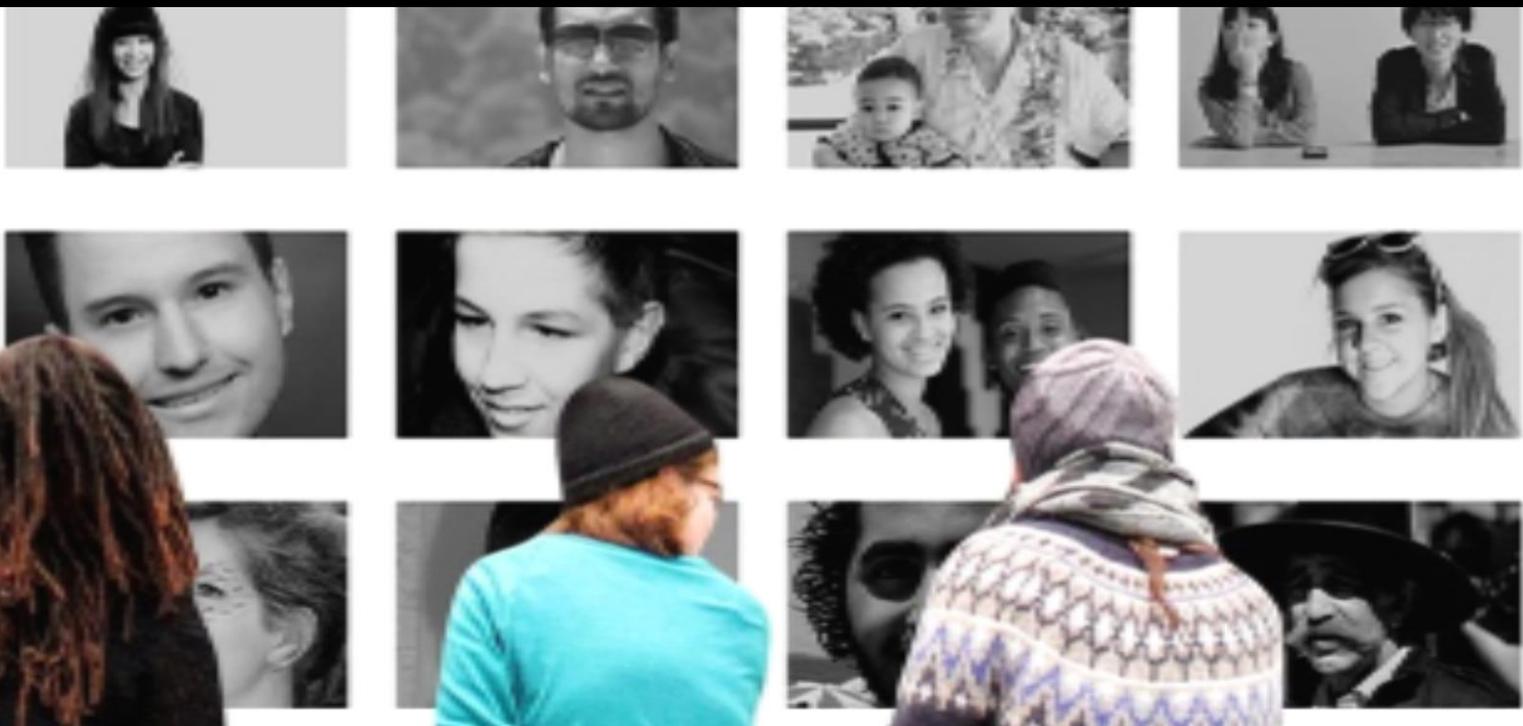


TRAINING KIT FOR  
DETECTING AND ASSISTING  
VICTIMS OF HATE CRIMES  
PROYECTO SHELTER



Co-funded by the Rights, Equality and  
Citizenship (REC) Programme  
of the European Union



**Edition coordination:** Roberto Moreno López (Llere)



**Director of research and Shelter Project Manager:** Juan Antonio Flores Martos (UCLM)

**Authors:** Roberto Moreno López, César Arroyo López, Juan Antonio Flores Martos and Rosa Marí Ytarte.

**Reviewers and contributors:** National partners in the project (see below)

**Partners:** Cyprus: Aequitas / UCY, Hungary: NUPS/ SVF, Malta: PFC and Spain: Llere/UCLM

**Edition:** November 2020

**ISBN:** 978-84-09-27159-7

**Translation:** INEEYS

**Design:** Llere.org

This report was co-funded by the European Union's Rights, Equality and Citizenship Programme (2014-2020)

The content of this document represents the views of the author only and is his/her sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.



