



# WORKSHOP REPORT- BULGARIA

## DEVELOPING JOINT TRAINING PROGRAMMES FOR POLICE AND PROSECUTORS ON ADDRESSING HATE CRIMES

**Warsaw**  
28 AUGUST 2018

## Contents

Background information .....	2
Presentations and discussions .....	3
<i>Opening remarks and presentation of the project</i> .....	3
<i>Discussion on the manual on joint hate crime training for police and prosecutors</i> .....	3
<i>ODIHR's Opinion on Certain Provisions of the Criminal Code of Bulgaria Pertaining to Bias-Motivated Crime, 'Hate Speech' and Discrimination</i> .....	5
<i>Improving inter-agency co-operation on addressing hate crimes</i> .....	6
<i>Closing remarks</i> .....	8
Conclusions .....	8
Annex 1 – Workshop agenda .....	10

## Background information

In February 2017, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) launched a two-year project to help improve skills of, and collaboration among, criminal justice professionals in each of four OSCE participating States – Bulgaria, Greece, Italy and Poland – and to improve their co-operation with civil society. The overall aim was to contribute to building a comprehensive criminal justice response to hate crime in each country.<sup>1</sup>

ODIHR's partners in Bulgaria are the Public Prosecutor's Office and the National Institute of Justice. Project activities in Bulgaria included piloting of three joint training sessions, in different parts of the country, for police and prosecutors on investigating and processing hate crimes. The training sessions were based on ODIHR's Training Against Hate Crimes for Law Enforcement (TAHCLE) and Prosecutors and Hate Crime Training (PAHCT) programmes which were already customised for Bulgaria. Lessons drawn from the pilot trainings were used to develop a manual on joint training programme for police and prosecutors that would allow them to identify and overcome differences in their understanding of hate crimes and in their approaches to processing hate crime cases.<sup>2</sup>

The outcomes and experiences of project activities were presented and discussed at a workshop in Sofia on 12 June 2018. ODIHR organised the event together with the Public Prosecutors Office and the National Institute of Justice of Bulgaria and brought together 48 participants (21 women and 27 men) representing criminal justice agencies, civil society, the United States Embassy, United Nations High Commissioner for Refugees (UNHCR) and independent bodies such as the Ombudsman of the Republic of Bulgaria and the Commission for Protection against Discrimination.

Lessons learned from activities in Bulgaria will help design a manual for joint training of police and prosecutors representing a significant segment in a toolkit for comprehensive response to hate crimes, which should be applicable within the criminal justice systems throughout the OSCE region.

ODIHR announced the event with a news item on its website and promoted it on social media.<sup>3</sup>

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<sup>1</sup> The project "Building a Comprehensive Criminal Justice Response to Hate Crime" is co-funded by the European Union and the United States and implemented by ODIHR.

<sup>2</sup> *Manual on Joint Hate Crime Training for Police and Prosecutors Intended for use in Bulgaria* available for download at < <https://www.osce.org/odihr/402275> >

<sup>3</sup> The news item can be accessed at: < <https://www.osce.org/odihr/384126> >

## Presentations and discussions

### *Opening remarks and presentation of the project*

Penka Bogdanova, Deputy Prosecutor General of the Republic of Bulgaria opened the event. She praised the co-operation between ODIHR and the Prosecutor's Office, indicated the state responsibility in addressing hate crimes, stemming from international obligations but also stressed the duty of state institutions towards citizens to build a democratic society. She thanked ODIHR for a competent support during the design of the manual tailored for use in Bulgaria, as well as for ODIHR's legal opinion on certain provisions of the Criminal Code related to hate crimes, "hate speech" and discrimination. On behalf of the Prosecutors' Office, she committed to using both resources within the already established joint trainings for police, prosecutors and other law enforcement agencies. Georgi Arabadzhiev, Deputy Secretary General of the Ministry of Interior, expressed hope that the manual would enable openness to diversity and aid in investigating signals of bias in the work of the police. Petya Gegova, Deputy Director of the National Institute of Justice, underlined the significance of the training manual and emphasised that good practices and lessons learned would assist professionals in the fight against hate crimes. Christie Edwards, Deputy Head of the Tolerance and Non-Discrimination Department at ODIHR, stressed the excellent work done in Bulgaria and wished that the great commitment and the tools produced together would serve as a model and inspiration for other OSCE participating States in developing new comprehensive approaches to addressing hate crimes. Tome Shekerdjiev, Project Manager at ODIHR, presented the general overview of the project.

