



Enhancing Stakeholder Awareness & Resources
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Model Guidance on Sensitive and Respectful Treatment of Hate Crime Victims in the Criminal Justice System



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Model Guidance on Sensitive and Respectful Treatment of Hate Crime Victims in the Criminal Justice System

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I. Introduction

A comprehensive national response in preventing and addressing hate crimes requires placing a hate crime victim's needs and rights at the heart of any action. These actions must be carried out in a respectful and sensitive manner, as a victim's first contact and subsequent interactions with the criminal justice system (CJS) are a reflection of how a society views and responds to hate crime. Addressing protection and support needs in a sensitive and respectful manner contributes to a positive overall experience with the criminal justice process for victims, empowering them to give their best evidence and preventing their re-victimization both within and outside of the process.

This document provides key guidance to law enforcement and criminal justice professionals to aid them in positively and effectively ensuring the sensitive and respectful treatment of hate crime victims within the CJS. The publication provides recommendations to enhance the practical work of law enforcement and other criminal justice professionals so they are able to uphold their obligations and organizational commitments to the sensitive and respectful treatment of hate crime victims. This guidance also benefits other practitioners who come into contact with hate crime victims, such as representatives of civil society organizations (CSOs), lawyers, medical professionals, social workers and members of the media.

Participating States of the Organization for Security and Co-operation in Europe (OSCE) have committed themselves to take action to address hate crimes. In particular, they have pledged to protect hate crime victims, to encourage hate crime reporting, to provide hate crime victims with effective access to justice and assistance, to support organizations assisting victims, and to build the capacity of law enforcement agencies to interact with victims of hate crimes.¹

OSCE participating States that are also European Union (EU) Member States have, additionally, committed to EU standards on countering racism and xenophobia and, importantly, to protecting victims' rights as prescribed through the Victim Rights Directive, which establishes the minimum standards for Member States on the rights, support

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

and protection of victims of hate crime.² Likewise, members of the Council of Europe follow standards prescribed in the Convention on the Compensation of Victims of Violent Crimes, as well as in related recommendations.³ In line with these commitments and obligations, it is the responsibility of states to ensure that victims of hate crime are protected, that they enjoy full access to justice, and that they can receive the support they need, all the while ensuring their sensitive and respectful treatment.⁴

To assist OSCE participating States in fulfilling their commitments, OSCE's Office for Democratic Institutions and Human Rights (ODIHR) produced a practical guide on *Hate Crime Victims in the Criminal Justice System*, in 2020, as well as additional resources 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 Antisemitic Violence in Germany (VBRG). At the time of writing, these were *Understanding the Needs of Hate Crime Victims*, a baseline report on *The State of Support Structures and Specialist Services for Hate Crime Victims* and *Model Guidance of Individual Needs Assessments for Hate Crime Victims*.⁵ The present guidance document functions as an additional critical tool to be read in conjunction with the aforementioned publications to ensure a robust response to hate crime and the application and implementation of measures for the sensitive and respectful treatment of hate crime victims.

As there are vast differences among OSCE participating States in their recognition of and responses to hate crime victims, this guide recognizes that to effectively implement and strengthen sensitive and respectful treatment, action and behaviour, significant changes to national and institutional protocols and policy might be required. This may

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- 2 See: [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; and [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” (Victims’ Rights Directive).
 - 3 Council of Europe, “[European Convention on the Compensation of Victims of Violent Crimes](#)”, 24 November 1983, European Treaty Series - No. 116; and Council of Europe, Committee of Ministers Recommendation (2006)8, “[On Assistance to Crime Victims](#)”, 14 June 2006.
 - 4 OSCE Ministerial Council, Decision 9/09, op. cit., note 1: “The Ministerial Council [...] calls on the participating States to: [...] In co-operation with relevant actors, explore ways to provide victims of hate crimes with access to counselling, legal and consular assistance as well as effective access to justice”.
 - 5 See: ODIHR, [Hate Crime Victims in the Criminal Justice System: A Practical Guide](#), (Warsaw: OSCE/ODIHR, 2020), which assists governments and policymakers in crafting victim-centred approaches to addressing the needs of hate crime victims; and the ODIHR-EStAR tools: [Understanding the Needs of Hate Crime Victims](#), (Warsaw: OSCE/ODIHR, 2020); “[The State of Support Structures and Specialist Services for Hate Crime Victims: Baseline Report](#)”, OSCE/ODIHR, 2020; and [Model Guidance on Individual Needs Assessment](#), (Warsaw: OSCE/ODIHR, 2020).

even require changes to domestic legislation to expand victims' rights and to ensure that the full provision of these rights is safeguarded within the criminal justice system.

As states move to strengthen these policies, this guide highlights key areas where procedures can be enhanced or introduced to better protect and support victims of hate crime in a sensitive and respectful manner; it provides guidance to protect the reputations of criminal justice institutions in terms of transparency, accountability and effectiveness; and it assists in maintaining and strengthening mutual confidence and trust between criminal justice enforcement and the larger community through its treatment of hate crime victims. By placing individual needs at its core, the guidance provides a framework to protect those most affected by intolerance and hatred and helps professionals understand how to safeguard the rights of hate crime victims, while being sensitive and respectful each step of the way.

The guide opens with an introduction to the concepts of hate crime and bias, and of the impact of hate crime on victims. It highlights how law enforcement and criminal justice professionals must understand their own biases in order to ensure their behaviour and actions are sensitive and respectful. It discusses secondary victimization and past negative experiences, which often lead to mistrust of the criminal justice system. It then moves through various critical points of engagement with hate crime victims, from initial contact to criminal proceedings, outlining necessary behaviours and required action. A few victim perspectives, experiences and statements are provided in quotation boxes. It concludes by recommending institutional measures to enact policies and institutional change to establish sustainable behaviours and processes that cultivate, reinforce and strengthen the sensitive and respectful treatment of hate crime victims in the criminal justice system.

II. The foundations of sensitive and respectful treatment

1. Understanding hate crime and bias motivation

Hate crimes are criminal acts motivated by bias or prejudice towards particular groups or individuals. To be considered a hate crime, the offence must meet two criteria:

- i. The act must constitute an offence under criminal law; and
- ii. The act must have been motivated by bias.

Bias motivations can be broadly defined as preconceived negative opinions, stereotypical assumptions, intolerance or hatred directed at a particular individual or group. It is the bias or prejudicial motivation that defines the hate element. The crime is any offence recognized as such in a country or jurisdiction's criminal code.

Hate crime victims are targeted because of bias against one or several actual or perceived legally protected characteristics, such as race, language, religion or belief, ethnicity, nationality, sexual orientation, gender and gender identity, disability or any other characteristic that is fundamental to an individuals' identity.

As all people have protected characteristics, anyone – both members of majority and minority groups – can become the targets of a hate crime. Through hate crimes, perpetrators express prejudice towards whole communities. Individuals are often selected at random, as mere representatives of their group.⁶

Hate crime victimization can also be connected to dimensions of identity and social systems related to inequality, which are generally not protected by hate crime laws, such as a person or group's socio-economic status, educational attainment or class, as well as to those connected to perceptions around an individual's or group's residency

⁶ Understanding the Needs of Hate Crime Victims, op. cit., note 5.

status. Even people or property merely associated with – or perceived to be part of – a group, such as human rights defenders, community centres or places of worship, can also be targets of hate crimes.

Everyone has biases. A fundamental first step to ensuring the sensitive and respectful treatment of hate crime victims is for law enforcement and criminal justice professionals to take a critical look at their own personal biases. This requires an openness to understanding and learning how stereotypes and beliefs shape one’s thoughts, communication patterns and actions. Through understanding their own personal biases, law enforcement and criminal justice professionals are able to identify where bias influences their attitudes and behaviour, allowing them to adjust their response, thus, diminishing disrespectful and insensitive patterns of conduct.

Importantly, having awareness of one’s own biases enhances the ability to recognize how bias, prejudice and intolerance are expressed in society. Especially for minority or vulnerable groups, their protected characteristics can often be linked to current or historic discrimination, oppression and marginalization. Indeed, some characteristics that are now protected under hate crime laws were illegal in the past, such as homosexuality or the practice of one’s religion or belief. Criminal justice institutions that remain predicated on old norms and values can subject individuals or groups to victim-blaming, racial profiling or other discriminatory mechanisms within the CJS, so removing bias must be tackled both at the individual and institutional levels.⁷

(See [Section V. Institutional Measures](#) for specific guidance for criminal justice institutions.)

2. Secondary victimization and understanding the impact of hate crime

Secondary victimization refers to the victimization that occurs not as a direct result of the criminal act, but through the treatment of the victim by institutions and individuals.⁸ Secondary victimization in the CJS occurs through inappropriate treatment of the victim by law enforcement or other CJS professionals.

7 E.g., European Union Agency for Fundamental Rights (FRA), [Second European Union Minorities and Discrimination Survey. Being Black in the EU](#), (Luxembourg: FRA, 2018), Section 2.2. Police stops, pp. 30-36; Ojeaku Nwabuzo, [“Racist Crime & Institutional Racism in Europe. ENAR Shadow Report 2014-2018”](#), 2019, pp. 29-30.

8 European Crime Prevention Network, [“Preventing Secondary Victimization Policies and Practices”](#), EUCPN Toolbox Series No. 7, p. 9.

Key ways in which law enforcement and CJS professionals can contribute to secondary victimization include:

- A lack of a response, or an unhelpful and/or denigrating response;
- Attributing responsibility for the crime to victims, or claiming the culpability of the victim (victim-blaming);
- Minimizing the seriousness of a reported hate crime and trivializing the victim's individual experience and consequences;
- Displaying negative attitudes or reinforcing the prejudices of the perpetrator, and treating the victim accordingly;
- Expressing sympathy and understanding for the perpetrator;
- Lacking appropriate knowledge, experience and skills to acknowledge the significance of the victim's identity for the crime they suffered;
- A lack of consideration for individual needs, and especially the need for information and justice; and
- The denial of victims' rights or victim status.⁹

“When I was sexually assaulted, I managed to call the police for help while still being kept away by the man. The police on the phone laughed at me and started making jokes. [The police] hung up. [I]t was clearly discrimination against gay and male rape cases in general.”¹⁰

In order to prevent secondary victimization, it is essential to understand the impact of hate crime on both individuals and communities, as well as the specific immediate and long-term rights and needs of hate crime victims related to:

- Personal safety and security;
- Practical help;
- Emotional and psychosocial support;
- Confidentiality and trust;
- Information and advice;
- Help in navigating criminal justice; and
- Respectful and dignified treatment.¹¹

9 [Understanding the Needs of Hate Crime Victims](#), op. cit., note 5, p.14.

10 FRA, [EU LGBT Survey. European Union Lesbian, Gay, Bisexual and Transgender Survey. Main Results](#), (Luxembourg: FRA, 2014), p. 66.

11 [Understanding the Needs of Hate Crime Victims](#), op. cit., note 5, p.16.