Support and advice through health system for hate crimes victims



Co-funded by the Rights, Equality and Citizenship (REC) Programme of the European Union

## Table of Contents / Índice de contenido

<b>TRAINING KIT IN ENGLISH</b> .....	5
PREVIOUS INFORMATION .....	5
DURATION AND STRUCTURE .....	5
METHODOLOGY .....	5
TRAINERS.....	5
<b>INTRODUCTION</b> .....	6
<b>PROJECT GOALS AND SCOPE</b> .....	7
<b>SESSION 1</b> .....	8
<b>TITLE: HATE CRIMES, STEREOTYPES, PREJUDICE AND DISCRIMINATION</b> .....	8
1) INTRODUCTION TO HATE CRIMES .....	8
2) STEREOTYPES .....	9
3) PREJUDICE .....	10
4) DISCRIMINATION AND ITS TYPES.....	11
5) CLOSING OF THE SESSION .....	13
<b>SESSION 2</b> .....	14
<b>TITLE: HATE CRIMES AND VIOLENCE</b> .....	14
1) HATE CRIMES AND VIOLENCE.....	14
2) OTHER RELATED CONCEPTS .....	16
3) LEGAL FRAMEWORK .....	18
4) CHARACTERISTICS OF HATE CRIMES.....	22
5) VICTIMS AND VULNERABLE GROUPS.....	23
6) CLOSING OF THE SESSION .....	25
<b>SESSION 3</b> .....	26
<b>TITLE: DETECTION, INFORMATION, REFERRAL AND ACCOMPANIMENT</b> .....	26
1) UNDERREPORTING.....	26
2) DETECTION. ....	28
3) INFORMATION, REFERRAL AND ACCOMPANIMENT .....	31
4) CLOSING OF THE SESSION .....	32

<b>FORMACIÓN EN ESPAÑOL</b> .....	34
INFORMACION PREVIA.....	34
DURACIÓN Y ESTRUCTURA.....	34
METODOLOGÍA.....	34
FORMADORES.....	34
<b>SESIÓN 1</b> .....	35
<b>TÍTULO: DELITOS DE ODIO, ESTEREOTIPOS, PREJUICIOS Y DISCRIMINACIÓN</b> .....	35
1) INTRODUCCIÓN A LOS DELITOS DE ODIO .....	35
2) ESTEREOTIPOS .....	36
3) PREJUICIOS .....	37
4) DISCRIMINACIÓN Y TIPOS .....	38
<b>SESIÓN 2</b> .....	41
<b>TÍTULO: DELITOS Y VIOLENCIA DE ODIO</b> .....	41
1) LOS DELITOS Y LA VIOLENCIA DE ODIO .....	41
2) OTROS CONCEPTOS RELACIONADOS.....	43
3) MARCO LEGAL .....	45
4) CARACTERÍSTICAS DE LOS DELITOS DE ODIO .....	46
5) VÍCTIMAS Y GRUPOS VULNERABLES .....	47
6) IMPACTO EN LA SALUD .....	48
<b>SESIÓN 3</b> .....	50
<b>TÍTULO: DETECCIÓN, INFORMACIÓN, DERIVACIÓN Y ACOMPAÑAMIENTO</b> .....	50
1) INFRADENUNCIA.....	50
2) DETECCIÓN .....	51
3) INFORMACIÓN, DERIVACIÓN Y ACOMPAÑAMIENTO.....	54
<b>REFERENCES / REFERENCIAS</b> .....	55

# TRAINING KIT IN ENGLISH

## PREVIOUS INFORMATION

### DURATION AND STRUCTURE

This training is organized in three teaching units with an approximate duration of 5 hours for each one.