### *Discussion on the manual on joint hate crime training for police and prosecutors*

Francois Deleu, ODIHR's expert consultant on hate crimes, informed the participants that the aim of the manual on joint hate crime training for police and prosecutors was to enable a co-ordinated and far-reaching criminal justice response to hate crime. He added that the three pilot training events for police and prosecutors conducted in different regions of Bulgaria (Sofia, Veliko Tarnovo and Plovdiv) formed the basis for the manual. He added that it drew on the discussions, recommendations and good practices of participants and trainers. Mr. Deleu continued that the manual outlined the content of the trainings and provided guidelines on how the training activities may help police and prosecutors to understand hate crimes better. He also said that the manual covered issues such as understanding diversity and intolerance, the concept and impact of hate crimes, bias indicators, investigation of hate crimes, international obligations and national legislation aimed at countering hate crimes, obstacles to investigating and prosecuting hate crimes and good practices to overcome such obstacles. Mr. Deleu underlined that the manual should be used jointly with other relevant ODIHR resources, such as the Training Against Hate Crimes for Law Enforcement (TAHCLE) and Prosecutors and Hate Crime Training (PAHCT) or other training curricula already existing in Bulgaria.

Sava Petrov, Prosecutor at the International Department of the Supreme Cassation Prosecutor's Office of the Republic of Bulgaria, presented the national context in dealing with hate crimes and underlined the need for improvement, especially in understanding the concept of hate crime. He continued that the manual will act as an additional tool and recommended to focus on the first part i.e. the organization of training, selection of trainees and trainers and choice of training methodology. He praised the training for a possibility to swap the roles and strengthen communication between the two different groups of professionals. He also expressed concern that dealing with cases where there are no definitions in the national legislation for issues related to hate crimes (e.g. racist motivation) would be challenging. For this matter, he referred to the ruling of the Bulgarian Constitutional Court nr.7 from 1992, which stated that ratified international agreements were a part of the national legislation if they can clarify the acts (crimes) or their elements existing in the Criminal Code or create obligations to change the legislation.<sup>4</sup> Mr. Petrov concluded by expressing hope that the project results and workshop discussions would contribute to more lasting efforts to address hate crimes in Bulgaria after the project ends.

Dorina Hristova, Director of E-learning and Information Resources Department at the National Institute of Justice, was impressed by the pragmatic design of the manual and the fact that it raised questions and provoked users to think about possible answers.

Maria Theresa Verdugo, Specialized Hate Crime Prosecutor of Malaga, Spain, underlined the importance of the manual in order to improve the understanding of hate crimes, diversity and bias indicators in investigating hate crimes. She presented selected practices from Spain such as the *Handbook for training security forces in identifying and recording racist or xenophobic incidents*, developed in 2012, which resulted in training of 220.000 officials.<sup>5</sup> She also presented the lessons learned from the implementation of the *Protocol for law enforcement bodies for hate crime and behaviours that violate the laws on discrimination* issued by the Ministry of Interior in 2015.<sup>6</sup> She emphasized the importance of co-operation between the Special Prosecutors on Hate Crime in Spain and with the police. She explained that in addition to the benefits of direct contact and trainings for law enforcement officers there was an obligation to send a copy of each police report that alleges bias motivation also to the Special Prosecutor.

Ms. Maryana Borisova from the Commission for Protection against Discrimination, expressed preparedness to use the manual in the future work of the equality body in order to co-operate with the Prosecutor's Office of the Republic of Bulgaria and the Ministry of Interior.

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<sup>4</sup> For the opinion in Bulgarian language please see: Constitutional Court of Bulgaria website <[www.constcourt.bg/bg/Acts/GetHtmlContent/7e16ab9f-e718-4961-af8c-a073f31e0559](http://www.constcourt.bg/bg/Acts/GetHtmlContent/7e16ab9f-e718-4961-af8c-a073f31e0559)>

<sup>5</sup> *Handbook for training security forces in identifying and recording racist or xenophobic incidents* available at: <<http://www.mitramiss.gob.es/oberaxe/ficheros/documentos/HandbookTrainingSecurityForcesIdentifyngRecordingRacistXenophobicIncidents.pdf>>

<sup>6</sup> *Protocol for law enforcement bodies for hate crime and behaviours that violate the laws on discrimination* is available in Spanish at: <<http://www.interior.gob.es/documents/642012/3479677/PROTOCOLO+ACTUACION/99ef64e5-e062-4634-8e58-503a3039761b>>

***ODIHR's Opinion on Certain Provisions of the Criminal Code of Bulgaria Pertaining to Bias-Motivated Crime, 'Hate Speech' and Discrimination***