The bias-motivated nature of a hate crime results in a victim's deep and long-lasting trauma.¹² It is fundamental that the negative impacts of hate crimes are understood within their wider social context, as hate crime bias motivation is an expression of power or control over the victim. Hate crimes are “message crimes”, both to the victim's group and the broader community. As the victim was selected because of their protected characteristic(s), all group members sharing the characteristic(s) can feel vulnerable, that they “don't belong” or that they “are not to be tolerated”.¹³ Other groups may also be affected, due to an overarching fear they could also be targeted. A failure to effectively deal with hate crimes and address the specific needs of hate crime victims sends a clear signal that different sections of society have different value and worth.

“You are beaten or hurt because of who you are. It is a direct and deliberate and focused crime, and it is a violation of, really, a person's essence, a person's soul, because ... you can't change who you are And it's much more difficult to deal with.... Because what a hate crime says to a victim of hate crime is “you're not fit to live in this society with me. I don't believe that you have the same rights as I do. I believe that you are second to me. I am superior to you.”¹⁴

It is also rare for a victim's first encounter with hate to be the one that results in the involvement of law enforcement.¹⁵ Hate crime victims have most likely gone through a multitude of bias motivated hate incidents over an extended period of time, even throughout their lifetime. This coincides, in many cases, with hate crimes appearing as “minor” incidents in comparison to other “more serious” crimes, especially if CJS professionals lack awareness of hate crime victimization and the increased impact of such crimes.¹⁶ This places an added responsibility on law enforcement and CJS professionals to recognize and understand the impact of hate crime and a victim's vulnerability to repeated victimization, in order to prevent any secondary victimization within the CJS.

12 Paul Iganski, Spiridoula Lagou, “The Personal Injuries of ‘Hate Crime’” , in: Nathan Hall, Abbee Corb, Paul Giannasi, John G.D. Grieve (eds.), *The Routledge International Handbook on Hate Crime* (London/New York: Routledge, 2015), p. 34-46; Matthew D. Fetzer, Frank S. Pezzela, “[The Nature of Bias Crime Injuries: A Comparative Analysis of Physical and Psychological Victimization Effects](#),” *Journal of Interpersonal Violence*, Vol. 34, No. 18, 2019, pp. 3864-3887.

13 Barbara Perry, Shahid Alvi, “[We Are All Vulnerable: The in Terrorem Effects of Hate Crimes](#)”, *International Review of Victimology*, Vol. 18, No. 1, 2012, pp. 57-71.

14 Paul Iganski, “[Hate Crimes Hurt More](#)”, *American Behavioral Scientist*, Vol. 45, No. 4, 2001, pp. 626-638.

15 FRA, “[Minorities as Victims of Crime – Data in Focus Report](#)”, 2012, p.14; and FRA, [Ensuring Justice for Hate Crime Victims: Professional Perspectives](#), (Luxembourg: FRA, 2017), p 28-31.

16 *Ibid.*, pp. 30, 46; Mike Rowe, *Policing, Race and Racism* (Cullompton: Willan, 2004), pp. 115-116.

One of the main reasons why hate crimes are under-reported is victims' fear of not being taken seriously by the authorities.¹⁷ Hate crime victims' accounts of reporting an alleged hate crime range from not being believed to being harassed or made fun of, and even to being beaten up by law enforcement officers.¹⁸ There is a real concern that the authorities may hold the same bias against the victim's protected characteristic(s) as the offender. For many victims, this fear may stem from their own experience of interactions with the CJS or from negative experiences of others within their community.¹⁹

It is imperative, therefore, when an individual communicates that they believe they were a victim of a hate crime that they are taken seriously and believed. Law enforcement and other CJS professionals must never second-guess or dismiss as irrelevant a victim's perception of the incident being motivated by bias or underestimate the severity of the impact of the crime. This is essential for establishing trust and encourages cooperation with law enforcement and other CJS authorities.

Law enforcement officers are, therefore, reminded to:

- Familiarize themselves with the list of protected characteristics;
- Understand how multiple characteristics often intersect, to ensure the proper identification of hate crime victims;
- Apply a victim-centred approach when responding to hate crime incidents;
- Respect the victim's perception of having been targeted by a bias motivated offender;
- Presume higher protection needs on the basis of the victim's perception;
- Understand that the victim's protection needs are not based on case classification; and
- Understand the legal framework in relation to hate crime.

17 EU LGBT Survey. European Union Lesbian, Gay, Bisexual and Transgender Survey. Main Results, op. cit., note 10, p. 68; FRA, *Being Trans in the EU. Comparative Analysis of the EU LGBT Survey Data*, (Luxembourg: FRA, 2014), p. 52; FRA, *Second European Union Minorities and Discrimination Survey. Main Results*, (Luxembourg: FRA, 2017), p. 67; "Racist Crime & Institutional Racism in Europe. ENAR Shadow Report 2014-2018", op. cit., note 7, pp. 19, 39.

18 E.g., Václav Walach, Vendula Divišová, Klára Kalibová, Petr Kupka, "Lifecycle of a hate crime: Country Report for the Czech Republic", In IUSTITIA, December 2017, p. 102; *Second European Union Minorities and Discrimination Survey. Being Black in the EU*, op. cit., note 7, pp. 23-24.

19 FRA, *A Long Way to Go for LGBTI Equality*, (Luxembourg: FRA, 2020), pp. 46-49; *Second European Union Minorities and Discrimination Survey. Being Black in the EU*, op. cit., note 7, 2018, pp. 25, 27; also see: *Ensuring Justice for Hate Crime Victims: Professional Perspectives*, op. cit., note 15, pp. 53-57.

III. Guidance for law enforcement

(See Annex I. Sensitive and Respectful Essentials during the Criminal Justice Process for a list of tips for quick reference.)

1. Initial contact with first responders

A police officer's initial contact with a hate crime victim is one of the most important and critical moments in a victim's interaction with the CJS. The conclusions a victim draws from that meeting can influence their perception of the entire CJS and influence their willingness to report their case, to co-operate and to share crucial, sometimes intimate factual details.

It may be that a bias or the fact a crime has been committed are not readily apparent. It is, therefore, vitally important for law enforcement officers to listen to the perception of the victim and, if the victim indicates a perceived bias motive, to do their best to develop an inquisitive and inclusive investigative approach, including with hate as a possible motivator. It also requires officers to be aware of how their own personal and/or institutional biases can influence their behaviour and actions.

Law enforcement officers must remain mindful at all times of their tone of voice, body language and the type of language they are using, and how this may be perceived. Officers must actively avoid any perception of discriminatory language or conduct. A victim needs to feel the officer is there to provide protection from the perpetrator and to support their security and safety needs. An officer should also be prepared to act as a witness if they notice bias or prejudiced behaviour or action towards the victim while on the scene.

As a hate crime directly targets the victim's identity, being respectful of a victim's personal identity traits is essential to the investigative process and to building trust on the part of the victim. In practice, this includes, but is not limited to:

- Being aware of personal biases related to a victim's culture, religion or belief, race, gender identity or disability;

- Not assuming that a person’s physical appearance is connected to a specific religion, belief or culture, and being careful to not make assumptions about their behaviour based on perceived notions of their religion, belief or culture;
- Always asking a person how they wish to be addressed, instead of assuming a person’s identity based on their appearance, marital status, etc.;²⁰ and
- Refrain from making assumptions about an individual’s marital, socio-economic or residency status.

“In the second interview with the police after my operation, the guy comes, the police officer is telling me: [alcohol is forbidden in Islam]. Like the first thing is that in Islam it is forbidden to drink alcohol. [...] I don’t know if these guys are coming here to interview me to know truth or just to start judging me because I’m a Muslim who is drinking.”²¹

It is important that law enforcement officers take a critical look at the environment and see what can be done to help a victim feel safe. This might include taking them aside – away from the perpetrator or to another room. This could be simply part of the process of identifying, collecting and removing any physical evidence indicating a potential bias motivation, such as hate literature or hate symbols.²²

Law enforcement officers should do their best to avoid any treatment of the suspect that could be misinterpreted as preferential or as fraternizing with them, such as exclusively speaking to the suspect, listening to the suspect’s story prior to the victim’s or shaking hands with the suspect.

Victims frequently report being ignored by the police when officers arrive at the crime scene, and that the officers listen to the suspect instead.²³ In some cases, this approach has led to the reversal of the roles of “victim” and “offender”, and resulted in the victim being fined or charged for public order disturbance, civil disobedience or criminal offences.²⁴

20 The use of and number of gender markers, including pronouns, possessives, forms of address or case endings, differs from language to language. Besides female and male, many languages provide third gender and gender-neutral options, while some have no grammatical gender at all.

21 Walach/Divišová/Kalibová/Kupka, op. cit., note 18, p. 106-107.

22 For a more thorough list of additional bias indicators, see [Annex III](#).

23 E.g., “[Racist Crime & Institutional Racism in Europe. ENAR Shadow Report 2014-2018](#)”, op. cit., note 7, pp. 35,39.

24 E.g., *ibid*, pp. 34, 37.

“I ran to the police station because I felt safe to do so. It was a major shock when I was handcuffed tightly so I could not move. I felt very scared and upset. I told the police I had autism. I wanted to speak to my Dad but I was not allowed to and my phone was taken. I felt no one was listening. When I was locked up, I held my head and cried. I felt like dying.”²⁵

If the victim does not appear to be co-operative or is exhibiting aggressive behaviour, law enforcement officers must consider whether this might be due to the victim's reaction to the trauma inflicted by the hate crime. It may be necessary to immediately request psychological and/or medical attention for the victim. The officer should do their best to avoid any coercive measures while ensuring safety for all parties.

Whether first contact is at a crime scene or at the police station, victims need to be made aware of their rights. As they must also be able to understand what is happening and comprehend the information being provided, law enforcement should arrange for the assistance of a translator or specialist support in cases where victims lack the necessary language skills or have a cognitive disability.

It should never be assumed that a victim, who may be traumatized, has the capacity or ability to report a case unsupported. Law enforcement officers should always respond to any immediate needs the victim may have and ask them if they would like assistance in reporting their case.

2. Individual needs assessment and referrals

An individual needs assessment (INA) of a hate crime victim should be conducted at the earliest possible stage, to determine the individual needs of the person and to identify their risk of further victimization, intimidation and/or retaliation.²⁶ An INA enables a victim-centred response and constitutes the first step to guaranteeing the full provision of services based on identified needs, with a view to ensuring victims' rights. An INA comprises both an initial assessment and an in-depth assessment. Conducting an INA must be done in a sensitive and respectful manner.

25 Mary O'Hara, [Why are the police failing too many victims of disability hate crime?](#), The Guardian, 29 June 2016. The story of a victim of a disability hate crime taken for a perpetrator by the police.

