

OSCE Conference on Combating Discrimination and Promoting Mutual Respect and Understanding,
Bucharest, 7-8 June 2007

INTRODUCTION to Plenary Session 4: Legislation in the field of tolerance and non-discrimination; the
role of law enforcement in combating hate crimes; data collection on hate crimes

PC.DEL/509/07

7 June 2007

ENGLISH only



Beate Winkler

Interim Director of the European Union Agency for Fundamental Rights

**'Data collection– guiding and informing effective responses against hate
crimes'**

**Check against Delivery !
Seul le texte prononcé fait foi !
Es gilt das gesprochene Wort !**

Chair, Excellencies,
Ladies and Gentlemen,

Thank you for inviting me here today to speak to you about the findings and views of the European Union Agency for Fundamental Rights on the important subject of hate crimes and responses against this phenomenon.

Hate crime and victimisation are a fact of life for many individuals in our societies. Existing data suggests that it is a growing phenomenon in parts of Europe, including in a number of EU Member States. Hate crime affects millions of people. On the basis of the European Crime and Safety Survey, our Agency established that in 2004 over nine million people said they had experienced some form of hate crime in the 18 EU countries covered by this large-scale survey.

What we discuss here today, the solutions we identify, and the measures we take when departing from Bucharest matter to millions of people. Failure to pursue these solutions means ignoring – if not accepting – that members of our society are threatened, harassed, discriminated against, and killed. Hate crime is damaging society. Combating it must therefore be a priority issue for policy-makers.

In my introduction, I will try to explain why the Agency I am heading is convinced that good data collection is part of the solution, needed to guide and inform an effective response against hate crime.

The Fundamental Rights Agency – FRA for short - is a new body of the European Union. It is being built on the foundations of the European Monitoring Centre on Racism and Xenophobia, whose Director I have been since its establishment in 1998.

With this Agency, the European Union has an independent body in place to critically assess the situation of fundamental rights inside the EU. For the time being, FRA focuses on racism, xenophobia and related intolerance. Yet, by the end of the year, the EU will determine a number of additional thematic areas for the Agency to work on.

I will focus here on racist crime and violence as a significant form of hate crime. However, I should note that other forms of intolerance, particularly homophobia, are of increasing concern to the EU institutions. The European Parliament has just requested a comprehensive study from the Fundamental Rights Agency on the subject of homophobia in the EU.

On the basis of the data collected by the Agency on the situation of racist crime in the EU, there are three key messages I would like to share for discussion in this distinguished forum.

These key messages can inform us about the problems we face – and how these problems are being addressed within the European Union.

1) My first message is that good data collection on hate crime is needed so that informed policy choices can be made.

And here we face the first challenge: The lack of adequate criminal justice data on racist violence and crime seriously hampers the development of criminal and social justice responses. Without good data, informed policy choices cannot be made.

The situation: Of the European Union's 27 Member States, in 2005, less than half of the Member States - **12 out of 27** - maintained data collection systems that could be described as good or comprehensive. **Six** had **no** publicly available official criminal justice data on racist violence and crime incidents in their country. The other **nine** Member States only produced 'limited' figures on a few investigations and court cases that were being dealt with by their criminal justice systems.

In the face of gaps in official criminal justice data in many Member States, the Agency developed an independent data collection network called RAXEN. With RAXEN, the Agency has set up a unique instrument for data collection on discrimination and racist violence that covers all EU Member States. The network is made up of national focal points in each of the 27 Member States. These focal points are contracted partners of the Agency, typically consisting of NGOs, research institutes, academia, equality bodies or national human rights institutions. In addition to collecting official criminal justice data, RAXEN analyses a variety of other sources. On this basis, RAXEN has provided documented evidence that racist violence and crime is a serious problem throughout the EU. This information is supported by the invaluable work of NGOs that document incidents that would otherwise go unreported and unregistered. While NGO data can complement official criminal justice data, it can not replace it. The absence of adequate criminal justice data on racist violence and crime indicates that many States are failing to address the problem properly.

Here, I come to my second key message, which our work has highlighted; that is:

2) We need an effective police and criminal justice response to the problem of racist violence and crime

Good legislation is only one step towards implementing an effective criminal justice response to racist crime and hate crime more generally. Yet the real test is whether good legislation – the law in the books – is applied in practice – that is, whether it becomes law in action.