Viktor Kandrak, Hate Crime Officer, presented the “2018 OSCE/ODIHR Opinion on Certain Provisions of the Criminal Code of Bulgaria Pertaining to Bias-Motivated Crime, ‘Hate Speech’ and Discrimination”.<sup>7</sup> He informed the participants that upon a request of 8 January 2018 from the Deputy Minister of Foreign Affairs of the Republic of Bulgaria, OSCE/ODIHR provided a legal review of the compliance of the provisions with OSCE commitments and international human rights standards. He referred to bias-motivated crime, Article 116 par 1 and Article 131 par 1 where he indicated that in these provisions “hooliganism” was together with “racist or xenophobic motives”, although the concepts of the motives were different. He added that ODIHR recommended removal of the term “hooligan” from Article 116 and 131 or making it a separate aggravating factor. Moreover, he continued that the enhanced protection against physical attacks perpetrated by a group of Article 163 par 1 was restricted to citizens and argued that this definition was too narrow and specified that not only citizens should be protected from these types of attacks. He added that ODIHR recommended replacing the term “citizen” with “person” in Article 163 par 1 and Article 165. He continued that ODIHR also recommended the expansion of protected characteristics to additionally include religion and non-religious belief, sex, sexual orientation, gender identity and disability and to include a general penalty enhancement for all bias motivated crimes. Furthermore, he underlined that there were no OSCE commitments to penalise “hate speech” and informed that the opinion would refer to other international obligations of Bulgaria. He concluded with the issue of discrimination appearing in Article 165 as regards “citizens” and the issue of restricting freedom of expression and freedom of association in Article 166. He added that OSCE/ODIHR recommended amendment of Article 165 to include the protection of non-citizens and revision of Article 166.

Mr. Sava Petrov, Prosecutor at the International Department of the Supreme Cassation Prosecutor’s Office of the Republic of Bulgaria, underlined that ODIHR’s recommendations should undergo thorough analysis. Responding to the presentation by ODIHR Hate Crime Officer, he said that both Article 116 and Article 131 mentioned hooliganism and racism, but there was a difficulty in defining whether the motive behind the criminal act was racism, hooliganism or xenophobia. Mr. Petrov advised that it would be useful if the police and prosecution developed a system of marking and distinguishing the type of crime. He continued that xenophobia, racism and hooliganism could constitute a mixed motivation. He remarked that amendments to the penal code, specifically to the general provisions need careful analysis. In reference to the remarks to Article 162, he pointed out that in Article 162, section 2, the hate crime by association (e.g. victim of hate crime for being married to black person) is also included, because under that specific article one could be a victim of hate crime regardless of skin colour. He continued that legislation may create certain barriers and

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<sup>7</sup> For the opinion please see: Legislationline website < <https://www.legislationline.org/odihr-documents/page/legal-reviews/country/39>>

recommended to consider the legal experiences. In terms of substitution of the word “citizen” for “individual”, he assured that there were no cases where non-citizens of Bulgaria would not be legally protected. In reference to Article 166, Mr. Petrov concluded that in Bulgaria there were no risks of religious prosecutions and that in the last 5 years there were no cases related to this provision.

Mr. Ilya Nachev, Junior Attaché within the Ministry of Foreign Affairs, informed the participants that the National Coordinator on Combating Antisemitism, the Deputy Foreign Minister Georg Georgiev, convened the Contact Group to discuss the recommendations from ODIHR’s legal review in order to incorporate the proposals into the Bulgarian Criminal Code. A Spanish legal expert and International Holocaust Remembrance Alliance delegate were invited to the meeting to share good practices from Spain and provide guidance.

As a result, the Contact Group reached an agreement that the legal opinion of ODIHR would be submitted to the competent directorates within the Ministry of Justice, which in turn would review the recommendations. The Contact Group further agreed that the relevant bodies of the judiciary, the Supreme Bar Council and the civil society organizations should be acquainted with ODIHR’s proposals. As a further step, the Bulgarian Ministry of Justice will lead an inter-agency working group to prepare the relevant changes in the legislation.

Maria Kostova from the Sofia District of the Prosecutor’s Office of the Republic of Bulgaria, mentioned that one of the recommendations was to expand the characteristics in order to cover religion, beliefs different from religions, gender and sexual orientation. She inquired which types of beliefs different from religion should be protected. Furthermore, she asked about the meaning of the term “sexual identity” and how it differed from ‘gender’.

