or sleeping problems are very normal. Try to find out more about the emotional and psychological stress of the victim. Pay attention to nonverbal signals as well. Evaluate the responses in the team and initiate further measures if necessary, for example referral to a psychologist. If you notice certain signals that suggest there may be suicidal tendencies, you may have to undertake a separate suicide assessment.

- *Do you think anyone else has been affected by what has happened? If yes, who?*

The response can help to find out if more people need protection or professional support and if the support provider should reach out to them.

- *Have any of your relationships with people been affected by what has happened?*

For example, have relationships with family, employers, friends or the community been affected.

- *Has your life been affected in any other way? How?*

This question can help to learn more about whether the victim also needs support in other areas of life. Often, after a crime, different problems overlap and victims need support in sorting and prioritizing them.

- *Have you or your family, close relations changed what you do as part of your normal daily routine?*

For example, victims may change how they behave at home, school, when travelling, engaging in social activities or using social media. The answer can provide indications of (unintended) coping and avoidance strategies, which may need to be reflected upon and discussed.

- *Has the way you feel about your home, neighbourhood or community changed?*

For example, does a victim not want to go out, are they avoiding home, or do they wish to move? The answer allows conclusions about whether the victim feels safe in their living environment, if not, measures should be discussed and initiated to increase their sense of security.

## **II. History of hate crime victimization**

Some victims have experienced victimization before. Marginalized social groups in particular have a long history of discrimination in some countries. To better understand the needs of a victim it is important to gather information on their history of victimization. This should be done in a most sensitive and respectful manner. The responses can help tailor support services. For example, by involving advocates from their respective community or psychologists who are specialized on certain victim groups. Possible questions to ask include:

- *Have you ever been the victim of any other hate incident?*
- *How often do you have problems with hate incidents?*
- *Please could you describe the most recent hate incident before this one?*
- *Please could you summarize previous hate incidents before that?*
- *Has social media/cyber bullying played any part in what has happened to you/to your close relations?*
- *Have you reported previous hate incidents to the police? If not, why not?*
- *Do you think the current incident is linked to previous incidents?*
- *Do you think incidents are happening more often? If so, are they getting worse?*

## **III. Evaluation of required protection and support measures [to be completed by interviewer]**

Based on the information provided above, interviewers should be in a position to advise on the immediate psychological and social needs of a victim. Interviewers should be able to answer the following questions:

- *As a result of the incident what is the risk of the victim (and close relations) suffering serious harm (including significant physical and emotional harm and any substantial adverse effect on their day-to-day activities caused by fear, alarm or distress)?*
- *What is the risk of the victim (and close relations) suffering serious harm (including significant physical and emotional harm and any substantial adverse effect on their day-to-day activities caused by fear, alarm or distress) in the future as a result of repeated victimization and/or escalation in victimization?*
- *Have any further protection needs been identified that are different to those identified in the initial assessment?*
- *After the questions, the interviewer should be able to assess whether the victim needs medical assistance, legal support and whether there is a possibility of receiving compensation payments.*
- *What support needs have been identified (e.g., counselling, legal services, victim support services, social services)?*
- *What referrals are required (e.g., referral to law enforcement, psychological counselling, social services, legal services, community organizations or CSO specialist service providers)?*

#### **IV. Consent to share with relevant partner agencies**

The information collected throughout the INA process will often be subjected to data protection laws and any collection or sharing of data will therefore require explicit consent or legal support. Thus, it is important to:

- Inform and explain the rights regarding protecting personal data and confidentiality;
- Explain that consent is necessary to enable the sharing of information;
- Explain the types of organizations that information will be shared with (e.g., victim services, specialist hate crime services and support groups, local authorities, housing providers, health services, criminal justice agencies);
- Obtain and record a victim's consent to the processing of their personal data (e.g., by asking them to sign the INA evaluation or the receipt of the necessary information);
- Explain that consent may be withdrawn at any time and explain the process for withdrawing consent;
- Explain that where there are legal safeguarding duties towards children and vulnerable adults, and in other instances where the law so dictates, protection measures and referrals will be made regardless of consent; and
- Determine, together with the victim, which data and information may be shared with third parties.

# Annex B:

## INA Essentials Checklist

### CONDUCTING AN INITIAL INA:

#### Criminal Justice Agencies

- Law enforcement officers are prepared to conduct an initial INA, upon first contact with all victims of hate crime, focused on the physical and security needs of the victim.

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- Law enforcement officers explain the rights and entitlements of the victim, making it clear to the victim what information is being collected and why before beginning any INA evaluation.

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- Law enforcement officers are aware of the special needs of hate crime victims and are trained to identify specific physical and security needs resulting from this type of crime.

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- Law enforcement officers and other criminal justice agencies treat victims in a sensitive and respectful manner without discrimination on any grounds at all times.

