

HATE CRIMES IN HUNGARY

PROBLEMS, RECOMMENDATIONS,
GOOD PRACTICES

SUMMARY REPORT

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GOOD PRACTICES

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AUTHORS:

TAMÁS DOMBOS
MÁRTON UDVARI

PROOFREADING:

GÁBOR SÁRKÖZI



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Másság Alapítvány (Otherness Foundation)
H-1447 Budapest, Pf. 510 Hungary
Tel/Fax: +36 1 303 89 73
info@neki.hu / www.neki.hu

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FOREWORD

The Legal Defence Bureau for National and Ethnic Minorities (NEKI), Háttér Society and the Hungarian Helsinki Committee started an initiative in September 2012 to improve the situation of hate crime victims. The project called 'Creating a National Hate Crimes Strategy and Action Plan' aimed to enhance the position of hate crime victims by strengthening the efforts of relevant authorities. We envisioned to achieve this goal by preparing a national strategy and actions plan - together with the necessary background studies - for a comprehensive approach towards hate crimes. During the project we relied to a great extent on participative methods, namely, involving the concerned victim groups, NGOs and state actors.

The project was called to existence because of our experience that the number of bias motivated crimes (hate crimes) has been on the rise in the last couple of years. This has been affecting most severely the Roma, LGBT people, Jews and immigrants or refugees coming to Hungary. This situation is exacerbated by the fact that existing legal regulations are not always properly applied by the Hungarian judiciary and law enforcement. This weakness of state efforts has also been highlighted by several international organizations.

In the framework of the project we compiled a detailed study on the situation of hate crimes in Hungary, which is based on the experiences of open forums for victim groups, interviews with state actors and the analysis of available literature. This document summarizes the main findings of this study. The whole study can be downloaded at neki.hu/hatecrimestudy.

The study primarily targets state decision-makers; its secondary target group is NGOs active in the field of combating hate crimes. We aim to help state institutions with our analysis and recommendations in order to improve the effectiveness of their work concerning hate crimes.

We hope that this publication directs attention to the importance of this problematic area, contributes to its better understanding, while our recommendations help state and non-governmental actors to become more effective in this field.

The project was supported by the Trust for Civil Society in Central and Eastern Europe.

Legal Defence Bureau for National and Ethnic Minorities
Háttér Society
Hungarian Helsinki Committee

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EXECUTIVE SUMMARY

The aim of this document is to provide a comprehensive picture of hate crimes and their management by state actors in Hungary as well as of the barriers of an effective response to them. During the making of the study we made considerable efforts to become familiar with the experiences and views of representatives of state institutions, NGOs and the members of the most vulnerable victim groups.

In the course of collecting data, seven main areas of concern were identified; we analyzed the problems and formulated recommendations related to these areas. The areas of concern are the following:

- Legal framework
- Shortcomings of investigations
- Underreporting
- Victim support
- Data collection and research
- Training and sensitization
- Prevention and awareness raising

All things considered, it can be stated that from the above areas the legal environment is affected by the least problems. In our view current legal provisions offer a more or less sufficient framework to tackle hate crimes. However, we identified several and severe shortcomings related to the application of these regulations - especially as regards the effectiveness of investigations and proper legal classification. In general it can be argued that these are the central questions of the combat against hate crimes. Naturally, other areas of concern should receive proper attention as well, as one of the guarantees of efficient intervention is tackling the problem with comprehensive solutions that strengthen each other. However, if the authorities do not enforce criminal regulations, the credibility of state efforts becomes questionable.

The central recommendation of our study is that the Government should adopt a medium-term national strategy and action plan, which would ensure that solutions are offered to this significant social problem. We believe that the rest of the recommendations in the study are suitable to serve as a basis for such a comprehensive national policy.

RECOMMENDATIONS

1. **General recommendations**

- 1.1 Adopt a medium-term national strategy and related action plans on preventing and responding to hate crimes, taking into account the recommendations contained in this report.
- 1.2 Establish a coordination mechanism bringing together state and civil society actors involved in the fight against hate crimes.
- 1.3 Make hate crimes a priority issue in governmental policies in the fields of justice and law enforcement, education, Roma integration and migration.

2. **Criminal law recommendations**

- 2.1 Omit the term 'certain groups of society' from the crimes 'violence against a member of a community' and 'incitement against a community', or
- 2.2 The Prosecutor General should issue a circular letter (*körlevél*) and/or the Curia should adopt a decision for uniformity (*jogegységi döntés*) on the interpretation of the term 'certain groups of society'.
- 2.3 The Prosecutor General should issue a circular letter (*körlevél*) and/or the Curia should adopt a decision for uniformity (*jogegységi döntés*), which cover the question of committing hate crimes against members of majority groups and that of differentiating between bias motivated and vulnerability related crimes.
- 2.4 Amend the text of the crime 'violence against a member of a community' by inserting additional punishable conducts based on the crimes of stalking and damage.
- 2.5 The Prosecutor General should issue a circular letter (*körlevél*) in connection with the crime of 'incitement against a community' in order to make application of the law conform with the new regulations of the Basic Law.