The units include basic theoretical content for the trainer and some indicative activities to be performed during the training in order to introduce the content and to promote the learning and the participation of the attendees.

### METHODOLOGY

This training is designed to be developed in a group setting (with groups of around 15 to 30 people), following the principles of

- Participation - the training activities need constant interaction and feedback with the attendees. Facilitating the space for dialogue, discussion and exchange of ideas, always with respect and horizontal communication.
- Significant learning -the activities raise familiar scenarios so that from these situations, the attendees can reflect on what they would do in practice, as well as, link the new contents and learning that are proposed.
- Flexibility - all activities can always be adapted to the size of the group, the level of knowledge or the personal and professional characteristics of the group.

### TRAINERS

Those responsible for training must understand, embrace and consolidate the key contents of the guide. They should also deepen their understanding of those aspects that can help them to provide solid explanations and teaching, especially regarding hate crimes in their national context.

This type of training based on interaction requires a great capacity for active listening, classroom dynamics and the promotion of respect and diversity of opinions, facilitating dialogue and communication.

# INTRODUCTION

The Organization for Security and Cooperation in Europe - Office for Democratic Institutions and Human Rights (OSCE - ODHIR) defines hate crimes as "those crimes motivated by prejudice against a particular group of people" (OSCE-ODHIR 2009). The European Network against Racism (ENAR) 2013-2014, in its Shadow Report on hate crimes, found that this phenomenon is on the rise. The main obstacles at the heart of a coherent approach to address the phenomenon are the lack of information and registration of such crimes in EU Member States (OSCE-ODHIR 2015). Hate crimes target people for who they are or are perceived to be. At the same time, hate crimes are message crimes, and the message of rejection and exclusion in each attack resonates throughout the community, from family members, to those sharing the identity of the victim, to neighbours, co-workers and the public. In 2019, the Office focused on gender-based hate crimes, as well as those committed from multiple bias motivations (OSCE-ODHIR 2019).

Therefore, three key problems can be identified. Firstly, hate crimes are frequent and increasing in Europe. Second, victims are often hesitant to report hate crimes and, if victims do report the crime, most Member States do not adequately address the element of bias. Thirdly, Member States do not properly record hate crimes. As a result, victims of hate crimes are in a desperate situation when trying to access justice, as they essentially remain invisible and lack adequate protection, support or treatment. In addition, this directive states that individual assessments of victims should take into account whether they have been victims of a hate crime.

# PROJECT GOALS AND SCOPE

The main objective of the project is to improve the protection of victims of hate crimes and their access to resources and networks that facilitate reporting, assistance and specialized support, through four specific objectives: To address unreported data on aggression and violence committed under the hate crime approach, to strengthen medical and psychosocial care for victims of hate crimes provided by the health system, to facilitate victims' access to resources for protection, assistance and specialized support, and to incorporate health system institutions into an international network of support for victims of hate crimes.

-  Expand the view on the impact of hate crimes and reporting.
-  Improve care in health centers through the development of specific protocols, staff training, available information for victims, good practice guides and better communication and networking of health institutions with other agents.
-  Strengthen professional skills, awareness and the creation of new tools for hospital and health center staff to improve care and reporting of cases of hate crimes.
-  Make available information and dissemination tools on the characteristics of hate crimes, how to proceed for victims, protection and support institutions and organizations, etc.
-  Establish forms of collaboration and synergies between the different actors surrounding the actual and potential victims of hate incidents (hospitals, hate victim support networks, communities, public institutions and official bodies) at national level, but also in the European context.

# SESSION 1

## TITLE: HATE CRIMES, STEREOTYPES, PREJUDICE AND DISCRIMINATION

**DURATION:** 5 HOURS

### OBJECTIVES

- To provide a first approximation to the definition of hate crimes
- Identify the subjective component of the hate crime
- Understanding the relationship between stereotypes, prejudice and discrimination

### CONTENTS

- Introduction to Hate Crimes
- Stereotypes
- Prejudice
- Discrimination and its types

### METHODOLOGY/DEVELOPMENT

#### 1) INTRODUCTION TO HATE CRIMES

### CONCEPTS

"Hate crimes are criminal acts motivated by bias or prejudice towards particular groups of people. To be considered a hate crime, the offence must meet two criteria. The first is that the act constitutes an offence under criminal law. Secondly, the act must have been motivated by bias" OSCE -ODIHR.