26 Victims' Rights Directive, op. cit., note 2, Article 22.

The initial assessment is completed by those law enforcement officers coming into first contact with the victim and focuses on the immediate safety and security needs of the victim. Following this, general and specialized victim-support-service providers, specialized victim-support units within the police, or specialized civil society organization (CSO) service providers conduct a subsequent in-depth assessment. If necessary, a CSO service provider can also conduct the first part of the assessment on immediate needs. Both the initial INA and the in-depth assessment provide a comprehensive picture of a victim's needs.²⁷

The INA takes into account the particular vulnerability to which hate crime victims are exposed.²⁸ Indeed, as pointed out by the EU's Victims' Rights Directive, "there should be a strong presumption that those victims will benefit from special protection measures."²⁹ Determination of hate crime victim status should, therefore, be applied in the broadest way possible, independent of case classification.³⁰

To avoid secondary victimization in the INA process, it is of critical importance that personnel carrying out the assessments are adequately trained. Many police services have specialist victim-support units, and where these specialized units do not exist, it is important that the state ensures that interviewers are provided with comprehensive training.³¹

Police officers must adhere at all times to relevant protocols or guidance on assessing the victim's individual needs and assume responsibility for the victim's protection needs.³² Even in the absence of specific guidelines, victim protection is a general duty of every CJS professional and is necessary to secure a just and effective case outcome. It must be understood that a needs assessment should be conducted based on the ability to follow up or refer to other support. Finally, protection and support efforts may need to be expanded to a victim's close relations, family members or members of the wider community, who might also have suffered psychological or emotional harm as a result of the crime.³³

27 See: [Model Guidance on Individual Needs Assessment of Hate Crime Victims](#) (Warsaw: OSCE/ODIHR, 2020) for more information.

28 Victims' Rights Directive, op. cit., note 2, preamble, rec. 56.

29 Ibid., preamble, recital 57.

30 Ibid., preamble, recital 9, 19. For a non-exhaustive list of bias indicators, see [Annex III](#).

31 See: [Model Guidance on Individual Needs Assessment of Hate Crime Victims](#), op. cit., note 27, for more information.

32 For more detailed guidance, see *ibid.*

33 Victims' Rights Directive, op. cit., note 2, preamble, recital 19.

As hate crimes have different and unique impacts on each victim, and everyone has different coping mechanisms, individuals may require varying levels of support. CJS professionals are required to inform victims about, and refer them to, available support services.³⁴ CJS professionals must understand the victim-support system in their jurisdiction and the organizations that can offer support to hate crime victims. In order for law enforcement personnel to provide accurate and appropriate information, officers should consider the following questions:

- Are there any other resources available that can provide legal advice for victims of crime, ideally specializing in hate crime?
- If the victim engages a lawyer on their own, is there an option that legal fees will be reimbursed?
- Are there any victim-support organizations providing psychosocial support to victims of crime, and particularly to victims of hate crime?

Cognizant of the support available and informed by the individual needs of victims, law enforcement personnel should be able to:

- Provide a list of contact details of relevant victim-support services (specifically, to organizations who specialize in hate crime victim support, if available). If neither specialist nor general victim-support providers exist, referrals could be made to other local advocacy or support groups (e.g., support groups for people with disabilities, support groups for specific ethnic, religious or belief minorities);
- Inform the victim that they have a right to seek legal advice and provide information on how they can access legal advice and/or legal representation;
- Be clear that support and legal services can be engaged at a later stage if the victim changes their mind; and
- Advise the victim on any restrictions or conditions to accessing these services, and whether there are options available free of charge.

If automatic referrals are in place, it is important to explain the process available and how it works. It is always important that the victim understands that they are free to use or decline the services on offer. It is important to minimize the number of referrals required, so as not to overwhelm the victim.

34 Ibid. Article 8 of the Victims' Rights Directive provides for the right to access victim-support services and the obligation of Member States to facilitate the referral of victims to such services.

3. Ensuring investigation of bias motivation

In the majority of OSCE participating States, bias motivation has not been included as part of specific offences in domestic criminal legislation but, rather, constitutes an aggravating circumstance or serves as a sentencing-enhancement provision. Further, where they are included, bias motivations are not always clear, concrete and easy to understand.

Confirming bias motivation is essential for the victim's sense of justice and is part of victim's right to an effective investigation. Ineffective recognition and condemnation of bias motivation can be perceived as implicit consent to those same bias motivations.

While many jurisdictions require additional corroboration over and above the victim's perception of the offender's bias motivation for a case to be recorded as a hate crime, identifying bias or prejudice should be primarily based on the victim's perception of the crime.

It is the proof of the bias motivation that elevates a crime to a hate crime.³⁵ Therefore, evidence gathering should be applied in the broadest sense. Indicators that can signal a bias-motivated hate incident has occurred can include a witness's perception of bias (including police witnesses) and/or physical evidence of bias (including physical injury or damage to property).

Law enforcement personnel can rarely establish sufficient proof at the scene of an incident. It is important that the case, once identified or flagged as a potential hate crime, is sent on to further investigative units, such as a specialized hate crime department. In any event, it is vital that the case is marked as a potential hate crime in nature and that appropriate time and effort are devoted to establishing bias and/or a discriminatory motive. Supervisors of the investigating officers need to ensure that all enquiries have been thorough and that all appropriate leads have been investigated.

It may be that negative bias or prejudice is not immediately perceived. The criminal justice process must remain flexible enough to consider such factors throughout its course. Special protection measures for hate crime victims should not, therefore, be restricted to cases that meet a jurisdiction's definition of a hate crime case. Hate crime victim provisions may be necessary even if the case has not yet been classified as a hate crime, and should be independent of the likelihood of the perpetrator's conviction.³⁶

³⁵ A non-exhaustive list of additional bias indicators can be found in [Annex III](#).

³⁶ Victims' Rights Directive, *op. cit.*, note 2, preamble, recital 19.

4. Interviewing guidance

One of the reasons police work is immensely challenging is the breadth and variety of the tasks involved. Police officers, at times, may feel the pressure of having to cater to diverse, or even opposing needs. The need to carry out an impartial investigation can be perceived as an obstacle to a victim-centred approach. The sensitive and respectful treatment of victims of hate crime is not, however, at odds with a fair and impartial investigation and does not interfere with or otherwise affect the rights of the offender.³⁷ The interview process should not approach the victim as a source of information only but, rather, acknowledge a victims' experiences, inform them about their rights, and guide their understanding of the possible steps and elements in a criminal proceeding.

While first responders are required to attempt to take a written statement as fully and completely as possible at the scene, it is often the case that victims are asked to provide follow-up statements, particularly to corroborate evidence of bias-related behaviour on the part of the alleged perpetrator(s). A further interview may also be required to provide an impact statement, which can be used by prosecutors to establish trauma if the case goes to trial. It is extremely important that the victim not feel they are somehow at fault by providing a statement through an interview; it should be clearly and sensitively explained that any further statement is being elicited for corroboration or confirmation purposes only.

During the interview, a hate crime victim's interviewer must be cognizant of how many questions are being asked, what is being asked and whether previous interviews have been conducted, and then tailor their process accordingly. Law enforcement and CJS professionals should be aware of how recalling an event can be traumatic in itself. This might influence not only the victim's well-being, but also their ability to recollect details of the incident or grasp the interviewer's questions. It might also impact their experience of the interviewing situation, leading to a breakdown of trust with criminal justice authorities.³⁸ The following practices should be adopted in an effort to mitigate against the potential trauma of such an interview:

- The number of interviews should be kept to a minimum;³⁹
- The number of those interviewing the victim should be kept to a minimum;
- If multiple interviews are required, these should ideally be conducted by the same person;

37 Ibid., note 2, preamble, recital 9 and 12.

38 Ibid., p. 2-4

39 Ibid., Articles 20 and 23.

- Attention should be paid to the time it takes to conduct the interview – if it is too long this increases unwarranted stress and additional trauma; and
- Interviews should only be conducted by police officers or other CJS professionals who have received training in interviewing victims with special protection needs, or by those who have expertise in hate crime.⁴⁰

At all times, it is critical for interviewers to practise active listening and to ask questions with empathy, sensitivity and respect. This includes paying attention to word choice, tone of voice, micro-expressions and body language, such as facial expressions that may be interpreted as surprise or confusion. Interviews bear a high risk of causing re-victimization if executed inappropriately; if conducted in a sensitive and respectful way, they can contribute to ensuring a victim's comfort and safety needs.⁴¹ It is important for an interviewer to:

- Introduce themselves to the victim and explain their role as an investigator;
- Remain calm, objective and professional;
- Not interrupt but, rather, facilitate a victim's free narrative, and let them finish speaking;
- Follow-up questions for clarity should be done sensitively by noting phrases such as, "just to clarify" or "so I understand correctly";
- Accept that there might be questions they are not yet ready or willing to answer;
- Ask the victim what they think motivated the perpetrator; and
- Encourage the victim to tell their story in their own words.

40 Ibid., Article 23.

41 Patrick Risan, Rebecca Milne & Per-Einar Binder, "[Trauma Narratives: Recommendations for Investigative Interviewing](#)", *Psychiatry, Psychology and Law*, Vol. 27, No. 4, 7 April 2020, p. 678-679.

“I have just conducted an interview with George, who really struggles with his mental ill-health, and it was so upsetting to see what he has been through. Throughout George’s life, he has been seen as ‘different’ and, therefore, an easy target. He has been made fun of, called abusive names and exploited by his neighbours and by people he thought were his friends. To an outsider being mocked because of a stammer or mimicked because you have a funny walk might seem trivial. And yet, seeing George, a grown man, crying and talking about how these experiences have compelled him to attempt suicide on multiple occasions, makes you realize how insidious and destructive name-calling and harassment can be.

The interview recording is powerful and gives us important data, but it fails to capture some of the things I’ve observed during the course of getting to know George. Take, for instance, the physical environment George lives in and the safety measures he incorporates into his everyday life to reduce the risk of victimization. He has to have multiple locks on his front door; he keeps the curtains drawn at all times; he is too scared to turn the lights on, even if it means he has to sit alone in darkness; and he rarely ventures out of his flat. That’s the reality of what life is like for George.”⁴²

If a hate crime victim requires the services of an interpreter or other communication assistance, this should be offered and provided free of charge. Officers must respect the victim’s right to have an interpreter, lawyer and/or other person of choice present during the interview.⁴³ Hearing devices or other specialist disability support should be made available, and all communication should be tailored to the victim’s age, maturity, intellectual and emotional capacity, literacy capacity, etc.⁴⁴ When using interpreters, a law enforcement officer should:

- Ensure the interpreter is independent and qualified. Immediate interpreter assistance from friends, family members or neighbours should only be used in emergency situations and only for an initial account, to avoid potential conflict of interest;
- Use interpreters accredited for interpreting and translating in criminal proceedings with the competent authority;

42 Neil Chakraborti, Jon Garland & Stevie-Jade Hardy, “[The Leicester Hate Crime Project: Findings and conclusions](#)”, University of Leicester, 2014, pp. 41-42.

43 Victims’ Rights Directive, op. cit., note 2, Article 20.

44 Ibid., Recital 21.

- Wherever possible, use an interpreter who shares a similar personal background or has affinity with the victim, for example, an interpreter who shares the same gender or ethnicity with the victim;
- Encourage the interpreter to identify any other language or cultural barriers to achieving effective communication and understanding between the interviewer and the interviewee; and
- Ensure this assistance is made available throughout the entire criminal proceedings.⁴⁵

If the victim does not appear to be sufficiently composed to be able to provide an account of the events, the interviewer should allow more time for them to relax or should allow the victim to take part in the interview in the presence of a support person, such as a family member, friend or support organization representative. If a victim is injured, their medical needs must be addressed before any interview takes place. Furthermore, if a victim is exhibiting severe emotional trauma, contacting psychosocial support may be required before proceeding with an interview.