3. **Effective investigation**

- 3.1 Adopt – in the form of an order of the Chief of Police (*ORFK utasítás*) - guidelines on the response to hate crimes, which covers the investigation of hate crimes, supporting the victims and the tasks of the police concerning prevention.
 - 3.2 Introduce a points-based system of hate indicators to guide the preliminary qualification of crimes and their assignment to the relevant investigative authorities.
 - 3.3 Prescribe for police the inclusion of information on potential bias motivation in case summaries written for daily reports.
 - 3.4 Use any means of investigation suitable to identify the perpetrator(s) and evidence the bias motivation, in particular collect data regarding the personal background and criminal past record of the perpetrator, and make use of international legal aid motions.
 - 3.5 Encourage police and intelligence agencies to use databases collecting information on extremist organizations during the investigation.
 - 3.6 Introduce performance indicators for the police and the public prosecutor system that encourage authorities to prosecute cases whose legal classification is more contested.
 - 3.7 Improve the personal conditions of the police hate crimes network (*szakvonal*), with special attention to reducing fluctuation and the workload of members.
 - 3.8 Ensure quick, direct access to documents related to cases where bias motive is suspected for the coordinator of the hate crimes network.
 - 3.9 Ensure direct communication and sharing of professional experience among members of the hate crimes network via an electronic mailing list and regular personal meetings.
 - 3.10 Introduce a regular forum to share professional experience between the hate crimes network and NGOs and experts active in the field of tackling hate crimes.
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4. **Reducing underreporting**

- 4.1 Launch a campaign targeting groups most at risk of hate crimes (hereinafter: vulnerable groups) to build trust towards the police.
- 4.2 Launch a general media campaign emphasizing the importance of reporting hate crimes.
- 4.3 Ensure that victims and witnesses can report hate crimes directly to members of the police hate crimes network.
- 4.4 Publish a regularly updated list of members of the hate crimes network with their contact details on the website of the police.
- 4.5 Make it possible to report hate crimes via the internet, and promote the use of the anonymous hotline (*Telefontanú*) among (potential) victims of hate crimes.
- 4.6 Introduce performance indicators in the assessment of police stations that motivate the police to register all reports of hate crimes.
- 4.7 The Central Statistical Office should launch a regular, representative victimization survey with a large sample size that also covers the topic of hate crimes (see also 7.9).
- 4.8 Following the example of Roma liaison officers, introduce police officers in charge of liaising with other vulnerable groups.

5. **Supporting victims**

- 5.1 Provide access to public victim support services to those victims who do not report the crime to law enforcement agencies.
- 5.2 Provide access to public victim support services for all victims regardless of the legality of their residing in Hungary.
- 5.3 Make it possible for victims to make use of free legal aid as provided by the law on legal aid in the investigative phase of the criminal procedure, and inform all victims of this possibility during their police interview.
- 5.4 Make it possible for any person chosen by the victim regardless of their professional background to be present when reporting a crime or being interviewed by the police.
- 5.5 Compile and make available an information pack for victims of hate crimes to be disseminated by the police and victim support services.
- 5.6 Develop a protocol to be adopted as an order of the Chief of Police on identifying vulnerable victims, specifically including victims of hate crimes.
- 5.7 Introduce the possibility to provide anonymous feedback on the work of individual police officers, and use data from such feedback when assessing the performance of police officers.
- 5.8 Employ full-time psychologists at all local branches of the public victim support services to provide accessible and high quality psychological support for all victims in need.
- 5.9 Make it possible for victims to claim their expenses related to accessing victim support services.
- 5.10 Make victims of hate crimes a priority target group in calls for proposals for public funding in the field of victim support.
- 5.11 Victim support services should formalize their relationships with NGOs who target victims of hate crimes.
- 5.12 Make it possible for the public victim support services to initiate contact with the victim based on a declaration the victim signs up to when reporting a crime or being interviewed by the police.
- 5.13 Pay specific attention to data protection concerns when taking reports of crimes and communicating with victims.

6. **Data collection and research**

- 6.1 Introduce a statistical notion of hate crimes to cover all forms of hate crimes.
- 6.2 Make police, prosecution and judicial statistical data collection systems interoperable to enable the tracing of crimes from reporting to sanctioning.
- 6.3 Introduce a general question on bias motivation in the statistical form of ENYÜBS; *or*

- 6.4 Replace the existing method codeword 'racism, racial prejudice' by the codeword 'prejudice,' and introduce it to the following crimes beyond those already covered: stalking, criminal damage, violation of personal freedom, libel, unlawful detention, sexual violence and sexual coercion.
- 6.5 Do away with inconsistencies concerning different protected characteristics in the statistical form of ENYÜBS.
- 6.6 Grant the right for victims to examine and, in case of an error, complain about completed statistical forms of the ENYÜBS and VIR systems.
- 6.7 Prepare a manual for the police and prosecution about questions arising when filling out the ENYÜBS form for hate crimes.
- 6.8 Prepare an annual report combining data on hate crimes collected by the police, prosecution, judiciary and the victim support service, and make the report available electronically for the general audience.
- 6.9 The Central Statistical Office should launch a regular, representative victimization survey with a large sample, that also covers the topic of hate crimes, and includes questions on underreporting.
- 6.10 Conduct research with the help of the full text search capability of the police document management system (*Rendőrségi Szövegbányász Rendszer*) to better understand the phenomenon, and identify trends of hate crimes in previous years.
- 6.11 Conduct research among vulnerable groups to explore their experience with hate crimes and public authorities.
- 6.12 Conduct research among perpetrators of hate crimes to explore the reasons for becoming perpetrators, and identifying efficient forms of intervention to prevent the re-occurrence of such crimes.
- 6.13 Conduct research among police, prosecutors and judges to map their attitudes towards vulnerable groups.

