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REPUBLIKE HRVATSKE



VISOKI PREKRŠAJNI SUD
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Projekt „IRIS – Unapređenje borbe protiv nesnošljivosti kroz istraživanje, izradu preporuka i obuku“ provodi Hrvatski pravni centar u partnerstvu s Državnim odvjetništvom Republike Hrvatske, Policijskom akademijom i Uredom za ljudska prava i prava nacionalnih manjina Vlade Republike Hrvatske. Projekt se provodi u suradnji s Vrhovnim sudom Republike Hrvatske i Visokim prekršajnim sudom Republike Hrvatske.

RECOMMENDATIONS FOR IMPROVING COOPERATION BETWEEN CSOs, POLICE AND JUDICIAL BODIES

The key role of civil society organizations (hereinafter: CSOs) in the prevention and monitoring of hate crimes, in advocating for the rights of individual victims and victimized minority groups, as well as in other areas has been recognized and extensively described in the literature. Here we limit ourselves to recommendations aimed at strengthening the role of civil society and improving cooperation with law enforcement agencies and other relevant institutions based on the results of research and stakeholder consultations conducted within the project.

The ODIHR's annual report on hate crimes for Croatia¹ also contains data from a coalition of NGOs. Given several constraints, such as insufficient resources, limited geographical dispersion/regional presence of CSOs, a small number of organisations with an extensive membership within communities whose rights are advocated and protected by organizations, etc., statistical data collected by CSOs are not a fully representative sample reflecting the structure of this phenomenon in Croatia. However, unlike official data that present only the aggregate figures and do not even include an indication of the protected groups to which victims belong, CSOs can provide insight into additional significant features of the hate crime phenomenon by providing information obtained through communication with individual victims and / or victimized communities.

- ***CSOs should contribute to the reporting of hate-motivated incidents not only through quantitative data (such as in the ODIHR report), but also through qualitative case reports and analyses, which could identify examples of good practice in police and judicial action but also analytically locate possible critical points and problems in identifying and prosecuting these acts. In this way, in addition to raising awareness of the prevalence of hate crimes, the collection and publication of data could contribute to improving the actions of relevant bodies.***

Article 43, paragraph 1 (6) of the Criminal Procedure Act² regulates the right of a victim to be accompanied by a person of trust/of their choice during any actions by official bodies in which he or she participates. The instruments used in the empirical research conducted within the IRIS project systematically collected data on the presence of another person, i.e. a person of trust when reporting a criminal offense to the police or the State Attorney's Office. With the exception of a few cases in which CSO activists were victimized, CSO representatives were not present with the victim.³

¹ See, for example: <https://hatecrime.osce.org/croatia?year=2019>

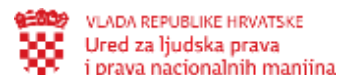
² Zakon o kaznenom postupku (2008), NN 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 126/19.

³ The research study covered cases in the period from 2013 to 2018, mostly before the transposition of the Victims Directive (Directive 2012/29 / EU).



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- ***We believe, as indicated by CSOs working in the field of providing support to victims of crime, that by offering and taking on the role of a person of trust by their employees and members, CSOs can significantly help victims of hate crime during the reporting of criminal offenses or misdemeanours, but also in later points of the proceedings. The presence of a person of trust, especially a person familiar with the procedure and the rights of victims, can help the victim overcome the often mentioned barriers to reporting hate crimes, such as the belief that reporting will accomplish nothing, distrust of police and judicial institutions, fear of retaliation, feelings of shame, lack of knowledge and information on the legislative framework and criminal/misdemeanour proceedings, fear of revealing a stigmatized identity, etc.***⁴

In order to encourage the reporting of hate crimes, it is important to ensure support for victims by CSOs, and in particular the provision of a person of trust, as early as possible, preferably before or at the time of reporting an offense. According to current practice in Croatia, a victim receives instruction on rights - which includes information on the right to be accompanied by a person of trust - only from the police, so this right can usually only be consumed during interviews by the State Attorney's Office.