Law enforcement and CJS professionals should avoid any questions that might be interpreted by the victim as suggesting they were to blame for the crime. Interviewers must avoid:

- Asking if the victim provoked the incident;
- Asking why the victim was dressed in a certain way;
- Making judgements on the location or time of day the incident took place;
- Making a verbal judgement of the victim's behaviour;
- Questioning the veracity of the victim's statement;
- Asking the victim whether they might have misinterpreted the offender's behaviour or overreacted;
- Asking the victim if they think the offender was just joking or under the influence of alcohol and/or drugs; and
- Asking the victim whether they can prove the offender's bias motivation.

As mentioned above, hate crime laws apply to crimes committed against victims because of a perceived characteristic.⁴⁶ In a case where the offender perceives the victim to be Christian because they saw them exiting a Christian church, it would be irrelevant whether the victim is actually Christian. Interviewers should remember that hate crime laws do not require the prosecution to prove that the victim actually has the protected

45 "Lifecycle of a hate crime: Country Report for the Czech Republic", op. cit., note18, p. 10

46 E.g., European Court of Human Rights, Škorjanec v. Croatia, No. 25536/14, 26 March 2017, para 56.

characteristic(s), but merely that the victim was targeted by the offender's bias toward that characteristic, whether actual or perceived.

Victims who are severely traumatized may benefit from making their statement only once over the course of the entire criminal proceedings. It is important, therefore, to consider the application of specific protection measures as early as possible. Some jurisdictions allow recording of the victim's statement on video while providing all parties the opportunity for examining the victim. This may save the victim from having to make a second statement during the trial.⁴⁷ The officer should discuss this option with the prosecutor or investigating judge in charge of the investigation as soon as possible.

Special attention should be given to the environment in which the interview is taking place. At the police station, offices open to the public should appear neutral. Evidence of previous investigations should not be exhibited, such as confiscated extremist propaganda material. Instead, posters presenting information about hate crimes and highlighting the authorities' dedication to hate crime victim support and repudiation of hate ideology will reinforce the sense of the facility as a safe space. Spaces for interviews should be void of expressions of political opinion or ideological stance, should be private and comfortable, and should have information regarding various rights and support at hand. As police uniforms may also create a sense of unease in the victim, plain clothes, if feasible, might help individuals feel less intimidated and create a power-neutral environment. Making all efforts to create a safe space for the conduct of an interview while being cognizant of one's behaviour and communication style indicates a trauma-sensitive law enforcement officer.

Privacy and adherence to data-protection laws are essential in establishing trust with a hate crime victim. It is therefore critical to:

- Inform the victim about their right to privacy and data protection, to reduce reluctance to share personal details;
- Reassure the victim that information is neither provided to a victim's family, spouse or to other non-parties to the proceedings or the media;
- Explain whether other state authorities outside the CJS (e.g., immigration authorities) will have access to the case file. Discuss whether the proceedings may affect the victim's residency status, if applicable; and
- Discuss any available options to restrict the offender's access to the victim's personal information in the file.

⁴⁷ Victims' Rights Directive, *op. cit.*, note 2, preamble, recital 53.F.

Hate crime victims must always understand how their data are being processed, stored and shared. Their consent is vital to maintaining trust and transparency in the criminal justice process. (For more guidance, see Annex II: Sensitive and Respectful Communication Essentials.)

5. Information about next steps and follow up

In simple terms, law enforcement and CJS professionals can never do enough to keep victims informed of their rights and the progress of their case. Hate crime victims may not be aware of their rights, or familiar with the criminal justice process in general. Victims might not have been in contact with the CJS prior to the case at hand and, importantly, trauma may affect the victim's ability to process and retain key information.

Therefore, once the interview has been completed, law enforcement should again walk the victim through the next probable steps in the investigation. The amount and level of information victims wish to be provided varies and should be personalized to the victim. Some victims might want to receive written material or be referred to online resources, if available, while others prefer an oral explanation. An awareness of what information to share and how to share it helps to ensure a victim-centred approach.

It is a victim's right to be informed and to receive information in an accessible and understandable language. Law enforcement or other CJS professionals should, therefore, provide the necessary information orally or in writing in simple and accessible language(s), taking into account any personal characteristics of the victim, including any disability that might affect their ability to understand or be understood.⁴⁸ Understanding the steps involved can help a victim trust the process and to feel valued and protected. Law enforcement personnel should provide all relevant information, such as:

- Information on victims' rights, including complaint procedures available;
- Contact details for communication about their case;
- The course of the criminal proceedings and victims' role therein;
- Written acknowledgement of their report, including the file number;⁴⁹ and
- The options with regard to how they wish to be contacted to receive case updates.

Keeping the victim informed reassures them that appropriate efforts are being made and that the case is being taken seriously. It is recommended to co-ordinate with victim-support units or other specialist support providers if regular outreach to victims is

⁴⁸ Ibid., note 3, Article 3 and 7.

⁴⁹ Ibid., note 3, preamble, recital 24 and Article 5.

challenging due to competing priorities. Law enforcement personnel must encourage the victim to reach out whenever they feel insecure, need support or have any questions regarding their case. There should be one single point of contact for the entire investigation. The nominated point of contact should seek to:

- Follow up with the victim regularly and inform them about new developments;
- When investigations are concluded, inform the victim about how the case will/will not proceed, including the reasoning behind the prosecutor's decision;
- Pro-actively share updates with victims on their case, in line with the victim's wishes and, heed a victim's wish to not receive any information;
- Be reachable. If possible, several options for communication should be provided;
- In the event the investigation is extended, check in with the victim regularly. Remind of and renew the offer to provide information about or refer the victim to support organizations as circumstances change; and
- Schedule contact with the victim or set "office hours" with a gender-sensitive approach, allowing for contact after regular working hours or additional flexibility, such as the ability to bring children.

Further tips to support a hate crime victim's awareness of, and participation in, the criminal justice process:

First responders should:

- Explain and ensure that the victim understands the incident has now been recorded and will be investigated as a hate crime;
- Inform the victim about probable next steps in the investigation;
- Describe the evidential requirements necessary for a successful prosecution of both the base offence and the hate element;
- Provide information about whether the victim has the right to request specific investigative steps, including regarding the bias motivation, and how to exercise this right; and
- Clarify whether the victim has a right to appeal any decision made at the investigative stage, and how to exercise this right. Explain the difference between formal and informal decisions or steps during the investigation, if necessary.⁵⁰

⁵⁰ In some jurisdictions, victims might only have the right to appeal formal decisions that have been issued in writing by the prosecution or the judiciary, in contrast to informal decisions, which are regularly made through practical execution of the request.

In follow-up investigation:

- Explain the challenges of proving a bias motivation beyond reasonable doubt, given that there is often no manifest evidence;
- Illustrate that, in some hate crime cases, there will be a prosecution only for the base offence if there was not enough evidence to prove the bias element;
- Let the victim express their feelings about what they would expect to be a just outcome. Include the victim's wishes in the case report and advocate for them to be taken into account by the prosecutor;
- Inform the victim about the different ways the prosecutor may proceed after the investigation. Describe the options the prosecutor typically has in terms of dropping the case, plea-bargaining, restorative justice or prosecution;
- Stress that any decision on the options that do not lead to the prosecution of the suspect or to the bias element of the hate crime being introduced at trial does not mean that the victim is not believed. Explain that the criminal justice response to hate crime is influenced by various factors;
- Manage expectations as to the case outcome. Clarify the factors that influence how sentences are determined or the decision to apply restorative justice or suspended sentences; and
- Reflect with the victim on the concepts of punishment and rehabilitation in the CJS and point out that imprisonment might not always be the best way to make perpetrators realize the seriousness of their crime and/or refrain from further offending.⁵¹

51 For accounts of how victims may perceive sentencing outcomes, see: FRA, [Sanctions that Do Justice. Justice for Victims of Violent Crime. Part III](#), (Luxembourg: FRA, 2019), pp. 20-21.

IV. Guidance for prosecutors and the judiciary

(See Annex I: Sensitive and Respectful Essentials during the Criminal Justice Process for a full list of tips for quick reference.)

1. Protection and rights during the hearing

In many OSCE participating States, a victim's status as an injured party is granted too late, which adversely impacts an effective investigation, weakens a victim's position in criminal proceedings, and limits their access to criminal case materials and their ability to file motions or appeal the prosecutor's decisions. It can also affect the chances of receiving full compensation.⁵² It is critical, therefore, to determine the victim's status at the earliest possible stage.

If the case goes to trial, not all hate crime victims will want to participate in the criminal justice process. Equally, many victims of hate crime may want to have a significant role in the criminal proceedings, to explain the harm they have suffered and have a voice throughout the trial. If the victim chooses to participate in criminal proceedings, it is imperative that the victim's needs are re-assessed to identify any specific protection required and which special protection measures should be applied. To protect the victim's privacy, the assessment must be kept separate from the case file so that the suspect does not have access to the file.⁵³

To reduce a victim's risk of secondary victimization, it may be necessary to limit or ensure there is no contact with the alleged offender during or after the hearing. These measures can include separate waiting rooms, arranging for separate entrances/exits

52 Hate Crime Victims in the Criminal Justice System: A Practical Guide, op. cit., note 5, p. 57.

53 Victims' Rights Directive, op. cit., note 2, Article 21. The EU Commission's Guidance Document related to the transposition and implementation of the adoption of the Victims' Rights Directive states, in that regard, that "[n]ational authorities should adopt proportionate disclosure regulations regarding background information relating to victims' personal life, to protect the personal integrity and personal data of victims, and images of the victim and their family members or the crime scene. In practice, only information about the victim and his/her personal circumstances that is strictly relevant for the case should be disclosed to the accused (proportionality test)", *ibid.*, p. 43.

or for having the victim and accused enter at different times, as well as using privacy shields to keep the accused from seeing the victim.

In addition, it is essential that a hate crime victim can fully comprehend the entire proceedings, so offering and arranging interpretation and translation may be required. This service should be granted free-of-charge, and access to translation services should be made available not only during the trial but also in the pre-trial preparation phase (e.g., for consulting a lawyer).

During the proceedings, a hate crime victim's right to be heard should be facilitated in all circumstances; if they don't wish to physically attend the hearing, for example, technological solutions should be provided, such as providing testimony via video conference.⁵⁴ Depending on the law in the particular jurisdiction, a hate crime victim should be given the opportunity to present an impact statement, if this is what they would like to do. The impact statement may also serve as evidence and can inform sentencing. It would be advisable to avoid cross-examination by the defence of impact statements.

Discriminatory or degrading language must be prohibited at all times, and this must be enforced by the judge during the proceedings. It is only through continued active listening, respectful dialogue, informed communication and the safeguarding of a victim's rights that CJS professionals reinforce sensitive and respectful treatment throughout the criminal justice proceedings.

During all questioning, inquiries into a victim's personal life should be restricted to what is strictly necessary in presenting the case. In addition, to avoid further victimization and if requested by the victim and permitted under the jurisdiction's laws, the hearing should take place without the presence of the public, in order to protect the victim's privacy.⁵⁵ This should extend to considering restrictions on press reporting that would divulge the victim's identity.

It is also important to remember that it is up to CJS professionals to provide information on victim's rights with regard to the reimbursement of costs, including travel expenses, translation or interpretation, support services and legal advice and representation. The victim should also be informed if there are court or other fees potentially incurred in the criminal proceedings. The more informed a victim is of the elements of the criminal justice process, the more this builds a sense of trust in the court system and mitigates against potential surprises that might lead the victim to feel that they have been let down by the process.