7. **Training and sensitization**

- 7.1 Amend the central curriculum for police training to specifically include the topic of hate crimes, and the socio-cultural background and needs of all vulnerable groups.
- 7.2 Pay a specific attention to the topic of hate crimes in the curricula of professional subjects (criminal law, criminology, criminalistics) at university level law and law enforcement programs.
- 7.3 Organize in-service training on hate crimes for all heads of criminal investigation and officers on duty.
- 7.4 Establish a network of trainers within the police who are capable of holding local level trainings that cover the issues of hate crimes and vulnerable groups.
- 7.5 Organize in-service training regularly for members of the police hate crime network.
- 7.6 Organize in-service training for psychologists affiliated with victim support services on therapeutic methods with hate crime victims.
- 7.7 Organize in-service training for school crime prevention officers on vulnerable groups, and the prevention of school bullying and hate crimes.
- 7.8 Organize in-service training regularly for selected judges and prosecutors.
- 7.9 Develop and make available an e-learning course on hate crimes and vulnerable groups to police, prosecutors, judges and staff of victim support services.
- 7.10 Organize sensitization programs for all students of law and law enforcement staff held by experts by experience from vulnerable groups.
- 7.11 Provide funding for sharing experiences between NGOs active in Hungary in the field of hate crimes against minorities, and those outside of Hungary active in the field of hate crimes against ethnic Hungarians.

8. **Prevention and awareness raising**

- 8.1 Draw up and disseminate a simple and comprehensible definition of "hate crimes".
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- 8.2 Create a subpage on the websites of the police and the Victim Support Service on hate crimes with relevant professional publications and regularly updated news.
- 8.3 Following international examples, the parole service and youth correctional facilities should develop and operate specialized prejudice-reduction programs targeting hate crime offenders.
- 8.4 Programs aiming at responding to and preventing violence in schools should specifically focus on preventing and responding to bias motivated violence and bullying.
- 8.5 Amend the National Basic Curriculum and the framework curricula to include the aim of promoting accepting and tolerant attitudes towards all vulnerable groups.
- 8.6 Provide moral and financial support for school programs by NGOs that aim at promoting accepting and tolerant attitudes towards vulnerable groups.
- 8.7 Develop methodological guidelines for the use of restorative justice methods in hate crime cases, and popularize their use by mediators.
- 8.8 Make hate crimes a priority area in calls for proposals for public funding in the field of crime prevention.
- 8.9 Provide financial support for trainings for journalists about the professional ethics of reporting on crimes and about victims' concerns, including specifically principles on reporting of crimes against vulnerable groups.

OVERVIEW OF THE **PROJECT**

The project was called to existence because of our experience that the number of bias motivated crimes (hate crimes) has been on the rise in the last couple of years. This has been affecting most severely the Roma, LGBT people, Jews and immigrants or refugees coming to Hungary. This situation is exacerbated by the fact that existing legal regulations are not always properly applied by the Hungarian judiciary and law enforcement. This weakness of state efforts has also been highlighted by several international organizations.

The Legal Defence Bureau for National and Ethnic Minorities (NEKI), Háttér Society and the Hungarian Helsinki Committee decided to initiate a project aiming at preparing a national strategy and action plan on account of the circumstances above. The first step of the project, which was based on the cooperation of governmental and non-governmental actors, served to assess – both quantitatively and qualitatively – the occurrence of hate crimes; it was followed by an inquiry into the attitudes of the judiciary, investigative authorities and other state institutions dealing with hate crimes or their victims. The result of our analysis is this publication.

In the first stage of the project we aimed at getting acquainted with the experiences of hate crime victims. Thus, NEKI organized open victim forums in the Roma community while Háttér Society and the Hungarian Helsinki Committee did the same in the LGBT and immigrant/refugee community, respectively. At the events participants had the chance to share their experiences about the attitude of authorities, these meetings were documented via video recording. This way we became familiar with the views and experiences of around 120 participants from groups most at risk of becoming victims of hate crimes during the seven forums, each of them lasting about three hours.

Afterwards, we examined the opinion of various state actors (police officers, public prosecutors, judges, researchers, teachers and representatives of victim support services and ministries) through individual interviews. Altogether 25 interviews were conducted; they were spread evenly between the various professions while taking care to include interviewees from and outside of the capital city Budapest. The interviews followed a guide with open questions, interviewees were thus able to present their opinions freely. The length of interviews ranged from 58 to 146 minutes. During the interviews we put emphasis on exploring the barriers hindering a more effective approach tackle hate crimes.

The forums and interviews were supplemented by a research into the available literature, in the course of which we collected and analyzed publications related to the situation of hate crimes in Hungary in the fields of legal, police and social sciences.

Finally, we relied heavily on the experiences of NGOs working together in the framework of the Working Group against Hate Crimes (*Gyűlölet-bűncselekmények Elleni Munkacsoport*, gyulotellen.hu) and providing legal representation to hate crime victims. The detailed study features descriptions of actual cases that illustrate the problems identified.

THE **PREVALENCE** OF HATE CRIMES

Looking at the official criminal statistics only, hate crimes are not a serious problem in Hungary: only a few dozen such crimes are registered by the authorities every year. On the other hand, as explained in the chapter on data collection, official criminal statistics do not even show proper figures for those cases that are reported to the authorities. Furthermore, as discussed in the chapter dealing specifically with this issue, most experts interviewed opined that underreporting is very common in the case of hate crimes.

One can assess the level of underreporting based on data from the European Crime and Safety Survey (EU ICS), which was a representative survey financed by the European Union following a standardized international methodology. The survey found that 1% of Hungarian respondents had personally become victims of hate crimes in the period 2001-2005, or had someone in their immediate social environment who had. In comparison, 3.3% had similar experience with car theft. According to official statistics, 42,329 cases of car theft and 42 violence against a member of a national, ethnic, racial and religious group was recorded in the same period. Based on this, one can estimate that 99.7% of hate crimes were not reported, or were not recorded as hate crimes by the authorities.