## ACTIVITIES

1. Let the health workers describe in their own words what the hate crimes remind them of/refer to. Collect the references and link them to the OSCE definition
2. Briefly explain both criteria: crime according to legislation and motivation. They will be explained in detail in the final part of this and the following modules.
3. To highlight the motivation and prejudice component in the definition of hate crimes as opposed to other types of crimes. And the link that these have with the rejection and denial of the person who commits the crime of basic human principles and rights, such as equality and dignity of the person and the human groups that are attacked. In this sense, the perpetrator considers his victim to be someone inferior, denying him his status as a full human being.

## 2) STEREOTYPES

### CONCEPTS

An intimate relationship between the concepts of "stereotype", "prejudice" and "discrimination".

In this regard, it makes sense to use three aspects linked to the concept of attitude, understood as its key components:

- Cognitive (what I know about the subject),
- Affective (the emotions it arouses in me) and
- Behavioural (the behaviour that I develop as a consequence).

Stereotypes would therefore be the cognitive component defined by Gardner as a compressed set of consensual beliefs about the characteristics of a particular group.

Characteristics:

- They fulfil various functions: functional and adaptive value, as they help us to understand the world in a simplified, ordered and coherent manner; they allow the possible prediction of events; they help the individual to adjust to social norms; they facilitate the categorisation of reality; they contribute to the economy and savings in the analysis of reality; they facilitate the individual's social identity.
- Negative aspects, when applied to social groups and their individuals, without contrasting, or critical reflection on them. This results in generalisations

that attribute Traits which, if negatively charged, limit, which is considered by an observer to be unjustified

We define "prejudice" as the set of judgements and beliefs of a "negative nature" in relation to a social group.

They are considered as phenomena composed of knowledge, judgments and beliefs, and as such constituted by "stereotypes"; that is, the stereotype would be the cognitive component (judgment, belief) of the prejudices (which are always of negative character).

It is clear that although there is an intimate connection between negative stereotypes and prejudices, there are many stereotypes that are not associated with prejudice.

## ACTIVITIES

1. Consult participants to try to link the following concepts
  - Stereotype
  - Prejudice
  - Discrimination
    - Belief
    - Emotions/ Attitude
    - Behaviour
2. Identify some of the reasons why people are stereotyped (gender, sex, sexual orientation, "race"...)
3. Identify some of the stereotype's participants know about human groups.
4. Ask them about situations in which they have been stereotyped.
5. Identify possible stereotypes they have in relation to their work (older people, Roma, women... and their relationship with the health system)

## 3) PREJUDICE

### CONCEPTS

Prejudice is an axiomatic predisposition to accept or reject people because of their social characteristics, whether real or imagined" (Light, Keller and Calhoun, 1991) prejudice is a learned attitude, based on the experiences that the person has had throughout his life and especially during his childhood. These are configured on the basis of stereotypes.

In the end, a prejudice is a distorted way of interpreting reality, since it has a real basis,

but at the same time, it contains erroneous, exaggerated information or accidental generalizations caused by a previous or alien experience.

Prejudice is not just a statement of opinion or belief, but an attitude that includes feelings such as contempt, disgust or total repudiation.

### ACTIVITIES

1. Using the possible stereotypes detected above, indicate how these will determine the possible attitude of the professional towards a stereotyped person.
2. Spain - Case of the homeless person / beggar
3. Linking prejudices and stereotypes

## 4) DISCRIMINATION AND ITS TYPES

### CONCEPTS

Discrimination, on the other hand, is the behavioural component of prejudice, and therefore its external manifestation (Simpson and Yinger, 1965). Social scientists have traditionally conceptualized discrimination as unequal treatment unfavourable to a subject or group, as a consequence of prejudice.

Discrimination occurs in many different ways, and in different areas and at different levels.

Some types of discrimination:

#### DIRECT DISCRIMINATION

Direct discrimination occurs when a person is, has been or would be treated less favourably than another person in a comparable situation on any of the protected grounds.