54 Ibid., Article 23.

55 Ibid., Article 23.

As early as possible, CJS professionals should point out the potential right to compensation from the state and/or the alleged offender, and how to access this right, if available, in the victim's jurisdiction. This may include compensation for losses of income due to participation in the proceedings or damages for harms suffered as a result of the crime. This may also include legal representation costs or damages the alleged offender might be entitled to claim from the victim in case of their acquittal.

2. Support, guidance and participation

A criminal justice proceeding can be overwhelming and can make a victim feel powerless. Being sensitive to their needs, explaining how the proceedings will take place, and walking them through the details of the experience will help reassure the victim by letting them know what to expect. Many hate crime victims may be reluctant to enter the CJS, as there is a perceived risk of secondary victimization and there may be doubts as to whether engaging in criminal proceedings will deliver justice.⁵⁶ Options or requirements to appear in court and the protection and support measures that can be accessed at the trial stage are critical to the hate crime victim's determination to move forward throughout the proceedings. Hate crime victims need to know there are support mechanisms available during a trial, such as psychosocial support.

It is essential to guide a hate crime victim through their participation rights at the pre-trial stage. The victim should be aware of their right to withdraw from participation or their right to not be informed of the status of the case, if this is their wish. It is important to explain how to produce evidence or to make a statement regarding the evidence produced by the prosecution or defence. Prosecutors need to be aware that any information should include timeframes and deadlines for exercising these rights.

It is also imperative that hate crime victims have access to support throughout the trial. They should be informed of the possibility to be accompanied by a person of their choice during the trial. This could be a family member, community member or a CSO representative.

Allowing a CSO representative to support a victim during the criminal justice proceedings can be a powerful instrument in enhancing access to justice.⁵⁷ If permitted, and if the victim chooses, a CSO representative should be able to represent or intervene on behalf of the victim. The nature and extent of practical support should be clearly explained, such as whether the support person can sit next to the victim when testifying

⁵⁶ Ensuring Justice for Hate Crime Victims: Professional Perspectives, op. cit., note 15, p. 35.

⁵⁷ "Lifecycle of a hate crime: Country Report for the Czech Republic", op. cit., note 18, p.35.

or making a statement. Providing these options reinforces a sense of being understood and supported, and of having one's needs validated.

It is important to provide guidance at each step of the way if the victim attends the hearing, with or without representation. Particular attention should be paid to practical matters, such as how to enter the court building, where the court room is, where to sit, when victims may speak and the role of court officials. The victim should not be afraid to speak or exercise any active participation rights. Understanding all the details can help a hate crime victim feel less anxious about the process.

3. The duty to further investigate bias motivation

Explicitly addressing bias motivations at all stages of the criminal proceedings is part of a hate crime victim's full and effective right of access to justice. Prosecutors or investigating judges should be mindful of their right to order additional investigations to determine the bias motivation of a case, and to collect further evidence required for prosecution and conviction.⁵⁸

The prosecution and courts, by law or in practice, may have a certain degree of discretion in applying these provisions and, therefore, may be reluctant to include the bias motivation, in order to not jeopardize the outcome of the case opting to present or only argue the underlying offence. However, the failure to prove bias motivation would not affect the conviction for the underlying offence; therefore additional investigation into the bias motivation of the perpetrator should always be considered as relevant and pursued.⁵⁹ This reinforces the victim's perception of the crime as a hate crime is being taken seriously and all applicable provisions are taken into consideration.

If the proof of bias motivation is problematic or been dropped, it is necessary to keep the victim informed and to be sensitive to the impact this may have on the victim. Therefore, the prosecutor should:

- Explain in detail why the decision was made. When communicating to the victim, provide written notifications that are clear. It is best to avoid legal jargon, unless necessary. If legal terminology is used, it should be accompanied with an explanation in simplified language;
- It is important to express that the dismissal of bias motivation does not mean that the victim's story is not believed;

⁵⁸ A non-exhaustive list of additional bias indicators can be found in [Annex III](#).

⁵⁹ [Hate Crime Laws: A Practical Guide](#), (Warsaw: OSCE/ODIHR, 2009), p.35

- Inform the victim about their right to a review of a decision not to prosecute, including any decision on dropping the bias motivation. Details on how and where to request such a review must be provided;⁶⁰ and
- In cases where the victim has active participation rights at this stage, enable them to make informed decisions and guide them through the process.

Prosecutors and judges have a shared responsibility to the victim in:

- Determining the offender’s bias motivation on the basis of the evidence;
- Clearly stating the court’s findings on bias motivation, both in the courtroom and in the written decision; and
- Providing grounds to explain how a judgement on bias motivation has influenced the sentence.

4. Informing the victim of the court's decision

Transparency in the criminal justice process is critical. When proceedings are concluded, the victim should receive a full briefing on the judgement and the grounds for the decision. In the event of an acquittal, immediate support will be vital to avoiding further hate crime victim trauma.

The victim may have the right to obtain a decision on compensation from the convicted following criminal proceedings, if applicable under the law.⁶¹ This support should be extended if victims file a claim for the reimbursement of expenses incurred as a result of their participation in the proceedings.⁶² The following factors must be considered:

- The bias motivation in the assessment of compensation;
- If no compensation is granted from the offender, the need to inform the victim about any options to apply for other state compensation and guide them through the process;
- If applicable under the relevant laws, the need to inform the victim about their right to appeal against the decision issued by the court; and

60 Victims’ Rights Directive, op. cit., note 2, Article 11.

61 Hate Crime Victims in the Criminal Justice System: A Practical Guide, op. cit., note 5, and Ibid., Article 16.

62 Ibid., Article 14.

- The need to inform the victim that the execution of judgements can be complicated; “especially if the awarded amount is high and the perpetrator does not have the financial means.”⁶³

5. Restorative justice measures: victim-offender mediation

Across OSCE participating States, restorative justice programmes are being developed and implemented. Restorative justice is an approach allowing all the parties directly affected by the crime, including victims, offenders and communities, to identify and address the harm, rather than focusing solely on punishing the perpetrator. Restorative processes can empower victims to have their voices heard, to explore the underlying harms suffered, and to generate community engagement in reducing secondary impact and security risks.⁶⁴

Restorative justice solutions may be used in some jurisdictions for less serious infractions or in parallel to the regular proceedings.⁶⁵ Should the prosecution be terminated and the case diverted to the restorative process, be it settlement, plea agreement or mediation, it is imperative that the hate crime victim’s needs are duly considered throughout this process. Restorative justice should only be considered with a victim’s full consent.⁶⁶

When considering restorative justice mechanisms, prosecutors should first discuss all the available options. If this is the direction the hate crime victim would like to take, prosecutors must secure their informed consent and present this to the court. The process should not be used to discuss, negotiate or invalidate the facts of the case as experienced by the victim. In no case should the plea agreement result in the bias element being dismissed or the compensation claim substantively diminished.

It is important to note that some restorative justice approaches are exercised without the victim’s participation, focusing instead on the rehabilitation of the offender; these can fall short of meeting the needs of the hate crime victim. This should be discussed fully before implementation. Again, it is imperative that the restorative justice process takes into account the needs of the hate crime victim, is free of charge, and has the informed and voluntary consent of both the victim and the accused.

63 Ibid., p. 149.

64 Ibid., p. 155.

65 Victims’ Rights Directive, op. cit., note 2, Article 12. See also, European Commission for the Efficiency of Justice, “[Guidelines for a Better Implementation of the Existing Recommendation Concerning Mediation in Penal Matters](#)”, 7 December 2007, CEPEJ (2007).

66 Victims’ Rights Directive, op. cit., note 2, Article 12.

Research suggests that effective restorative justice programmes, when correctly utilized, have improved the emotional well-being of many hate crime victims and should be considered fully.⁶⁷

6. Post-trial stage

There may be need for victim protection and support measures to be available after the court proceedings are completed. At a minimum, a CJS professional should provide information about or renew the offer to refer the victim to specialist support providers.

If the case results in a conviction, it may be beneficial to institutionally communicate the result to the public. This can reassure affected communities that the CJS can be effective in investigating and prosecuting hate crime. To continue protecting a victim's privacy, CJS professionals must respect the victim's wishes when considering media communication about the verdict.

⁶⁷ Mark Austin Walters, *Hate Crime and Restorative Justice – Exploring Causes, Repairing Harms*, (Oxford: Oxford University Press, 2014).

V. Institutional measures to ensure sensitive and respectful treatment

Police have a particularly important role to play in ensuring sensitive and respectful treatment, as they are often the first point of contact for victims of hate crime. However, all officials – whether from CJS bodies or those otherwise encountering victims of hate crime – have a responsibility to ensure victims are treated with respect and sensitivity. Therefore, ensuring a culture of sensitive and respectful treatment is a whole-of-institution exercise.

Institutional recognition of the trauma suffered by hate crime victims must be matched by practical policy, procedure and processes for responding to hate crimes. Intuitions should, therefore, consider the following critical areas in building and enhancing their frameworks for ensuring the sensitive and respectful treatment of hate crime victims.

1. Conducting an institutional needs assessment

An assessment of gaps and needs to identify where change, modification or improvement is needed is essential to building and strengthening sensitive and respectful institutional measures for protecting and supporting hate crime victims.

Institutional co-operation with hate crime victim-support organizations facilitates a whole-of-society approach to policy formulation and can inform capacity-building training programmes for CJS professionals. This assessment should, therefore, actively seek to use focus groups, surveys and key leadership engagement to objectively and subjectively assess the efficacy of policing and CJS institutions in meeting the needs of hate crime victims.⁶⁸

68 The importance of and current state of support structures and specialist services for hate crime victims has been discussed in detail in, “The State of Support Structures and Specialist Services for Hate Crime Victims: Baseline Report”, *op. cit.*, note 5.

The analysis should provide an action plan, including recommendations and a system for monitoring, evaluating and learning outcomes. It should include a critical look at the essential elements of a robust system for sensitive and respectful treatment, asking questions such as:

- Do the authorities demonstrate commitment to supporting hate crime victims – publicly through statements, examples and written communication, as well as within institutional hierarchies?
- Are hate crime victim rights and needs published in a document available to all police officers?
- Does policymaking involve consultation with community-based organizations, victims' and CSOs as equal partners?
- Does training and guidance exist on sensitive and respectful treatment and, particularly, sensitive interviewing of hate crime victims, and are they available to frontline officers?
- Are specialist "victim" officers (with special training, including on hate crime victimization) available or on call?
- Is there psychological support assistance available or on call to support the interviewing officer ?
- Are there measures and checks in place to ensure the victim's safety and the prevention of re-victimization? In particular, are measures in place to avoid over-interviewing and exposure of the hate crime victim to the defendant?
- Can a hate crime victim be accompanied by a person of choice at any procedural step or interview?
- Are the premises where interviews are conducted accessible and comfortable for hate crime victims?
- Is information about the steps in the criminal justice process and rights of the victim provided early in the proceedings? Is it comprehensive?
- Are interpreters and translated materials readily available in relevant languages (not only the official language[s])?
- Is the way a victim is treated in the criminal justice system monitored, and is data collected and used to improve a victim-centred approach by the police?
- Are there oversight and complaint mechanisms in place and available to victims that deal with complaints about secondary victimization and non-sensitive and non-respectful treatment?
- Do investigations into police misconduct exist? If so, are they independently conducted?