A similar conclusion can be drawn from various studies using non-representative, community samples of individuals belonging to various victim groups. According to the EU MIDIS survey of the Fundamental Rights Agency of the European Union (FRA) conducted in 2012, 19% of Hungarian Roma surveyed (n=500) had become victims of serious harassment or assaults or threats with an anticipated racist/ethnic motive in the past 12 months. A 2010 survey among LGBT people by the Institute of Sociology of the Hungarian Academy of Sciences and Háttér Society found that 15.6% of respondents (n=1674) had been victims of violent crimes because of their sexual orientation or gender identity during their lifetime, 4.4% within the past 12 months. The level of violence was even higher for transgender people: 26.2% had been attacked during their lifetime, and 11.7% in the past 12 months due to their gender identity. A 2013 survey by the FRA on anti-Semitism found that 6% of Hungarian respondents (n=528) had personal experience of verbal insults or harassment and/or a physical attack(s) due to being Jewish in the past 12 months. No similar research is available about the victimization of foreigners and refugees in Hungary.

The gravity of the problem was confirmed by open forums organized for members of social groups that often become victims of such crimes: several participants had personal experience with or heard from their immediate environment about hate motivated incidents ranging from verbal insults in the street to assaults resulting in bodily harm requiring serious medical attention.

LEGAL FRAMEWORK

The Hungarian criminal law does not use the expression 'hate crime'; however, several crimes contained in the Criminal Code fall into this category since negative feelings, prejudices or hatred towards a protected group play a significant role in the case of several criminal offences. Our interviewees usually classified the following offences as hate crimes: violence against a member of a community;

incitement against a community; genocide; apartheid; theft and deterioration committed against religious objects or burial memorial sites; infringement of the freedom of thought or religion; use of symbols of dictatorship; and public denial of the crimes of national socialist and communist regimes.

It is important to note that bias motivation could be a significant element in the case of criminal acts other than the above. According to judicial practice such perpetration could be qualified as 'base reason or purpose', which warrants the application of a more severe version of the original crime. 'Base reason or purpose' is a qualifying circumstance in the case of the following crimes: homicide; bodily harm; infringement of personal freedom; defamation; unlawful detention; and injuring a subordinate. For any other crime, the judicial practice also formed the principle of warranting the application of a more severe punishment in case of any crime committed out of a bias motive.

Out of the criminal offences mentioned above we examined two more closely: violence against a member of a community and incitement against a community. These crimes cover a wide range of hate motivated incidents, and they are used most frequently in practice when such an incident happens.

Regarding the crime of 'violence against member of a community', we identified three main areas of concern, although the opinion of interviewed experts varied significantly about them. The first main question is whether the crime can be committed against a member of the majority community. The second question is: which characteristics determine whether someone belongs to 'certain groups of society? Can this crime be applied in case of football fans or other subcultural groups (such as the often mentioned example of philatelists)? The third concern is whether prejudice towards a certain group is needed to establish this crime, or it is enough if the victims' belonging to a certain group played a role in the perpetrator's selection? In the latter case crimes against elder or disabled people can be qualified as hate crimes even if the perpetrator's motive was not prejudice against them but the perception that it is easier to commit a crime against them or the chance of being caught is lower.

Several of our interviewees agreed with the criticism from NGOs which highlighted that the recent legal framework sets the scope of protected groups so wide that it allows application of the crime in cases that are not in line with the original purpose of the legislator. At the same time some thought that restricting the scope of protected groups is not reasonable since it should be guaranteed that the law protects newly emerging vulnerable groups that are not mentioned in the present text of the crime. We do not wish to take stance in this dispute in this study; however, it should be noted that such a divergent interpretation of the present legal provisions carries the risk of inconsequent application of the law, and that the insecurity of interpretation can have a stunning effect on certain institutions applying the law. For these reasons it is highly recommended to take steps towards creating consistent interpretation.

NGOs also highlighted that the present legal provisions do not cover all kinds of bias motivated crimes, stalking and criminal damage with a bias motive in particular. The crime of violence against a member of a community does not contain cover such behavior and these crimes do not have 'base reason' as a qualifying circumstance. The Hungarian Commissioner for Fundamental Rights also called on the legislator to penalize hate crimes directed against property.

The crime of 'incitement against a community' has even greater problems regarding its interpretation. Our interviewees agreed that this criminal offence is 'dormant' as the police and the public prosecution hardly ever apply it in practice owing to the restrictive interpretation of courts. Opinions differed, though, when it came to the question whether new legal provisions are needed or the only the practice of interpretation should change. Several interviewees with a ministerial background noted that the fourth amendment to Hungary's Fundamental Law (constitution) could bring changes as it created the constitutional basis for strengthening legal measures against hate speech. Opinions varied whether such a change should evolve from legal practice or it should be stimulated by introducing new legislation.

SHORTCOMINGS OF INVESTIGATIONS

The special treatment of hate crimes is reflected not only in higher sanctions but also in special procedural rules. As opposed to the basic form of bodily harm, violence against a member of a community is persecuted *ex officio* instead of on the basis of the victim's proposition. Investigation of violence against a member of a community and incitement against a community belong to the county/capital police departments. In January 1, 2012 the National Police Headquarters established a professional stream (*szakvonal*) to deal with hate crimes consisting of those police officers at county police departments who are responsible to investigate these incidents.

The aim of the special stream was to increase the effectiveness and quality of hate crime investigations. The workload of the members of the network, however, is so high that it does not allow for real specialization as they deal with several other kinds of crimes as well. There have been trainings organized to prepare these detectives to deal with hate crimes but owing to the high fluctuation of police officers, the impact of these trainings is restricted. Nevertheless, the involvement of NGOs in the implementation of these trainings can be regarded as a good practice since civil knowledge and experience was channeled in to the work of the police.