The absence of adequate criminal justice data on racist violence and crime indicates that States are failing to address the problem properly. If we ask ‘why’, there are a number of factors to consider for different EU Member States:

All EU Member States have laws that can be employed to punish racist offending. However, where legislation exists to prohibit and punish racist crime it is often not implemented in practice. As a result – crimes are not being recorded and punished as ‘racist’ offences or ‘hate’ crimes. Three elements contribute to this situation.

- The public are not reporting crime – often because they are not encouraged by the authorities to report their victimisation; or because the public believes the police can do nothing to help them, or because they simply don’t trust the police.
- The police do not have the tools, nor the resources or training, to effectively record racist crime. And, in addition, there often exists little top-down encouragement within the police hierarchy to proactively record incidents as potentially racist.
- And perhaps most importantly, the problem of racist violence and crime remains a low political priority – hence the failure to address it more proactively.

This brings me to my third message:

3) Effective responses to racist crime need clear and strong political leadership that works in partnership with civil society and vulnerable communities.

The last decade has shown encouraging evidence of political efforts towards change at the level of individual Member States and the EU. Initiatives have been taken at the European level that demonstrate the seriousness with which the EU views the problem of racist crime and hate crime in general. In this regard, the European Union has a range of good practices to illustrate its progress.

Examples:

- 1997 was the European Year against Racism and saw the establishment of the European Monitoring Centre on Racism and Xenophobia – whose role of monitoring racism has continued and is now being expanded, as the Fundamental Rights Agency, to include other areas of discrimination.

- Recently, the Council of the European Union reached a general agreement concerning the Framework Decision on Combating Racism and Xenophobia¹, which has been under discussion since 2001. This sends a clear political message that the EU will not tolerate hate crimes in an increasingly diverse Europe. The adoption of the Framework Decision will provide for the approximation of laws in EU Member States regarding offences that involve racism and xenophobia. It will ensure that these crimes are made punishable throughout the EU.
- At the same time, the implementation of the European Union's Equality Directives² from 2000 continues to trigger significant legislative and policy developments in EU Member States. The designation of specialised bodies for the promotion of equal treatment is an important step towards recognising victimisation in areas such as employment, education and housing.

But this is not enough. More political actions are urgently required:

The work of our Agency has shown only too clearly the harsh realities of racist and xenophobic violence, as it is experienced by victims. The Agency is currently evaluating results from its pilot project on immigrants' and ethnic minorities' experiences of victimization. This survey is intended as an instrument to find out more about the actual experiences and needs of victims.

Information from official criminal justice agencies about reported racist offences is not enough to counteract and understand victimisation – particularly as racist crime tends to go unreported. Therefore, States must recognise the need for political leadership and the key role that civil society has to play in promoting victims' needs and rights.

Therefore states should offer practical support, including training and resources, to enable NGOs and community associations to work in partnership with the police in encouraging and facilitating the reporting of racist and other hate crime - to provide specialist advice and support for victims and vulnerable communities. Such close cooperation can make real change.

In conclusion

To conclude, the key messages that the Fundamental Rights Agency is able to promote, on the basis of its body of data collection and research to date, are:

¹ COM (2001) 664 final

² 2000/43/EC & 2000/78/EC

- 1) **Good data collection on hate crime is needed so that informed policy choices can be made.**
- 2) **We need an effective police and criminal justice response to the problem of racist violence and crime.**
- 3) **Effective responses to racist crime need clear and strong political leadership that works in partnership with civil society and vulnerable communities.**

Only when all these factors are taken into account can States hope to effectively address the problem of racist violence and related crimes. The EU has made encouraging developments towards this end, but, as the work of the Fundamental Rights Agency continues to show all too clearly, much more work lies ahead of us. We are looking forward to continuing our fruitful cooperation with the OSCE, and with the ODIHR's tolerance and non-discrimination programme in particular, to support further efforts in this area.

Thank you.

For more information about EUMC/FRA work in relation to racist violence and crime, including 'good practices' against racist violence and crime, see:

FRA online InfoBase – giving an overview, data and good practices on racist violence and crime in the EU

<http://infobase.fra.europa.eu>

Relevant publications of the EUMC (available on FRA's website <http://fra.europa.eu>)

Annual Report 2006 – chapter on racist violence and crime (November 2006)

Racist Violence in 15 EU Member States (April 2005)

Policing Racist Crime and Violence: A Comparative Report (September 2005)