Examples:

- Negar without objective and reasonable cause the entry into a shop, restaurant or other premises of a person because of the colour of their skin.

- Advertisement of housing or job offer in which the immigrant population is excluded, “foreigners should not apply”, or Spanish nationality is required to access a benefit.
- identity control or registration by a police officer where people are selected solely on the basis of their appearance, physical, cultural, racial or ethnic characteristics.

### **INDIRECT DISCRIMINATION**

Indirect discrimination happens where an apparently neutral provision, criterion or practice causes or is likely to cause a particular disadvantage to one or more persons in relation to other persons on grounds of discrimination, unless that provision, criterion or practice is objectively justified by a legitimate aim.

When in order to access a certain social benefit, a group of people (e.g. foreign population) is asked to meet a certain requirement (e.g. documentation to be obtained in their countries of origin) which is difficult to fulfil by that group, so that that group is put at a disadvantage in terms of access to that benefit in relation to the majority group.

When a certain requirement (e.g. an academic degree, a language) is required to access a benefit, which is not actually necessary to perform the job in question, in order to make it difficult for certain groups to access the benefit.

### **DISCRIMINATION BY ASSOCIATION**

It occurs when a person or group is discriminated against on the basis of their relationship or contacts with one or more persons who are discriminated against on one of the protected grounds listed in the existing legislation.

Examples:

- Assault an activist (who is a national and white-skinned) for his membership of an NGO that defends the integration and rights of African immigrants.
- Deny a benefit to a person for being married to another person belonging to a certain ethnic group or minority.

### **DISCRIMINATION BY MISTAKE**

It is based on an erroneous assessment of the person discriminated against by associating him/her with certain characteristics.

Examples:

- A person is refused entry to a leisure venue because they believe they are Roma, but they are not.
- Two boys, who kissed on the cheeks when they are leaving a restaurant, are attacked by a group of skinheads who think they are homosexual, yet they were family members.
- A person is attacked with the cry "go to your country, we don't want foreigners here", because, due to their cultural or physical features, it is assumed that they are of foreign origin, even if they were born in national territory.

## ACTIVITIES

1. Ask about cases of discrimination they know about.
2. Propose cases of discrimination and try to classify them into the already mentioned types.
3. Show the pyramid of hate. The path of hate, from the cognitive (stereotype), emotional (prejudice) and finally behavioural (discrimination, hate crimes and genocide) aspects
4. To reflect on possible cases of discrimination they have seen in their professional field or suffered in their life.

### 5) CLOSING OF THE SESSION

- Return to the definition of hate crimes. Re-examine both components with all that is set out in this block of activity.
- Go through the concepts again, remembering the cases presented by the trainer or the assistants.
- Draw conclusions on this section together with the participants.
- Evaluation

# SESSION 2

## TITLE: HATE CRIMES AND VIOLENCE

**DURATION:** 5 HOURS

**OBJECTIVES:**

- To consolidate knowledge about the concept of hate crimes and violence
- To deepen in other associated concepts.
- To introduce the legal framework
- Knowing types of victims and the impact that hate violence has.

**CONTENTS**

- Hate crimes and violence
- Other related concepts
- Legal framework
- Characteristics of hate crimes
- Victims and vulnerable groups

**METHODOLOGY/DEVELOPMENT**

1) HATE CRIMES AND VIOLENCE

**CONTENTS**

**Hate crimes**

Hate violence constitutes a violation of people's fundamental rights and dignity,

undermines the principle of equality and reduces the individual to stereotypes assigned to him or her on the basis of collective membership, racial characteristics or sexual identity, among other features.

From this perspective, the Organization for Security and Cooperation in Europe (OSCE, from now on) in defined hate crimes as:

"any criminal offence, including those committed against persons or property, where the protected legal asset is chosen because of its actual or perceived connection, sympathy, affiliation, support or membership of a group. This group is based on a common characteristic of its members, such as their actual or perceived "race", national or ethnic origin, language, colour, religion, age, disability, sexual orientation or other similar factor" (Council of Europe, 2017).