The main barrier of effective investigations is that the police and the public prosecution often ignore circumstances which indicate that a hate crime might have happened. The technique of investigation based on hate indicators is largely unknown in Hungary; most of our interviewees could only mention verbal expressions of the perpetrator as indicator and only a few of them (who had participated in a hate crime training before) could refer to indicators such as the time and place of the incident, or the personal background of the suspect. As a result of this, the investigations are conducted, and perpetrators are prosecuted for and convicted on charges of less severe crimes. This phenomenon is often called underqualification (*alulminősítés*). NGOs have many cases where the proper qualification is made only as a consequence of motions from the legal representative of victims, which indicates that without proper control (which NGOs alone cannot offer) underqualification is quite widespread.

An additional shortcoming of investigations is that members of investigative authorities often do not use all available means of investigation. Neglecting to explore the personal background of the suspect is a particularly significant omission, but so is refusing to use international legal aid from foreign countries in case of hate crimes committed via the use of computer servers.

Investigations are often hindered by the fact that the communication between the police and intelligence agencies does not work properly in practice; even though these agencies possess significant information about the operations and members of extremist groups, which could considerably improve the effectiveness of investigations into hate crimes.

The fundamental consequence of these shortcomings in investigations is that the police and the public prosecution ignore several circumstances which are highly relevant from the point of criminal law, thus the effectiveness of investigations is significantly flawed.

One of the main questions of our research concerned the reasons behind the most important shortcoming of investigations, i.e. underqualification, since this problem could only be solved if the underlying factors were properly identified.

The most obvious reason, which is highly probable in view of research result, is the prejudice of members of the police towards typical victim groups of hate crimes (primarily the Roma and LGBT people). As several of our interviewees stated, members of the relevant authorities cannot dissociate themselves completely from the social environment they work in, and prejudices of the society infiltrate the work of authorities as well. Researches that showed high levels of prejudice among police officers, and students in law and law enforcement education were supported by the answers of most of our interviewees. Thus, it is very likely that prejudices play a role in the shortcomings in investigation.

The fact that hate crimes are not present in neither the basic nor the in-service trainings of the

police or the public prosecution is also clearly responsible for shortcomings in investigation. The lack of relevant knowledge obviously contributes to the phenomenon that a representative of the police or public prosecution does not recognize hate crime indicators or is not capable of applying a proper investigation strategy.

Besides these individual problems, there are straightforward institutional reasons for underqualification. The most important of these institutional reasons are the focus on statistics and the pressure to deliver results when evaluating the performance of police officers and public prosecutors. Investigators and public prosecutors are not motivated to dwell into cases which require complicated proving when their professional performance is judged solely on the basis of how quick a policeman can efficiently close a case or how effectively a public prosecutor can represent the charge before a judge. Such a system of evaluation prompts police officers to focus on cases that can be proved more easily, and to neglect the hate motivation of a crime and conduct investigation only into the basic crime, which requires no proving of bias motive. Public prosecutors are then motivated to stay on the safe side and press charges in respect of the basic crimes.

This statistical approach, combined with the special rules regarding the scope of authority result in a very specific disincentive: all actors try to keep those cases where the perpetrator is identified (simple case) and get rid of those where the perpetrator is unknown or hard to identify (difficult case). As a result, local police do not qualify simple cases as hate crimes so they do not have to refer it to the county level. The county department would be interested in taking over these cases but they are not aware of them. The county departments in turn try to keep away from hard cases by not qualifying them as hate crimes so they can refer them back to local level.

Most of our interviewees agreed that the effectiveness of investigations can be improved by the training of investigators and the specialization of investigative work. Specialization can only work, however, if hate crime cases reach the specialized units or investigators. A prerequisite of this is that hate crime indicators are highlighted much more systematically and transparently in police files: for example, with the use of standardized language, code words or highlighting relevant information in the short case summaries that are featured in daily reports of the police. The advantage of this latter solution is that based on daily reports, the prosecutors can more easily identify potential hate crime cases, and study the file in more details if necessary and amend the incorrect qualifications since daily reports are always sent to the prosecutors supervising investigations.

International experiences show that the proper qualification as early as possible in the investigation plays a crucial role in its effectiveness. If the investigation is started with the proper qualification, then it reaches the specialized investigator more easily; and the investigation by default would extend to uncovering the bias motive. However, if the investigation is started based on another crime, the motivational aspects disappear easily, especially if the file goes through the hands of several investigators.

In many countries, cases are automatically qualified and investigated as hate crimes if the victim or a witness perceives the assault as a bias motivated one. Followers of this approach argue that it is always easier to qualify a crime as a non-bias motivated one if the subsequent investigation cannot prove it than ignoring the question of motive during the investigation as this fault often cannot be corrected. In other countries, a more complex, indicator based system is used for making the preliminary qualification.

UNDERREPORTING

The literature on hate crimes is consistent in claiming that underreporting, i.e., the phenomenon that victims do not turn to the authorities if they become victim of bias motivated attacks, is a serious problem. Professionals participating in our research were more divided, but the overall majority agreed with the literature that underreporting of hate crimes is a serious problem. Several respondents high-

lighted that the problem is present to a different degree for different victim groups. It affects Roma and LGBT people, asylum seekers and foreigners the most, and Jewish people the least. The latter groups was portrayed by our interviewees as a very conscious group, which maintains a good relationship with authorities.