2. Hate crime institutional protocols

At the institutional level, states should identify and implement laws, policies, protocols, guidance and training required to deliver effective and sensitive hate crime victim support. An important step is to institutionally develop a **victims of hate crime protocol** for law enforcement and CJS professionals. This should include steps to:

- Address every stakeholder in criminal proceedings and define their role in hate crime victim support at each level;
- Declare hate crime victims a particularly vulnerable group and explain their specific needs;
- Provide institutional training on respectful and sensitive communication;
- Consider practical recommendations to facilitate appropriate behaviour and engagement; and
- Understand the importance of information provision and the need for comfortable and accessible interview rooms, interpreters and information available in various languages.

An immediate measure of commitment to addressing the importance of hate crime and the support that hate crime victims can expect could come in the form of an institutional leadership declaration or formal commitment, such as a mission statement.

An explicit and automatic formal declaration of hate crime victims as victims with special protection needs should be enshrined in law and included in relevant policies and procedures. Any legal and policy frameworks should establish the victim's right to early and easy access to special protection measures and support services, and speak to the victim's rights and participation in criminal proceedings. This declaration should be clearly communicated in any institutional mission statement.

3. Accessible reporting systems and co-operation with support organizations

Offering a variety of accessible reporting options for victims shows a commitment to hate crime victims' access to justice. It is important to:

- Offer flexible reporting options, ideally online and accessible 24-hours a day;
- Let the victim decide whether and how they want to be contacted by the authorities, or whether communication should be conducted through a CSO, if available;

- Offer options for anonymous reporting;⁶⁹ and
- Assure victim confidentiality to everybody who reports a hate crime or hate incident.

Third-party reporting options have been identified as particularly beneficial, since hate crime victims are often reluctant to approach the police or other authorities.⁷⁰ Third-party reporting is the process of CSOs acting on behalf of or as liaisons for the victim in reporting a hate crime to the authorities. A co-ordinated approach should include setting up dedicated channels between third-party reporting CSOs and the CJS to facilitate workflows and information sharing.

Multi-agency co-operation between the CJS and CSOs providing victim support plays a critical role in reinforcing hate crime victims' trust in the system. Depending on their specialization, support services may provide counselling, as well as psychosocial, legal or practical support. More importantly, they serve as contact points/liaison with police and CJS professionals. It is critical that CJS professionals recognize the important support role organizations may play in the criminal justice process.

In order to foster and facilitate co-ordination with support providers, states should implement formal co-operation agreements that:

- Provide service guarantees that all actors will take agreed measures within agreed responsibilities and all legal and policy standards are met by each side;
- Determine short and fast communication channels between entities and appoint clear, single points of contact;
- Build trust between authorities and CSOs through repeated personal contacts between established caseworkers. For CJS professionals, this may be enabled by the creation of special units, especially in larger cities; and
- Establish boundaries and firewalls for data sharing and lay out the details as to whether and under which circumstances the sharing of personal information is allowed, in line with victim consent and data protection laws.⁷¹ Some countries have put in place automatic referral systems between the police and victim-support services.⁷²

69 Some police forces invite CSOs and victims to submit anonymous information, which then forms part of their intelligence picture about hate crime activities in their area.

70 [Ensuring Justice for Hate Crime Victims: Professional Perspectives](#), op. cit., note 15, p. 34-35.

71 For more information, see ODIHR's previous project "[Building a Comprehensive Criminal Justice Response to Hate Crime](#)", which, inter alia, offers the guide , (Warsaw: OSCE/ODIHR, 2018).

72 "[The State of Support Structures and Specialist Services for Hate Crime Victims: Baseline Report](#)", op. cit., note 5, p. 20.

It is important to note that many countries already have in place effective referral systems for victims of domestic violence. While it may not be practical to include hate crime victims within these existing structures, states are encouraged to learn from or build on these models.

4. Sensitive and respectful treatment training programmes

All ranks within law enforcement and all criminal justice professionals who interact, engage with or act on behalf of hate crime victims should undertake training on the sensitive and respectful treatment of hate crime victims.⁷³ In particular, police institutions should make training part of annual compulsory refresher programmes. It is beneficial for such training to include role playing, so officers can rehearse critical situations to refine their skills through participatory methodologies. Officers who have received additional specialized training on hate crime victimization and who regularly work with hate crime victims should be engaged in advising and developing training programmes.

Training for police should include practical aspects of treating and interacting with hate crime victims, such as:

- The importance of active listening, interview techniques and understanding one's own biases;
- The needs of hate crime victims and the procedural measures that strengthen trust and show a commitment to their protection and support; and
- The importance of measures for ensuring access to information throughout the investigation and criminal justice proceedings, i.e., presenting victim options, ensuring they understand their rights.

Although the focus is often on law enforcement, the effective practical implementation of a victim-centred approach is just as crucial for the prosecution and the judiciary. For example, the work of prosecutors and judges can appear highly formalized and can involve decision-making based on the case file without any personal contact with the victim. A victim may have a sense of being excluded from the proceedings, of not being believed or of being denied access to justice when receiving written information on the discontinuance of their case. Training for CJS professionals on applying a victim-centred approach enables them to understand the sensitivities of hate crime victims so they can tailor their communication to help victims feel heard and respected. This knowledge can also assist in promoting a victim's active participation in the criminal justice process, to the extent possible under the relevant laws.

⁷³ Victims' Rights Directive, *op. cit.*, note 2, Article 25.

Training must be obligatory and conducted regularly for all levels of CJS institutions.⁷⁴ It is important to involve experienced practitioners who work with victims of violence and trauma in the conceptualization and delivery of such training. Inviting CSOs and affected community members to help shape the training can assist in integrating hate crime victims' practical needs and encourages better understanding among all stakeholders. Training should also include activities to build the understanding of the important role hate crime victim-support providers have in reinforcing sensitive and respectful treatment.⁷⁵

(See Annex IV: Reading guide to strengthen understanding of hate crime victims for recommendations.)

5. Organizational culture

“Hopefully, we will internally gain a much better understanding that actually the outcome isn't necessarily a criminal justice outcome, the outcome is sympathy, is victim support, and people feeling that they've been listened to and that we're doing everything we can to make this kind of behaviour stop.” – Chief Superintendent, Head of Community Engagement⁷⁶

The importance of a victim-centred approach, the seriousness of hate crimes, an awareness of hate crime victims' needs and the necessary frameworks to combat discriminatory police work must be endorsed and enforced by police management and senior officers.

In order to earn the trust of the public, there must be a commitment to eliminating any direct or indirect practices of over-policing.⁷⁷ These practices may exist in the form of racial profiling, disproportionate stops and searches or other police checks, biases in prosecution and sentencing, and discriminatorily targeting members of minority groups.

74 For more information on hate crime training, see: [Manual on Joint Hate Crime Training for Police and Prosecutors](#), (Warsaw: OSCE/ODIHR, 2018).

75 The EStAR project will create a series of customized tools and training workshops to assist governments based on this Model Guidance.

76 Stevie-Jade Hardy, Neil Chakraborti, Ilda Cuko, “More Than a Tick-Box? The Role of Training in Improving Police Responses to Hate Crime”, *British Journal of Community Justice*, Vol. 15, No. 3, 2020, pp. 1-17.

77 Gail Mason, [Policing Hate Crime: Understanding Communities and Prejudice](#), (London: Routledge, 2017), p. 135.

Police management must actively prevent and counteract negative attitudes among officers on the social and emotional aspects of policing and promote its value as complementary to the investigative process.

A shift towards a problem-oriented, community-based policing approach will benefit hate crime victims and victims of other crimes, alike. As part of this approach, police officers must respond equally to all incidents, with the objective of preventing the escalation of further risk.⁷⁸ This is particularly relevant to hate crime, which has the potential to escalate and lead to new incidents.

Police management must reinforce the understanding that community policing, multi-agency networking and social service activities are equal, interdependent and mutually reinforcing approaches to fighting crime.⁷⁹

A CJS sector commitment to positively endorse the above will help establish trust with the community, ensuring that society understands that the CJS is there to not only provide access to justice, but also to provide protection and support measures for victims.

A commitment to change and inclusion can be demonstrated by active recruitment strategies to promote diversity at all levels. Diversity in the criminal justice workforce will enable stronger relationships to develop between minority and other marginalized communities and their respective criminal justice professionals. It can also help improve the institutional understanding of minority issues and bring different perspectives into the formulation of policies and procedures. For example, in some countries, there are specialized police teams to assist victims that consist of women and minority groups, to ensure a gender-sensitive and victim-sensitive approach.

6. Supervision and oversight mechanisms

To help mitigate against human error, robust oversight and supervision of hate crime responses must be enshrined in the process. Established oversight and complaint mechanisms must be made complementary to dealing with hate crime and its victims,

78 Paul Giannasi, Nathan Hall, “Policing Hate Crime: Transferable Strategies for Improving Service Provision to Victims and Communities Internationally”, in: Jennifer Scheppe, Mark Austin Walters (eds.), *The Globalization of Hate* (Oxford: OUP, 2016), pp. 190-209. In *Đorđević v. Croatia*, No. 41526/10, 24 July 2012, the European Court of Human Rights confirmed the state’s positive obligations in a situation outside the sphere of criminal law where the competent state authorities were aware of serious harassment directed at a person with physical and mental disabilities.

79 D.J. McCarthy, “Gendering ‘Soft’ Policing: Multi-Agency Working, Female Cops, and the Fluidities of Police Culture/s”, *Policing and Society*, Vol. 23, No. 2, 2013, pp. 261-278.

to effectively address procedural shortcomings, secondary victimization and insensitive and non-respectful treatment.

Any complaint body established should be as independent as possible, to maintain objectivity and to be accessible to victims, allowing them to report and address police misconduct. This body should be linked to systematic supervision of case handling and victim treatment during ongoing investigations. It is essential to gather victims' feedback on their overall experience when accessing the support structures and services of the CJS, to provide a living and easily obtainable accessible data stream that better informs action to eliminate flaws and identify potential areas for improvement.⁸⁰

Given the disproportionate impact of hate crime on its victims, supervisors must actively monitor investigations of such crimes. This monitoring and feedback is important for both the investigators and the victims of the crime. Supervisors and managers should introduce a mandatory check of hate crime casework to ensure that the initial investigating officer has recorded hate elements, conducted a risk and needs assessment, and implemented any appropriate interventions and referrals.

7. Community outreach

In many countries, mistrust is a major characteristic of the relationships between minority groups and the CJS. This is often, historic, multi-generational and embedded in social attitudes and behaviours.

Engagement between CJS professionals and minority groups should be established and promoted to overcome outdated attitudes and foster mutual understanding and trust. This interaction will also better inform customized policy and practice.

CJS professionals should be provided with ongoing opportunities to reflect on and discuss incidents they experience in their work, engaging where possible with victims and/or CSOs to hear their direct experiences. The use of reflective practice should be advocated at the institutional level.