- ***We recommend conducting an information campaign aimed at potential victims of hate crimes (or victims of crime in general) about victims' rights and the victim support system, in which the possibility of being accompanied by a person of trust should be particularly emphasized.***

In the so-called Victims' Directive⁵, hate crime victims are singled out as one of the most vulnerable groups due to the type, nature and circumstances of the crime as well as due to the fact that secondary and repeat victimization, intimidation and retaliation are frequent within this group of victims. Consequently, it is envisaged that special attention will be paid to victims of hate crimes in the context of conducting an individual assessment, a new institute being introduced as an instrument to identify victim's special protection needs. In Croatia, the individual assessment is being conducted since November 2017, which is why the research covered a small number of cases in which there was an obligation to conduct an individual assessment. Consequently, the results in relation to this issue are likely not representative, but still indicate that the assessment procedure was not carried out in all cases nor equally consistently by all competent bodies. The information obtained during the implementation of focus groups and stakeholder meetings indicate that initial inconsistencies and problems have been overcome and that the obligation to conduct an individual assessment is respected. Ordinance on the manner of assessing the individual assessment of the victim⁶ in Art. 3 para. 3 opens the possibility of cooperation of the body of proceedings

⁴ OSCE/ODIHR (2009) Preventing and responding to hate crimes. A resource guide for NGOs in the OSCE region.

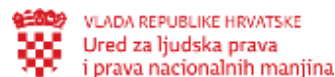
⁵ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA OJ L 315, 14.11.2012, p. 57–73. Special edition in Croatian: Chapter 19 Volume 015 P. 58 – 74.

⁶ Pravilnik o načinu procjene pojedinačne procjene žrtve, NN 106/2017.



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with CSOs, stipulating that “bodies responsible for conducting individual assessments of victims' needs will consider the recommendations of bodies, organizations and institutions referred to in paragraph 2 of this Article, as well as recommendations of civil society organizations providing assistance and support to victims that it is necessary to determine measures for the protection of the victim if those organizations and institutions have already made such a recommendation based on their work with the victim. ”

- ***By contributing their recommendations based on long-term work with victims and the provision of support to victims of hate crimes, CSOs can make a significant contribution to recognizing the victim's need for protection by the police and the judiciary. We believe that such actions of CSOs are likely to be found acceptable and useful by the bodies conducting the proceedings, who sometimes point out the lack of time and specific professional resources needed to carry out a good- quality individual assessment of victim's needs.***

The answers to the questions in the evaluation questionnaire of the participants in the training for police officers held within the IRIS project, but also the views of focus group and stakeholder meetings' participants indicate that a large number of members of relevant professional groups assess continuous and systematic education in identifying and prosecuting hate crimes necessary and – at the same time – believe that such training is not carried out often enough. CSOs often respond to this perceived lack of training courses within institutional continuing education programs by organizing trainings based on project funding.

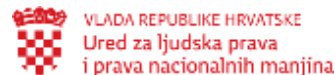
- ***We recommend that CSOs use their relative flexibility in the field of training to ensure the joint education of members of several relevant professional groups - police officers, prosecutors, judges, but also experts outside the justice system. Joint training was recognized as valuable by the potential participants themselves, and the results of the research also indicate the need for coordination and improvement of the common understanding of the phenomenon of hate crimes by the police and judicial bodies. We see the special potential value of training programmes organized by CSOs in the systematic integration of the principles of human rights protection into educational programs.***

At the time of drafting these recommendations, a new Protocol on Procedure in Hate Crime Cases is being prepared. This document, the final text of which has not been published, also defines the issues of cooperation between state and public bodies and institutions with civil society organizations in the field of combating hate crimes, designating the Office for Human Rights and the Rights of National Minorities of the Government of the Republic of Croatia as a central body in this area. The Protocol recognizes the role of CSOs in providing support to victims and witnesses of hate crimes, especially CSOs operating within the Network of Support and Cooperation for Victims and Witnesses of Crime, active in 13 counties. Furthermore, in relation to the actions of the police, the need to establish cooperation with CSOs (together with, for example, religious communities and experts) is emphasized in order to better process each individual case. The document also defines the activities of the Working Group for Hate Crime Monitoring at the Office for Human Rights and the Rights of National Minorities of the Government of the Republic



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of Croatia, in which civil society is represented by one member selected by the Council for Civil Society Development.

- ***The adoption of the new Protocol will lead to continued work of the Working Group in accordance with its provisions and will open the possibility for the continuation and further development of cooperation mechanisms between CSOs and all relevant bodies. Independently, as well as through the representative in the Working Group, CSOs should initiate cooperation on specific cases of hate crime, but also launch initiatives to improve the prevention, monitoring and prosecution of hate crimes, protection of the rights of victims and victimized groups, coordinated response to severe intolerance and other issues important to the role of the civil sector.***



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