Similar differences are also present in the causes behind underreporting: low level of trust in the authorities, fear of secondary victimization and prejudices by the authorities were mentioned as general problems. Lack of legal knowledge concerning rights was mentioned most often in relation to the Roma and foreigners. Most respondents agreed that fear of being outed as a result of the criminal procedure, and shame surrounding sexual orientation and gender identity are severe barriers to reporting by LGBT people. Several interviewees, however, also mentioned that shame can be an issue for other stigmatized groups as well. Respondents were divided whether fear from retaliation by the perpetrators is a serious concern or not. Some respondents also mentioned other factors, such as that Roma people find it difficult to appear in front of authorities as victims, because as a community they are put in the category of perpetrators. Another respondent also mentioned that part of hate crimes are committed by police officers, and victims (realistically) are afraid that with an institution so invested in an organizational culture of camaraderie they do not stand a chance if they launch a procedure.

Findings concerning underreporting were confirmed by the open forums organized for members of social groups most at risk of hate crimes. Personal experiences of criminal forms of hate crimes were brought up at each of the LGBT forums, but not a single victim had turned to the authorities. Forums among the Roma brought to the forefront the large communication gap between the Roma and the police, which contribute to underreporting of all crimes, not just bias motivated ones. At the forum among asylum seekers and foreigners, a case was reported where the police refused to record a report of a hate crime even though it had resulted in bodily harm.

This latter incidents also reveal that the latency of hate crimes is not solely the result of the low level of willingness to report, but is also influenced by the willingness of the police to record a report. NGOs offering legal aid to victims of hate crimes active in the Working Group Against Hate Crimes have met several cases in which police were reluctant to record a report until the victim appeared with a legal representative. Such aversive behavior by the police is not only the result of prejudices or lack of sensitivity to hate crimes, but is partly explained by institutional causes: if the number of registered crimes plays a crucial role in assessing the performance of police stations (that is, an increase in registered crimes is interpreted as a sign of underperformance), it is the rational interest of the police to keep as many crimes underreported as possible. Without mitigating such negative institutional incentives, one cannot expect police chiefs to become interested in reducing underreporting.

SUPPORTING VICTIMS

Most professionals interviewed agreed that victims of hate crimes have specific needs. These needs arise partly from the specific impact of hate crimes on victims, partly from the complexity of these legal cases, and partly from the specific situation of groups at risk of hate crimes. In line with arguments put forward in the literature, the interviewees also emphasized that the traumatic impact of hate crimes can be more severe, because an integral part of their identity has become the target of the attack. Victims might need psychological help to strengthen this wounded identity. On the other hand, several respondents also highlighted that, due to the attack, the victims' negativity towards the group of the perpetrator can get out of hand, which can result in the increase of intergroup conflict. Therapies that mitigate blaming the social group of the perpetrator, rather than the perpetrator him-/herself might be needed. Several interviewees also noted that because of the complexity of proving a hate crime and the incompetence and/or prejudiced attitudes of the authorities, the victims might also need legal support in the procedure. For foreigners, linguistic barriers can be an issue; for the Roma, mutual distrust between the community and the authorities makes communication more difficult.

Victim support is offered in Hungary by the public Victim Support Service and NGOs. The services available range from financial aid (instant monetary aid, state compensation), to legal aid and psychological support. Our interviewees found it highly problematic that free legal aid is not available in the investigation phase of the criminal procedure, even though this is the time when real difference can be made with regards to the outcome of the procedure. Staff of the Service try to help the victims in this regard via informal means, but unlike in other countries where support personnel with other professional background are also allowed to be present at police interviews, in Hungary this is restricted to licensed counsels. This practice is not in line with the requirements of the new EU victims' rights directive.

A further problem is that, in several counties, psychological services are still not available as part of the victim support package, and where they actually are, only in limited hours. Neither staff members of the victim support services, nor affiliated psychologists receive targeted training on how to deal with victims of hate crimes. While there were some interviewees who emphasized that all victims have individual needs, and an empathic attitude is the key, others did see the need for such a targeted training. Specialized support for victims of hate crimes could also be offered via cooperation with NGOs, but there are no such agreements with NGOs active in the field of hate crimes. It is a further problem that NGOs offering victim support in general do not have any special programs for victims of hate crimes, and NGOs that work with hate crime victims focus on legal support and do not offer psycho-social support.

Accessing the services offered by the Victim Support Service is hindered by several barriers, which are not specific to victims of hate crimes, but impact them in a more severe way. Such a restriction, for example, is that only those victims can make use of victim support services who report it to the authorities and in whose case a criminal procedure has been started. Those who wish not to report (and as it is clear from the chapter on underreporting, there is a high number of such people among victims of hate crimes), exclude themselves from the service. A further problem for foreigners is that accessing the services is restricted to those residing in Hungary legally, thus even if a report can be made to the police by an undocumented migrant, s/he is not entitled to access the victim support service.

Many victims are not aware of the variety of services available to them. Even though informing the victims of the available victim support services is a duty of the police, in practice, this means a formality from which most victims do not understand why turning to the Service would be beneficial for them (except for financial aid). This is clear from the low number of clients: only 9% of all natural person victims reporting a crime turn to the Victim Support Service and an overarching majority of them only for financial aid. A further problem is that the Service operates in county towns (*megyeszékhelyek*), and the regular contact required by psychological support poses severe financial burdens for victims even if the service itself is free.

Our interviewees working in the field of victim support explained that in spite of positive efforts, a victim-centered approach by the police is still lacking: many police officers are not empathic enough, and they are not motivated to be. If assessing the performance of police officers were not based solely on how efficient the investigations are, but would also incorporate the opinions of victims, police officers would pay a lot more attention to how to deal with them.

