

AMNESTY INTERNATIONAL

Statement for working Session 2: Tolerance and non-discrimination II

OSCE Participating States must take measures to combat hate crimes

Combating hate crimes should certainly remain a priority for the OSCE Participating States. Although some progress has recently been made across the region, hate-motivated violence continues to be pervasive and the authorities' responses largely insufficient.

Individuals and communities continue to suffer violence because of who they are; they are targeted because of their ethnicity, religion or belief, sexual orientation or gender identity. Hate crimes constitute a serious form of discrimination that must be thoroughly addressed. According to the EU Fundamental Rights Agency, ethnic, sexual and gender minorities are often victims of hate crime.

A 2009 FRA survey (EU-MIDIS) found that one in five Roma or sub-Saharan Africans who were victims of a crime thought they had been targeted because of their ethnicity. In a recent LGBTI survey, the FRA highlighted that one in four respondents had been attacked or threatened with violence in the past five years.

However, it is difficult to measure the exact extent of hate-motivated violence, particularly of homophobic and transphobic violence, because only a minority of European countries collects comprehensive data on such crimes.

Hate-motivated violence has a particular detrimental, long-term impact on victims as it creates a climate of fear among the targeted individuals, groups and communities and, especially when states fail to bring the perpetrators to justice, a pervasive mistrust in authorities. Therefore, it is essential that the discriminatory motives in hate crimes are unmasked and publicly condemned by authorities and political leaders, not only to more effectively prevent future crimes, but to combat discrimination and the destructive message that such crimes send to individuals, groups and society.

Several OSCE Participating States, such as **Bulgaria, the Czech Republic, Italy, Turkey and Ukraine**, have not yet made explicit in their legislation that a crime perpetrated on the grounds of real or perceived sexual orientation and gender identity constitutes a hate crime. The lack of adequate legislation makes it unlikely that any alleged homophobic or transphobic motive will be effectively considered in the investigation, prosecution and sentencing of a hate crime.

In some countries where provisions to combat hate crimes perpetrated on grounds of race and ethnicity, sexual orientation and gender identity exist, problems persist with police practices and the investigation of the hate motive.

The recent conviction of four people for the racist murder of six Roma in **Hungary** in 2008 and 2009 raised hope of obtaining justice after so many years. However, hate crimes remain a serious concern in Hungary. Although a new Criminal Code came into force last year, lack of training and binding guidelines for the police and judicial authorities results not only in the alleged hate motive being

ignored during the investigation phase, but also in a failure by the police to protect communities and individuals from hate-motivated violence. Amnesty International and other organizations have for instance expressed serious concerns about the failure to protect the Roma community in Devecser in August 2012 when far-right vigilante groups and the political party Jobbik organized an anti-Roma demonstration.

Amnesty International and other organizations have documented a worrying trend with regard to hate-motivated violence targeting migrants and asylum seekers in **Greece**, in many instances perpetrated by organized groups. According to NGOs, more than 150 cases of hate-motivated violence were recorded in 2012; in half of the cases victims were irregular migrants. Although a few measures have been introduced, including the establishment of directorates and units within the police to tackle racist crimes, no safeguards exist to ensure that irregular migrants who report racist violence are not arrested and deported. Amnesty International has documented several cases in which irregular migrants victims of such crimes were arrested and in some cases ill-treated by the police.

The lack of adequate implementation of the laws or training of police and the judiciary creates further barriers to reporting. According to the EU FRA survey, 80 percent of cases of homophobic and transphobic violence or harassment are not reported to the police, often because of fear of further victimization due to institutionalized homophobia and transphobia. Amnesty International has documented cases in **Italy** where victims experienced discomfort in reporting, particularly when the victim is a transgender person, because of police's behavior that can make a victim feel that they are "worth nothing", to quote Anna, one of the transgender women who shared her story with us.

This fear of being further victimized is shared by other groups targeted by hate-motivated violence, such as Roma people. According to FRA reports, compared to other ethnic minorities, many Roma do not report incidents of assault, threat or serious harassment to the police because of dislike, fear or previous bad experiences with the police.

Lack of appropriate criminal legislation, inadequate or biased investigation, or the authorities' failure to bring suspects to justice can lead to impunity. Amnesty International's research has documented such cases in **Bulgaria and Turkey**. By neglecting to take necessary measures, such as arresting suspects or delaying the prosecution of hate crimes, five years can pass without justice, as in the case of the alleged homophobic murder of Mihail Stoyanov.

To conclude, Amnesty International calls on OSCE Participating States to enhance take all measures necessary in combating hate crimes by:

- Ensuring that their laws prohibit all crimes that are perpetrated against individuals or property because of their real or perceived association with, or belonging to, a group defined by a protected characteristic according to international human rights law;
- Including real or perceived sexual orientation and gender identity as protected characteristics on the basis of which a hate crime can be perpetrated;
- Ensuring that investigative authorities do their utmost to unveil any alleged hate motive associated with a crime, even when such hate motive was not reported by the victim;

- Ensuring that prosecuting authorities consistently bring alleged hate motives to the attention of the court when there is sufficient evidence to do so;
- Collecting data on hate crimes at all levels, including reporting, investigation, prosecution and sentencing. Such data must be disaggregated by hate motive including sexual orientation and gender identity. This data should be made publicly available and authorities should develop policies to combat all forms of discrimination on the basis of such data;
- Ensuring that victims of hate crimes receive thorough and prompt information about the developments of their cases, be able to be heard in the legal proceedings and be provided with legal and psychological support as appropriate;
- Providing police, judicial authorities and health professionals with general training on discrimination on multiple grounds and specific training on hate crimes.