Viktor Kundrak, Hate Crime Officer, ODIHR answered that agnosticism was meant by non-religious beliefs. He continued that the term “sexual identity” could be explained in more detail in international laws and definitions provided by United Nation level institutions.

Mr. Tome Shekerdjiev, Project Manager at ODIHR proposed to expand the protected characteristics so that they take into consideration the growing jurisprudence of the European Court of Human Rights. He also pointed out that the “Methodological Guidance on the Work upon Criminal Acts Committed with a Discriminatory Motive”, issued by the Supreme Cassation Prosecutor’s Office of Bulgaria in 2013 provided instructions on how to differentiate between hooliganism and racism.

### ***Improving inter-agency co-operation on addressing hate crimes***

Ms. Dorina Hristova, Director of the E-learning and Information Resources Department within the National Institute of Justice (NIJ), presented the work of the NIJ and informed about the diverse trainings using novel training tools and directed towards in-service and candidate judges and prosecutors. She presented results of an online survey conducted by NIJ on hate crimes where a vast majority of respondents expressed interest in learning more about hate crimes, its root causes and ways of distinguishing them from other type of crimes. Furthermore, she mentioned that the respondents were interested in the role of the media,

case law of the European Court of Human Rights, online training tutorials and videoconferences with the Court of Justice of the European Union. Ms. Hristova concluded that NIJ was ready to co-operate and tackle any challenges regarding the topic at hand.

Ms. Maryana Borisova from the Commission for Protection against Discrimination, mentioned that it should be possible to make a distinction between three motives (i.e. hooliganism, racism, xenophobia) when registering and reporting hate crimes. She advised that competent institutions become more accessible to the Roma communities, preferably with the help of young, well-educated professionals from such communities. She noted that it was very important to learn how to proceed in order to improve the process of registration and reporting of hate crimes. She continued that correct identification and registration of hate crimes was the first step in ensuring adequate investigation and subsequent prosecution and sanctions. She proposed a definition of hate crime, e.g. a crime carried out because of the race, skin colour, ethnicity, gender, sexual identity, religion, political conviction, status, health and age of the victim.

Mr. Radko Dimitrov from the informal group of Roma lawyers in Bulgaria, mentioned that the Roma communities very often feel that the State does not take interest in protecting them. He concluded that in comparison to other states within the European Union, Bulgaria was not making sufficient progress in the fight against discrimination and protecting its minorities and inquired whether any improvements in this respect were planned for the future.

Ms. Petya Karayaneva, National Protection Officer at the UNHCR in Bulgaria, presented research regarding the attitudes of the Bulgarian society towards the refugees, which were the most vulnerable group for hate crime. She continued that both refugees and the Roma community were reluctant to report hate crimes. She presented data on asylum seekers and refugees indicating that in 2013 there were some 13.000-14.000 asylum seekers in Bulgaria and in 2015 the numbers raised up to 20.000 persons. She mentioned that over the past years, the attitudes towards asylum seekers/refugees changed, but personal security remained an issue to present day. She provided positive results of awareness raising activities.

Mr. Dimitar Bongalov, Director of the National Preventive Mechanism at the Ombudsman's office of the Republic of Bulgaria, he said he was impressed by Chapter 4 of the manual dedicated to understanding intolerance. He continued that in Bulgaria, Roma and refugee communities were most vulnerable to hate crime. He underlined that prevention of crime should be of utmost importance. Moreover, he remarked that similarly to the United Kingdom, the Prosecutors' in Bulgaria should undergo training on the available administrative sanctions. He also recommended mandatory psychological consultations for social workers and persons working with hate crimes. He advised focusing on more control instead of policing. He concluded that only effective punishment could guarantee lack of repeated attacks.

Mr. Milan Mihailov, Judge in the Penal Panel of Sofia Court agreed with conclusions of the speakers and added that the courts must contribute to the discussion on creating an adequate

penal code in order to react to respective crimes. He concluded that the penal code dated back to 1950s and must be updated in order to be useful in the present times.

Ms. Gloria Filipova, Project Co-ordinator at the Bilitia Resource Center Foundation (LGBTI), informed that sexual identity was not protected in Bulgaria, and therefore there were no crimes registered. She called upon all institutions and the civil society organizations to deal with the matter of sexual orientation and sexual identity and to include them in the legislation. She added that the LGBTI community was afraid to report hate crimes and was more eager to report online. She expressed readiness to co-operate with institutions and the civil society.