A hate crime is not, therefore, a crime of feeling (Ibarra, 2015), but rather, constitutes an action or a discourse that can be objectified, even if it contains subjective ideological or prejudicial elements with defined characteristics (Díaz, 2018; López, 2017):

- They are based on prejudices towards persons or groups based on their real or assigned characteristics.
- They reduce people to some of the traits or stereotypes from which rejection of them is built.
- The victim is always chosen on the basis of the group or collective to which he or she belongs and towards those characteristics that cannot be modified.
- It is aggressive behavior or hostile speech that incites violence.
- It always represents a threat to the collective and divides communities.

Hate crime and hate speech have their conceptual and legislative origins in the Anglo-Saxon context: hate speech, hate crime or bias crime. As Díaz (2018) points out, the concept defines a: "desire for evil, originating in a prejudice or bias of intolerance(bias) against a certain class of people and, where appropriate, against the specific person who shares the characteristics that generate that desire".

It is, therefore, a crime that has as its objective the humiliation or denigration of the victim and the group that he or she represents and, therefore, those groups or collectives that have been historically and socially discriminated against are considered victims of hate violence.

The concept of "hate crimes" today defines, in a general way, all those crimes that have a prejudicial or discriminatory basis in its implementation. In this respect, both the OSCE and the European Union (Hatento, 2015) indicated that the motivation for the crime (racism and xenophobia) was the basic criterion for the development of legislation in each State,

considering that "hatred" encompasses those manifestations or acts that inciting violence in public, the dissemination of written materials or images and the denial of genocide or crimes against humanity. Hate violence

Hate violence (HV) is considered to be the consequence of incidents and hate crimes with a negative impact on the physical or mental health of the persons attacked, either in the short or long term (Gil-Borrelli, Martín-Rios and Rodriguez-Arenas, 2018)

In this way, it is a more accessible and related term to the health group. The impact of hate violence is very relevant considering that it has physical and psychological repercussions, as well as changes in the person's behavior and even an effect on the group to which the victim belongs and the community in which that group is integrated, as will be seen later on.

## ACTIVITIES

1. Brainstorming on the meaning of hate crimes. Let the participants try to define the concept
2. Separate and think about those concepts related to motivations and other associated ideas that may arise. Relate it to the previous module or that it may come up later in the course.
3. Emphasize the importance of motivation in this type of crime. Consult the group about whether hatred is a crime and differentiate it from hate crimes, as an objectifiable criminal act with subjective aspects.
4. Ask about the possible health impacts of hate violence (physical, psychological, behaviors, victim group, community).

## 2) OTHER RELATED CONCEPTS

### CONTENTS

**Hate speech**, "all forms of expression that propagate, incite, promote or justify racial hatred, xenophobia, anti-Semitism and other forms of hatred based on intolerance, including intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility towards minorities, immigrants and persons of immigrant origin. The European Commission against Racism and Intolerance (ECRI) of the Council of Europe, in its Recommendation R (97) 20 of the Committee of Ministers

The expression of ideas is not punished, but rather the way and circumstances in which they

are used to incite hatred, discrimination or violence and therefore an attack on the values of non-discrimination and dignity of the person.

**Hate incident** is one that is perceived by the victim or any other person as racist, xenophobic or otherwise intolerant, even if it is not a crime. Any person can be the victim of a hate incident or a hate crime, regardless of whether they actually belong to the group to which the hostility or prejudice is directed

**Racism and xenophobia** Racism is prejudice or hostility towards a person's race, colour, language, nationality, or national or ethnic origin. While some communities are particularly vulnerable, any ethnic group can be the target of racism. Intolerant discourse in the media or from politicians can lead to increased racist sentiments towards migrants and other minorities, including in the form of scapegoating in times of economic crisis. (OSCE - ODIHR).

**Sexism**, Sex-based hate crimes are criminal offences motivated by bias against a person's sex, which means that the offender selected her or his target based on the victim's sex. (OSCE - ODIHR)

**Homophobia and LGBTIphobia** Hate crimes against lesbian, gay, bisexual and transgender (LGBT) people are motivated by a bias based on a person's sexual orientation or gender identity. In some instances, LGBT people have been portrayed by the media and politicians as a threatening and inferior group, posing a danger to public health and "traditional" structures, such as marriage and the family. LGBT people continue to experience stigmatization and lack of legal protection from discrimination and hate crime. (OSCE - ODIHR)

**Aporophobia**, fear, aversion and rejection of the poor (Adela Cortina). In this sense, poverty coincides with the incapacity, personal error or indolence of those affected, as the cause of their situation, generating rejection of people and avoiding in-depth and structural analysis of the phenomenon of poverty.