Enabling professionals to better serve diverse communities acts as a catalyst contributing to professional competence, job satisfaction, societal cohesion and institutional reputation. Some countries deploy specially trained community liaison officers as part

80 Also see: "The State of Support Structures and Specialist Services for Hate Crime Victims: Baseline Report", op. cit., note 5.

of their police force.⁸¹ Their primary focus is on liaising between members of minority groups and the respective police units, but may also include other tasks related to hate crime. Liaison officers can act as hate crime victim champions and subject matter experts within and outside of the police service.

Consideration should be given to offering such posts to officers who themselves are part of minority groups, or who express special interest in such work, as their visible role within the community will enhance community partnership and engender trust in relations with minority groups. It is important for minority groups to have access to one or several explicitly dedicated positions in order to reassure vulnerable community members that they are being listened to and that there are those in such positions who are competent and sensitive in dealing with the relevant and possibly sensitive issues.⁸²

Community outreach should form part of the overall communication strategy, including:

- Providing a list of liaison officers in each unit, their contact details and a specification of their role online, through other public communication channels and to CSOs working in this field. Information should be provided in several languages; and
- Ensuring that liaison activities include active outreach to minority groups. Outreach should be targeted towards a cross-section of community members and representatives, and should not be limited to specific groups.⁸³

Transparency in public communication about how hate crime is dealt with, and related CJS work and policies, provides reassurance and trust in the legitimacy of the system to both the community and to victims.⁸⁴

81 A good example of this can be found in Ireland, as a procedure of the [Garda National Diversity & Integration Unit](#).

82 [Ensuring Justice for Hate Crime Victims: Professional Perspectives](#), op. cit., note 15, p. 48.

83 Neil Chakraborti, Stevie-Jade Hardy, "[LGB&T Hate Crime Reporting. Identifying Barriers and Solutions](#)", The Centre for Hate Studies, University of Leicester, 2015, p. 29.

84 "Policing Hate Crime: Transferable Strategies for Improving Service Provision to Victims and Communities Internationally", op. cit., note 78, p. 203.

8. Awareness raising campaigns

Many hate crime victims are unaware of their rights and/or the relevant victim-support system.⁸⁵ Comprehensive information must be made widely accessible through various communication channels and in multiple languages, and should be co-ordinated institutionally.⁸⁶

Launching information campaigns can assist in raising awareness of the topic, while simultaneously building trust within communities. Basic awareness-raising information could include:

- What hate crimes are, such as the definition and the related essential elements;
- The rights of hate crime victims;
- The effects of hate crime on the individual and on society;
- Police and CJS mission statements on effectively and sensitively dealing with hate crime;
- How and where to report a hate crime, and the reporting options that exist. It is important to include locations and office hours, as well as information on how to report via social media;
- Any options for reporting a hate crime without having to contact the authorities (third-party or anonymous reporting);
- Explaining that accessing victim-support services does not require crime reporting; and
- A contact list of victim-support providers, which should list both state and non-government entities. It should provide information, such as:
 - A list of providers of legal representation, psychosocial and medical care, and/or counselling services;
 - Information on whether the services can be accessed free of charge, and how to access this support;
 - Which providers are specialized in the field of hate crimes and/or in the support of specific victim groups; and
 - A contact list of other CSOs not explicitly specialized in victim support, such as organizations representing the interests of certain groups in the society.

⁸⁵ Ensuring Justice for Hate Crime Victims: Professional Perspectives, op. cit., note 15, pp. 7, 29.

⁸⁶ Victims' Rights Directive, op. cit., note 2, Article 26.

Annex I:

Sensitive and respectful essentials during the criminal justice process

First contact with the victim:

- Separate the offender from the victim and get them out of sight and earshot.

- Ensure the victim is in a safe, private environment when conducting questioning.

- Inform the victim of their rights and support available to them as a victim of hate crime, and refer them to available support services.

- Obtain an exact record of the victim's account, including any perception of the offender's bias motivation.

- Provide support and materials available in a relevant language, or refer them to a service provider where they can access information.

- Assist the victim in reporting their case.

- Immediately assign the case to a member of the hate crimes special unit, if one exists and in accordance with policy.

- Initiate the individual needs assessment (INA) process. Conduct an initial assessment to identify immediate security and safety needs, identify the risk of further victimization, intimidation or retaliation and refer to appropriately trained professionals to conduct a further in-depth assessment.

Conducting an interview:

- If the victim requests, and if possible, have the police officer who conducts the interview be of the same gender, ethnic origin, etc.

-
- Identify any communication needs. Ensure respect for the victim's right to have an interpreter, lawyer and/or other person of the victim's choice present during the interview and at all stages of the criminal justice process.
-
- Ensure that appropriate support and protection measures have been discussed with the victim and initiated before the interview.
-
- Inform the victim about their right to privacy and data protection, to prevent reluctance to share personal details. Discuss any available options to restrict the offender's access to victim's personal information in the file.
-
- Reassure the victim that information is provided neither to the victim's family nor to other non-parties to the proceedings or the media.
-
- Explain whether other state authorities outside the CJS (e.g., immigration authorities) will have access to the case file. Discuss whether the proceedings may affect the victim's residency status, if relevant.
-
- Encourage the victim to tell their story in their own words. Facilitate the victim's free narrative and let them finish speaking.
-
- Let the victim approach at their own pace. Accept that there might be questions they are not yet ready or willing to answer.
-
- Ask the victim what they think motivated the perpetrator. Avoid any questions that might be interpreted by the victim as suggesting they were to blame for the crime.
-
- Keep the interview length of time, the number of interviews and interviewers to a minimum.

Informing about the investigation and next steps:

- Explain that the incident has now been recorded and is being investigated as a possible hate crime.
-
- Inform the victim about probable next steps in the investigation, and manage expectations as to the case outcome. Clarify the factors that influence how sentences are determined or how the decision is made to apply restorative justice or suspended sentences.
-

-
- Describe the evidential requirements necessary for successful prosecution of both the base offence and the hate element. Illustrate that, in some hate crime cases, only the base offence will be prosecuted if there was not enough evidence to prove the hate element.
-
- Stress that any decision in favour of options that do not lead to the prosecution of the suspect or to the hate element of the crime being prosecuted does not mean that the victim is not believed.
-
- Provide information about whether the victim has the right to request specific investigative steps or to appeal any decision made at the investigation stage, and how to exercise this right.
-
- Describe the options a prosecutor typically has in terms of dropping the case, plea-bargaining, restorative justice or prosecution.
-
- Determine how a victim would prefer to be contacted and what they would like to receive communications about. If they want to remain engaged, follow up with the victim regularly and inform them about new developments.
-
- Pro-actively share with the victim updates on their case, if they so wish. Equally, respect the victim's wish to not receive any information.
-
- When all investigations are concluded, inform the victim of how the case is proceeding, including the grounds for next steps.
-
- Re-assess the victim's needs and refer them to or offer information on support organizations at any point as circumstances change and at any stage of the criminal proceedings.

Preparing for trial:

- At the earliest possible stage in the proceedings, consider granting the victim the necessary status to facilitate their active participation.
-
- Initiate an INA process to see if other needs are identified to support the victim during the proceedings.
-
- Offer interpretation and translation support, if needed. Access should be granted free of charge and both in the preparation stage and during the trial (e.g., for consulting a lawyer).
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- Determine whether legal advice and representation is required. If available, access should be granted through legal aid.
-
- Discuss with the victim their options or requirements with regard to appearing in court, whether protection and support mechanisms can be accessed at the trial stage and, if so, which type (e.g., psychosocial support).
-
- Guide the victim through the trial by explaining their participation rights. Explain how to produce evidence or to make a statement regarding evidence produced by the prosecution or the defence.
-
- Inform the victim about whether they have the option to withdraw from participation or have the right to not be informed about the proceedings.
-
- Inform the victim of any court or other fees that could potentially be incurred as a result of the criminal proceedings, including legal representation costs or damages the alleged offender might be entitled to claim from the victim in the event of their acquittal.
-
- Provide information on victim's rights to reimbursement of costs, including for travel expenses, translation or interpretation, support services and legal advice and representation.
-
- Point out the right to compensation from the state and/or the alleged offender and how to access this right, if available in the jurisdiction.

During the trial:

- Discriminatory or degrading language must be prohibited at all times, and this must be enforced by the judge during the proceedings.
-
- Access to legal representation, translation services and other protection and support measures should be determined and offered throughout the trial.
-
- Ensure the possibility to be accompanied by a support person, such as a family or community member, as well as a CSO representative, throughout the trial.
-
- Reduce unwanted possible contact with the alleged offender during or after the hearing, for example, by arranging for separate waiting rooms and/or entrances.
-

-
- The victim should be informed if there are court or other fees potentially incurred by the criminal proceedings and about the potential right to compensation from the state and/or the alleged offender, and how to exercise this right, if available in the victim's jurisdiction
-
- During all questioning, inquiries into a victim's personal life should be restricted to what is strictly necessary for presenting the case.
-
- Ensure the victim's right to be heard (e.g., by presenting an impact statement), and facilitate their active participation rights, utilizing communication technology as appropriate.
-
- If requested by the victim and available under law, the hearing should be arranged to take place without the presence of the public, to protect the victim's privacy.
-
- Take account of the bias motivation in the decision where there is evidence. Clearly state the court's findings on bias motivation, both in the courtroom reading and in the written decision.

After the trial:

- Provide a comprehensive briefing to the victim on the judgement and the grounds for the decision.
-
- Support and ensure the victim in exercising any right they have to compensation and/or appeal.
-
- Respect the victim's wishes and safety and privacy needs when considering communication with the media about the verdict.
-
- Continue available protection and support measures in the post-trial stage.
-
- Provide information on or renew the offer to refer the victim to specialist victim-support providers.
-
- Communicate about any remaining processes or follow-up, providing detailed information.
-
- Consider the use of restorative justice programmes offered or designed by those communities against which the offender's bias motivation was directed.
-

Annex II:

Sensitive and respectful communication essentials

Sensitive and Respectful Communication Essentials

- Introduce yourself** to the hate crime victim – do not remain anonymous.

- Treat the victim and **handle the case in an objective manner**, free from any personal ideologies or political opinions.

- Ask **the person how they wish to be addressed**, instead of assuming a person's gender identity, and use inclusive language.

- Refrain from any discriminatory behaviour or misconduct**, including abusive language, insults and inappropriate comments or “jokes”, particularly any on the basis of any protected characteristic.

- Protect** anyone **from any inappropriate behaviour by colleagues** or other people present on the agency's premises. Any misconduct by colleagues should be reported according to the agency's disciplinary protocol.

- The victim **should not be required to share their story** in front of more CJS professionals or other people than necessary. Ideally, a room offering an appropriate amount of **privacy** should be used. Departments should provide premises specially designed for interviews with victims.

- The victim is **allowed to be accompanied and supported** by a victim-support specialist, lawyer, CSO representative, family member or any other person the victim wishes to attend, if no contravening interests prevail.

- Call for **support from an interpreter, psychologist or other specialist** if issues come up that are outside the CJS professional's field of expertise or if this is deemed beneficial for the victim.