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- Law enforcement officers and other criminal justice agencies ensure that the consent of the victim is sought before any protection or support measures are implemented. Decisions about actions to be taken for, and in partnership with, the victim must be decided by the person concerned once made aware about their rights and entitlements.

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- Law enforcement officers and other criminal justice agencies provide victims with one point of contact and make victims aware that they may contact them with any updates that may affect what support or protection measures are necessary.

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Mechanisms are in place to allow for the physical and security needs of a victim to be reviewed and updated throughout the life cycle of a case. Police officers are aware of relevant points of contact. If criminal justice agencies decide not to grant certain measures, they should explain why.

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Police stations and courts are equipped to provide specialized individual support to victims throughout this process. For example, at police stations a separate room designed to provide security and safety is available and victims are able to request they be interviewed by a police officer of their gender or from their community if feasible. Court rooms provide separate entrances and waiting rooms for victims and offenders.

### **CSO Specialist Service Providers**

CSO specialist support providers are prepared to conduct an in-depth INA upon first contact with all victims of hate crime, focused on the immediate and urgent needs of a victim.

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CSO specialist support providers explain the rights and entitlements of the victim, and make it clear to the victim what information is being collected, and why, before beginning any INA evaluation.

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CSO specialist support providers treat victims in a sensitive and respectful manner without discrimination on any grounds at all times.

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CSO specialist support providers ensure that the consent of the victim is sought before any support referrals or interventions are taken.

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Decisions about actions to be taken for, and in partnership with, the victim must be decided by the person concerned once made aware about their rights and entitlements.

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CSO specialist support providers, provide victims with one point of contact and make victims aware that they may contact them with any updates that may affect what support or protection measures are necessary.

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## ENSURING EFFECTIVE REFERRALS:

### Criminal Justice Agencies

- Law enforcement agencies are aware of all relevant support providers working in the area to whom victims of hate crime could be referred. A list of service providers should be available both to police officers and victims in every police station, especially in interview rooms for victims.

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- Effective communication channels are established to ensure that law enforcement agencies are able to refer victims to the necessary services quickly and efficiently.

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- Relevant data sharing agreements are set up with relevant victim support providers allowing information to be shared easily and quickly.

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- When sharing information, the privacy of victims is respected and their consent sought. Only necessary information is shared.

### CSO Specialist Service Providers

- CSO specialist support providers are aware of all relevant support providers working in the area to whom victims of hate crime could be referred for services that they cannot provide.

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- Effective communication channels are established to ensure that CSO specialist support providers are able to refer victims to the necessary complementary services quickly and efficiently.

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- Relevant data sharing agreements are set up with relevant law enforcement authorities allowing information to be shared easily and quickly.

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- When sharing information, the privacy of victims is considered and their consent sought. Only necessary information is shared.

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## IMPROVING THE CAPACITY OF CRIMINAL JUSTICE AGENCIES TO RESPOND TO THE NEEDS OF HATE CRIME VICTIMS:

- Criminal justice representatives are trained in the sensitive and respectful treatment of hate crime victims.

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- Criminal justice representatives are trained to recognize the special needs of hate crime victims.

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- Specialized hate crime and/or victim support units within law enforcement agencies exist to provide tailored support to victims during the investigation and prosecution of a hate crime.

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- Criminal justice agencies actively recruit members of under-represented minority groups and ensure they have equal opportunities for progression in their careers.

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- Law enforcement agencies are aware of all relevant support providers working in the area to whom victims of hate crime could be referred for services.

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# Annex C:

## 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'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>Country</b>	<b>Government members</b>	<b>CSO members</b>
<b>Finland</b>	Ministry of Justice	
<b>France</b>		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>Country</b>	<b>Government members</b>	<b>CSO members</b>
<b>Poland</b>	Unit for the European Migration Network and Combating Human Trafficking, Ministry of the Interior and Administration	Antidiscrimination Education Society
<b>Portugal</b>	Department of European Affairs Directorate General of Justice Policy	Portuguese Association for 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 of Justice	The Islamic Foundation in Slovakia
<b>Slovenia</b>	European Affairs and International Cooperation Unit, Ministry of Justice	Union of Roma in Slovenia
<b>Spain</b>	National Office Against Hate Crimes, Ministry of Interior	Movement Against Intolerance (MCI)
<b>Sweden</b>	Swedish Crime Victim Authority	Victim Support Sweden
<b>Switzerland</b>	Federal Commission against Racism	Network for Victims of Racism
<b>Turkey</b>	Human Rights Department, Ministry of Justice	
<b>Ukraine</b>	Human Rights Directorate, National Police	Social Action Centre
<b>United Kingdom</b>	National Online Hate Crime Hub	Galop
<b>International organizations and other multilateral institutions</b>	CEC – Conference of European Churches	
	CEJI – A Jewish Contribution to an Inclusive Europe	
	DG JUST – Directorate-General for Justice and Consumers, 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 June 2021