DATA COLLECTION AND RESEARCH

In Hungary there is no specialized data collection by public authorities on hate crimes. Data on crimes reported to the authorities are collected in the Unified System of Criminal Statistics of the Investigative Authorities and of Public Prosecution (*Egységes Nyomozóhatósági és Ügyészégi Bűnügyi Statisztika, ENYÜBS*). The system is based on legal qualification of crimes by the authorities according the paragraphs and sub-paragraphs of the Criminal Code; for certain crimes further subcategories are formed

by completing the fields of 'method' and 'object'. The system contains the sex, age, citizenship and the occupation of the victims, no other personal characteristics (such as social groups that are relevant especially for hate crimes) are included.

A basic problem with the system is that the categorization of crimes is based solely on the decision of the authorities. Even if a crime is perceived by the victim or other witnesses to be motivated by hate, if the authorities disregard this information when deciding on the legal qualification, the report of a hate crime is rendered "invisible" in the system; thus, in case of underqualification, the cases cannot be traced.

In case of violence against a member of a community and incitement against a community the 'method' field allows for disaggregating the crimes based on the protected characteristic, however, categorizing the crime according to race, ethnicity, religion and nationality is compulsory; for disability, sexual orientation and gender identity, it is only optional.

The system also allows for recording 'racism, racial prejudice' as a method for the crimes of genocide, homicide, bodily harm and partnership violence. It is not clear why this method is included for these crimes, there are a few other crimes which also have base motive as a qualifying circumstance, and hate motivation is typical in several other crimes as well (see the chapter on the legal environment). A further problem is that 'racism, racial prejudice' only covers a small circle of protected characteristics. For cases of hate crimes based on religion, sexual orientation, gender identity or disability, this category is not appropriate. Finally, it is a further problem that unlike for cases of violence against a member of a community and incitement against a community disaggregation by protected characteristics is not possible for these crimes. This results in the odd outcome that more detailed data is available for less severe forms of crime such as assault, than for more severe forms of crime such as homicide.

A further general problem of ENYÜBS is that data on registered crimes is entered into the system upon closing or suspending the investigation; therefore, a long investigation means that the crime appears in the system only months or years after its occurrence. So even if monthly reports on crime statistics are published, real trends cannot be established or can be established only with a long delay. Researchers also claim that the accuracy of the system is low; there are many statistical forms which are not fully completed or contain mistakes.

In case of successful investigations, data on prosecution and sanctioning is available from the Prosecution Information System (*Vádképviseleti Informatikai Rendszer, VIR*) and the statistical system of the courts. It is true for both systems that the level of details is significantly lower than in the ENYÜBS system. There is no way to disaggregate data based on the protected characteristics, crimes committed with a bias motive cannot be differentiated from crimes committed with another base motive, or in cases where base motive is not a qualifying circumstance from regular crimes. Furthermore, in the statistical system of the courts, cases can only be categorized according to one crime in the Criminal Code. For cases involving several crimes, it is purely accidental which one the case is categorized in. So, for example, in the case of violence against a member of a community that resulted in bodily harm, it is possible that the case appears only under bodily harm, and the fact that it was a hate crime is lost for the statistical system.

A further basic problem is that these systems of data collection are not connected; thus, it is impossible to trace a crime from reporting to sanctioning. One cannot figure out, for example, what happened to the hate crimes reported in 2007 by 2014, in how many of them the police were able to identify the perpetrator, how many of them were prosecuted, in how many of them the courts found the defendant guilty, and what kinds of sanctions were imposed.

The Victim Support Service also has a statistical system in place which categorizes clients based on the kind of crimes they had become a victim of. The basis for the categorization is the legal qualification by the police according to the Criminal Code. For reasons explained earlier with regards to the VIR and the statistical system of the courts, this system does not allow for the appropriate identification of all hate crimes. A further difficulty is that the entry of statistical data is based on a document issued by the police at an early phase of the investigation, and even though the system allows for correcting

the statistical entry based on developments in the investigation, very often, this does not happen in practice.

Besides data on criminal procedures by the public authorities, it is also crucial to have research into the real prevalence of the phenomenon, taking into consideration underreporting as well. In other countries such data is acquired via victimization surveys conducted at regular intervals, with a comparable questionnaire, on a large, representative sample; in Hungary no such regular studies exist. The National Institute of Criminology (*Országos Kriminológiai Intézet, OKRI*) conducted victimization surveys in 1996, 2000 and 2003, but none of them covered the topic of hate crimes. There has only been one representative victimization survey in Hungary that touched upon the issue of hate crimes, the European Crime and Safety Survey (EU ICS) in 2005 (for a summary of the findings see the chapter on the prevalence of hate crimes). A one-off study, however, does not allow for exploring trends in the prevalence of the phenomenon. In the middle of the 2000s, the Central Statistical Office (*Központi Statisztikai Hivatal, KSH*) started elaborating the methodology for a regular victimization survey in cooperation with Eurostat, and there was a pilot study, but the survey has never been launched.

Research among specific victim groups using a community sample has been more common. In recent years such studies have been conducted targeting several of the groups at risk of hate crimes, such as Roma people, Jews, LGBT people, people with disabilities (for a summary of the findings see the chapter on the prevalence of hate crimes). On the other hand, there is a complete lack of quantitative or qualitative research into the perpetrators of hate crimes. Generally speaking, except for the question of hate speech, the topic of hate crimes hardly ever features in academic publications in Hungary in the fields of legal or police science, criminology or social science, although recent years have brought a heightened interest in the topic within the fields of legal and police science. It is worth noting that most recently several journals have devoted special issues to the topic of hate crimes, and several related conferences have also been organized.