### *Closing remarks*

Mr. Tome Shekerdjiev, Project Manager at ODIHR, informed the participants about the planned launch a new ODIHR's programme called INFACCT (Information Against Hate Crime Toolkit) which would aid participating States interested in improving their hate crime data collection.<sup>8</sup> He informed on the creation of a national cross-governmental protocol against hate crimes in Greece where the Ministry of justice undertook several initiatives to improve the data collection. Furthermore, he underlined the importance of co-operation between relevant institutions and the civil society. Mr. Shekerdjiev concluded that the generic manual for joint police and prosecutor trainings would form part of the general toolkit on addressing hate crimes, which ODIHR will present at the project closing conference in November 2018.

### Conclusions

The participants in the workshop reached consensus on a number of key issues. The central themes that emerged during the workshop, both in the formal presentations in the plenary sessions and in the discussions, were the importance of comprehensive inter-agency co-operation in combatting hate crime, improvement of data collection and awareness raising by conducting on-line or on-site trainings and awareness campaigns.

Furthermore, many of the workshop participants agreed on the following:

- The benefit of the manual as an additional and pragmatic tool in organisation of future training activities;
- The need for careful analysis of the “OSCE/ODIHR Opinion on Certain Provisions of the Criminal Code of Bulgaria Pertaining to Bias-Motivated Crime, ‘Hate Speech’ and Discrimination” prior to making amendments to the general provisions in the Bulgarian penal code;

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<sup>8</sup> Information Against Hate Crimes Toolkit (INFACCT): Programme Description is available at: <https://www.osce.org/odihr/INFACCT> >

- The need for a definition of a hate crime in order to distinguish it from other type of crimes in Bulgaria;
- Increase of accessibility of competent institutions to vulnerable communities in Bulgaria (e.g. Roma community, refugees, migrants);
- The need for improvement of the process of registration and reporting of hate crimes;
- Proposal for expansion of protected characteristics, such as sexual identity, gender and disability;
- Continuation of awareness raising through professional trainings and campaigns.

The participants aspired that the tools produced together would serve as a model and inspiration for other EU and OSCE countries to develop new comprehensive approaches to addressing hate crime.

**NATIONAL WORKSHOP**

**“BUILDING A COMPREHENSIVE CRIMINAL JUSTICE RESPONSE TO HATE CRIME”**

**DEVELOPING A TRAINING MANUAL FOR JOINT TRAINING OF POLICE AND  
PROSECUTORS ON ADDRESSING HATE CRIMES**

**Sofia, 12 June 2018**

**Hotel Balkan, Sredetz Hall**

- 9:00- 9:30      Registration of participants**
- 9:30- 10:00      Opening remarks:**  
Penka Bogdanova, Deputy Prosecutor General of the Republic of Bulgaria  
Georgi Arabadzhiev – Deputy Secretary General of the Ministry of the Interior  
Petya Gegova – Deputy Director of the National Institute of Justice  
Christie Edwards, Deputy Head of the Tolerance and Non-Discrimination  
Department at ODIHR
- 10:00- 10:30      Presentation of project activities**  
Tome Shekerdjiev, Project Manager, ODIHR
- 10:30- 11:00      Outlining experiences, good practices and lessons learned in designing the  
manual for joint police and prosecutor training on addressing hate crimes in  
Bulgaria**  
Francois Deleu, expert consultant on hate crimes
- 11:00- 11:30      Coffee break**
- 11:30- 13:00      Presentation and discussion of the training manual for joint police and  
prosecutor training on addressing hate crimes in Bulgaria**
- Francois Deleu, expert consultant on hate crimes
  - Sava Petrov, Prosecutor at the International Department of the Supreme  
Cassation Prosecutor’s Office of the Republic of Bulgaria
  - Dorina Hristova, Director E-learning and information resources department,  
National Institute of Justice
  - Maria Theresa Verdugo, Specialized Hate Crime Prosecutor of Malaga, Spain
- 13:00-14:00      Lunch**

**14:00-15:00**    **Main points of OSCE/ODIHR opinion on certain provisions of the criminal code of Bulgaria pertaining to bias-motivated crime, “hate speech” and discrimination**

Viktor Kundrak, Hate Crime Officer, ODIHR

**15:00-16:00**    **Facilitated discussion on practical implementation of the manual and greater inter-agency co-operation on addressing hate crimes**

Representative from the Ministry of Interior

Petya Karayaneva, National Protection Officer, UNHCR Bulgaria

Representative from the Commission for Protection against Discrimination

Representative of the Ombudsman

Open floor for participants (civil society organizations)

**16:00-16:30**    **Concluding remarks**

Tome Shekerdjiev, Project Manager, ODIHR

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