-
- Take the reported crimes seriously.** Even if there is not enough evidence to record the crime as a hate crime, victim's perceptions and other bias indicators should be included in the report.
-
- The **victim's perceptions and status as a hate crime victim** should not be put into question but, instead, **should be valued.**
-
- While recording the victim's statement, **do not evaluate the relevance of the victim's statement or their perception of the offender's bias motivation towards the victim.** The statement should be recorded according to the relevant jurisdiction's policy, ideally word-for-word.
-
- Communicate with the victim in **accessible language** and **answer any questions** the victim may have.
-
- Be aware of fears victims may have**, such as those of arrest or deportation due to their residency status.
-
- Employ **active listening** and demonstrate **interest** in the situation of the victim, such as allowing **victims to share their frustration and anger.**
-
- Be **mindful of the victim's identity** and **respect the victim's boundaries.**
-
- Respect the victim's wish to not participate in the proceedings** or cooperate with the authorities. Respect the victim's wish to not make a statement, if permissible in the respective jurisdiction, or to stop at any time.
-
- Empower** the victim so they are able to regain a sense of control over their situation and re-establish their agency.
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Annex III:

More on bias indicators⁸⁷

All of the following may indicate a bias:

- Insulting or abusive **statements** made to the victim or witnesses regarding any protected characteristic. Statements may take the form of words, writings or symbols. Such statements should also be taken into account if they occur at the crime scene or in the vicinity. For example, investigators may want to look for swastika graffiti or other right-wing extremist symbols sprayed on walls. Symbols may also include offensive hand movements, for example mimicking sexual acts;
- The **circumstances** of the offence, including location, date and time. An offender's bias motivation may be indicated by the **location** where the crime took place, for example, next to a religious building, such as a mosque or a synagogue, in an area well known for gay bars, or next to other community meeting points like civil society organizations. In terms of **date and time**, any closeness to trigger events either celebrating the offender's own (often extremist) ideologies or events the offender perceives as "hostile" and "caused by" or "connected to" the victim's community. For example, Islamist terrorist attacks are often followed by an increase in hate crimes against Muslims;
- The **use of severe violence** in cases where the offender and the victim are from different social or cultural groups. This is often the case in attacks on homeless people;
- The involvement of an **organized hate group** or one of its members is a particularly strong indicator;
- The **absence of other substantial motives** may also point to a possible bias motivation;
- **Victimization of the same group** in the criminal history of the offender;

⁸⁷ ODIHR, "Using Bias Indicators: A Practical Tool for Police", 2019; Klára Kalibová, Katarzyna Pawlik, Joanna Synowiec, Anna Kalik, Irena Biháriová, Face to Face with Bias Violence – Guidelines for Social Workers, (Prague. Warsaw, Bratislava & Belgrade: In iustitia, Nomada Association for Multicultural Society Integration, Ludi Proti Rasismu & Internation Aid Network, 2016), pp. 19-23; Mark A. Walters, Susann Wiedlitzka, Abenaa Owusu-Bempah, Kay Goodall, "Hate Crime and the Legal Process: Options for Law Reform", University of Sussex, October 2017, p. 80; Mason, Policing Hate Crime: Understanding Communities and Prejudice, op. cit., note 77, p. 143 et seq.

- Other **background information on the offender**, including statements about the offender's biased attitudes by family or friends, explicit content on the offender's mobile devices, website, blogs or social media;
- Possession of **hate-based material**, signs or symbols;
- Evidence of **hate speech or discriminatory speech** in communications online and offline, as well as communications with organized hate groups;
- **Conduct that specifically targets the identity** or perceived vulnerability of the victim, such as destroying aids of victims with disabilities or pulling off religious head coverings;
- The **victim's identification with several vulnerable or minority groups** regarding their protected characteristics might indicate an increased risk of being targeted by hate crime offenders. This is often the case for women of colour or Muslim women, transgender or non-binary people, and people of minority ethnic background belonging to perceived lower social classes, such as members of the Roma community;
- Cases of **gender-based violence** and violence against women, including sexual violence and domestic violence, should be assessed for a potential bias motivation. Cases of continuous psychological, physical, sexual, emotional or economic abuse, with control behaviours or where male privilege is used may point to a misogynist motivation; and
- General **attitudes** of the offender **expressed** during the crime or at other occasions **towards the same victim or a member of the victim's group** or community showing the offender's sense of **supremacy or entitlement** should be taken into account. This may take the form of role expectations related to gender, race, class, religion or belief, etc., and violence as a response to minority groups "stepping out of line."

Annex IV:

Reading guide

to strengthen understanding of hate crime victims

a. ODIHR

Developing Interagency Co-operation Plans to Address Hate Crime: A Methodology (2018)

Guide to Addressing Hate Crime at the Regional Level (2018)

Hate Crime Data Collection and Monitoring: A Practical Guide (2014)

Hate Crime Laws - A Practical Guide (2009)

Hate Crime Victims in the Criminal Justice System: A Practical Guide (2020)

Manual on Joint Hate Crime Training for Police and Prosecutors (2018)

Building Coalitions for Tolerance and Non-Discrimination (2018/2019):

– A Practical Guide

– Model Workshop Trainers' Manual

Prosecuting Hate Crimes: A Practical Guide (2014)

The State of Support Structures and Specialist Services for Hate Crime Victims: Baseline Report (2020)

Training Programmes to Counter Hate Crime (2012/2014/2018):

– Training Against Hate Crimes for Law Enforcement (TAHCLE): Programme Description

– Prosecutors and Hate Crimes Training (PAHCT): Programme Description

– Information Against Hate Crimes Toolkit (INFAHCT): Programme Description

Understanding Anti-Semitic Hate Crimes and Addressing the Security Needs of Jewish Communities: A Practical Guide (2017)

Understanding Anti-Muslim Hate Crimes and Addressing the Security Needs of Muslim Communities: A Practical Guide (2020)

Understanding Hate Crimes: A Handbook for Ukraine (2015)

Understanding the Needs of Hate Crime Victims (2020)

The Model Guidance on Individual Needs Assessment (INA) of Hate Crime Victims (2021)

b. Council of Europe

European Commission against Racism and Intolerance (ECRI) Country Reports Factsheet – “Persons with disabilities and the European Convention on Human Rights” (2020)

Policing Hate Crime against LGBTI persons: Training for a Professional Police Response (2017/2019)

Survey on Hate Crime, Hate Speech and Discrimination in Georgia: Attitudes and Awareness (2018)

c. European Union Fundamental Rights Agency (FRA)

Antisemitism: Overview of antisemitic incidents recorded in the European Union 2009-2019 (2020)

Being Black in the EU - Second European Union Minorities and Discrimination Survey (2018)

Being Trans in the EU – Comparative analysis of the EU LGBT survey data (2014)

Ensuring Justice for Hate Crime Victims: Professional Perspectives (2016)

Equal Protection for All Victims of Hate Crime - The Case of People with Disabilities (2015)

A Long Way to Go for LGBTI Equality (2020)

Experiences and Perceptions of Antisemitism - Second Survey on Discrimination and Hate Crime against Jews in the EU (2018)

“FRA Opinion on the Framework Decision on Racism and Xenophobia” – with special attention to the rights of victims of crime (2013)

Hate Crime Recording and Data Collection Practice across the EU (2018)

Making Hate Crime Visible in the European Union: Acknowledging Victims' Rights (2012)

Racism, Discrimination, Intolerance and Extremism: Learning from Experiences in Greece and Hungary (2013)

Second European Union Minorities and Discrimination Survey - Main results (2017)

Second European Union Minorities and Discrimination Survey. Muslims – Selected findings (2017)

Unmasking Bias Motives in Crimes: Selected Cases of the European Court of Human Rights (2018)

d. Multinational projects with participation of EStAR Network Experts

Call It Hate: Awareness of Anti-LGBT Hate Crime in the European Union (2019)
Combating Anti-Roma Violence and Hate Speech in France and Italy: Monitoring Methodology

Come Forward: Empowering and Supporting Victims of Anti-LGBT Hate Crimes:

- Handbook for professionals
- Infopack for victims
- Good Practices Report
- Research Book
- Conference proceedings
- Training manual

European Network against Racism (ENAR): Racist Crime & Institutional Racism in Europe: ENAR Shadow Report 2014-2018

Counselling Services for Victims of Hate Crimes (RAA Sachsen E.V.): Hate Crime Victim Support in Europe: A Practical Guide

HateNoMore: Training and awareness raising to combat hate crime and hate speech:

- Manual on Support to Victims of Hate Crime

HateNoMore: The needs of victims of hate crimes:

- Understanding the Needs of Persons Who Experience Homophobic or Transphobic Violence or Harassment
- Toolkit for the Law Enforcement Bodies: Accommodating the Needs of the Victims of Homophobic and Transphobic Hate Crimes
- Needs of the Victims of Homophobic and Transphobic Hate Crimes – Qualitative Study

Hate Crime Prevention in CEE and Western Balkan Countries: Guidelines for social workers

Facing All the Facts:

- European Report: Connecting on Hate Crime Data in Europe: Connecting on Hate Crime Data in Europe
- Country Reports: Greece, Hungary, Ireland, Italy, Spain and United Kingdom

Lifecycle of a Hate Crime:

- Comparative Report
- Country Reports: Czech Republic, Ireland, Latvia, Sweden, and United Kingdom

Police and NGO Co-operation to Combat Hate Crime in Estonia, Latvia and Lithuania: Project information

Tackling anti-LGBT hate speech and hate crime: Project information

Uncovering Anti-Roma Discrimination in Criminal Justice Systems in Europe: Key findings

UNI-FORM: Bringing Together NGOs and Security Forces to Tackle Hate Crimes and On-Line Hate Speech against LGBT Persons: [Project information](#)

V-START. Victim Support through Awareness Raising and Networking:

- [Guide for Victims of Hate Crimes](#)
- [Support System for Victims of Hate Crime in Germany](#)

Comprehensive collections of resources in the field of hate crime:

- OSCE's Tolerance and Non-Discrimination Information System ([TANDIS](#))
- The International Network for Hate Studies [online library](#) .

Annex V:

EStAR Expert Network

Members

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

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

Country	Government members	CSO members
Poland	Unit for the European Migration Network and Combating Human Trafficking, Ministry of the Interior and Administration	Anti-discrimination Education Society
Portugal	Department of European Affairs Directorate General of Justice Policy	Portuguese Association for Victim Support (APAV)
Romania		Center for Legal Resources
Serbia	Office of the Public Prosecutor	Da se Zna!
Slovakia	Human Rights Division, Ministry of Justice	The Islamic Foundation in Slovakia
Slovenia	European Affairs and International Cooperation Unit, Ministry of Justice	Union of Roma in Slovenia
Spain	National Office Against Hate Crimes, Ministry of Interior	Movement Against Intolerance (MCI)
Sweden	Swedish Crime Victim Authority	Victim Support Sweden
Switzerland	Federal Commission against Racism	Network for Victims of Racism
Turkey	Human Rights Department, Ministry of Justice	
Ukraine	Human Rights Directorate, National Police	Social Action Centre
United Kingdom	National Online Hate Crime Hub	Galop
International organizations and other multilateral institutions	CEC – Conference of European Churches	
	CEJI – A Jewish Contribution to an Inclusive Europe	
	DG JUST – Directorate-General for Justice and Consumers, European Commission	
	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 October 2021