Most interviewees agreed that data collection should gather information on all forms of hate crimes, that the accuracy of data has to be improved, and the data should be published regularly to a general audience. Several respondents (although not the majority) expressed their reservations concerning disaggregating data based on the protected characteristic, which they found problematic for data protection concerns. Interestingly, most interviewees did not know that the ENYÜBS system already collects data in a disaggregated manner.

TRAINING AND SENSITIZATION

All professionals participating in the research agreed that the key to improving the response to hate crimes lies in reforming the basic education of, and introducing targeted in-service training to professionals working in the field. All interviewees reported that the topic of hate crimes was not covered at all, or was covered only very superficially in their basic training. Even though several of the police officers interviewed had participated in trainings covering the issue in recent years, it is worth noting that we aimed at recruiting police officers with a substantial experience with hate crimes, and thus our findings cannot be considered representative.

Professionals coming into contact with hate crimes primarily come from a background of legal or police education, or from various support professions (psychology, social work, medicine). According to the interviewees, the following areas of knowledge should be acquired to perform the job adequately (the relative importance of the topics of course varies between professional groups): a) hate crimes as a social phenomenon, the operation of prejudices, b) criminal law provisions concerning hate crimes; c) recognizing and investigating hate crimes; d) sociocultural characteristics of victim groups; e) needs of and communicating with victims of hate crimes.

Based on the interviews, it can be established that from the above list only two items feature in the basic legal and police education: the sociocultural characteristics of social groups at risk of becoming

victims of hate crimes and basic knowledge about criminal law provisions.. On the other hand, several respondent also noted that, with regards to the previous, it is only the Roma who are covered, LGBT people and asylum seekers or foreigners are hardly ever mentioned. There were interviewees who identified as a problem the fact that hate crimes are most often talked about in social scientific, “soft” subjects, rather than in “core professional” subjects, which is problematic as their prestige among students is significantly lower. Several of them criticized the theoretical orientation of basic education, which does not facilitate that students use the acquired knowledge in practice. The retrospective evaluation of interviewees (all of them completed their basic training several years ago) was confirmed by the analysis of current curricula.

The situation is somewhat better for in-service training for police and judges: in recent years several such training courses have been organized specifically about the topic of hate crimes; however, their one-off nature and low number of participants does not allow this method of training to generate real change. Such sporadic trainings can have a measurable impact only if there is more specialization in the distribution of work within the police, prosecution and the judiciary, and hate crimes find their way to those specifically trained to deal with them. A general education of all staff members, however, cannot be avoided even in this case, since it is crucial for all members of staff to be able to recognize hate crimes and forward them to the relevant units or colleagues. This is especially important in the work of the police, that is why training officers on duty (*ügyeletes tisztek*) and heads of criminal investigations (*bűnügyi helyettesek*) is vital.

Both interviewees and participants of the forums for victim groups expressed their opinion that the police officer getting in contact with the victim for the first time (patrol and complaint officers) has huge responsibility. A police officer who is not empathic enough can significantly reduce the willingness of victims to cooperate, who will then try to avoid the legal procedure or keep silent about the real motive of the crime. In order to provide training for a large number of police officers, “train the trainer” programs have been used successfully in many countries that prepare police officers to conduct trainings themselves on the local level.

As discussed in the chapter on supporting victims, victims of hate crimes have specific needs that staff of the victim support services is not prepared to respond to. That is why a training curriculum should be developed for them, and also to organize specialized trainings for psychologists working at such the services.

Besides spreading professional knowledge, sensitization programs that aim to reduce prejudices also play a crucial role. Even though such programs building on the participation of experts by experience covering various groups at risk of hate crimes have been organized by various NGOs, these have not been invited at any of the institutions offering legal or police training, and were only seldom invited to institutions offering education for support professionals.

PREVENTION AND **AWARENESS RAISING**

Both professionals interviewed and participants of the forums for victim groups agreed that besides strengthening the work of authorities in responding to hate crimes that have already been committed, the phenomenon has to be interpreted in a broader social context, the causes leading to hate crimes should also be tackled and prevention should be in the focus. At this point tackling hate crimes coincides with anti-discrimination and equal opportunity policies that aim to reduce social prejudices.

Several respondents have emphasized that the impotence of authorities is the result of the lack of sensitivity in the general society towards the issue: most people are not aware of the notion of hate crimes, the danger it poses to society, and if there is no public outcry, decision makers will not devote enough attention to the topic. The problem of hate crimes have received public attention only in recent years, most importantly in relation to the Roma serial killings, but many still consider those incidents to be an isolated case, and do not see its connection to more widespread, less severe forms of attacks. Generally speaking,

the media shows interest in such incidents, but the reports often completely disregard the concerns of the victims.

Participants of the research attributed special importance to the role of schools in reducing stereotypes and creating attitudes opposing hate crimes. One of the interviewees emphasized that there is a clear path from mundane school bullying to more severe, criminal forms of hate crimes. Disregarding school bullying encourages perpetrators and creates a sense of despair in future victims. Several respondents emphasized that, even though, in principle, promoting attitudes of acceptance and tolerance is a priority in public education, in practice, it receives very little attention, and is limited to Roma people; sexual and gender minorities, foreigners or people with disabilities received significantly less attention.

While only a few respondents mentioned them, besides general prevention, specific prevention in the form of efforts to reduce crime repetition and preventing the escalation of intergroup conflicts to criminal activities are also worth noting. Several people have brought up the importance of restorative justice techniques, the use of social skill development and prejudice reduction programs, especially among youth and young adult offenders. Even though such programs targeting hate crime offenders exist in other countries, no respondents reported about similar efforts in Hungary. Mediators can play a role in handling intercommunity conflicts, but while there have been efforts to prepare police officers for such a task, experience from the groups shows that police mediators do not feel competent enough to handle such sensitive situations.