**Disphobia**, Prejudice against people with disabilities is a belief that people with physical or mental impairments are inferior. People with disabilities face significant physical and social barriers to full participation in society. Lack of access to public transport and other basic services are common experiences, as well as entrenched prejudices that affect chances for employment, friendships and a full family life. Hate crimes against people with disabilities are often characterized by low level crime committed by people known to the victim such as petty theft or damage to mobility aids, escalating to very serious attacks involving torture and even murder.

**Anti-semitism**, anti-Semitism has emerged as a political ideology that claims Jews control

the world and are to be blamed for phenomena such as capitalism and communism. Anti-Semitism, including the belief that Jews are racially inferior, was the driving force behind the Holocaust. Anti-Semitic narratives, such as blood libel, continue to be heard today.

**Anti-Gypsyism**, The Council of Europe (CoE) defines anti-Gypsyism as "a specific form of racism directed against the Roma, an ideology based on racial superiority, a form of dehumanisation and institutional racism fuelled by historical discrimination, expressed inter alia through violence, hate speech, exploitation, stigmatization and outright discrimination".

## ACTIVITIES

1. If these concepts have emerged in previous reflections, incorporate them into the discussion to try to explain their meaning to the group of participants. Give examples of each. Show examples of intersectionality in discrimination and rejection.
2. Consult professionals about cases they have detected where hate violence had characteristics of the above.
3. Showing examples of hate speech, in which one moves from the reprehensible to the punishable. Explain the difficulties of sometimes being able to delimit and add indicators that give rise to more or less serious hate speech (context, audience, scope, representativeness...)

## 3) LEGAL FRAMEWORK

## CONTENTS

The OSCE Office of Democratic Institutions and Human Rights (ODIHR) defines hate crime as:

"criminal acts motivated by bias or prejudice towards particular groups of people. To be considered a hate crime, the offence must meet two criteria: First, the act must constitute an offence under criminal law; second, the act must have been motivated by bias.

There is no mention of hate crime in most European texts, often covering non-discrimination and issues related to human dignity rather than hate crimes.

Resolutions and decisions focusing on hate crime are not legally binding on Member States, and there is no specific directive or European Regulation addressing hate crime, so there is a gap in the legislation. There is no mention of hate crime in the EU Charter of Fundamental Rights or relevant Treaties. Article 21 only provides the definition of the non-discrimination principle and that the Union shall take appropriate action and implement policies to this end. There is also no mention in the Treaty on the European Union or the Treaty of the Functioning of the European Union.

The 2012 Victims of Crime Directive (2012/29/EU) makes particular provisions regarding victims of hate crime. Article 9 provides that governments have to provide shelters and appropriate accommodation for victims in need of a safe place as well as provide support for victims with specific needs, which would include victims of hate crime. Article 3 provides that a particular attention shall be paid to victims who have suffered considerable harm due to the severity of the crime (...) with a bias or discriminatory motive (...) In this regard, victims of (...) hate crime (...) shall be duly considered."

Also relevant is the Racial Equality Directive (2000/43/EU), which also does not mention hate crime, prohibits discrimination on grounds of race and ethnic origin and requires that all Member States have a specialized body for the promotion of equal treatment on grounds of race and ethnic origin.

A further relevant instrument to highlight is the Council Framework Decision on Racism and Xenophobia (2008/913/JHA). The purpose of this decision is to ensure that certain serious manifestations of racism and xenophobia are punishable by effective, proportionate and dissuasive criminal penalties. The Decision does not provide an explicit definition of hate crime but requires Member States to 'take the necessary measures to ensure that racist and xenophobic motivation is considered and aggravating circumstance for crimes or that such motivation may be taken into consideration by the courts.

Additionally, the European Parliament Resolution of 14 March 2013 on strengthening the fight against racism, xenophobia and hate crime (2013/2543(RSP)) introduces a definition of hate crimes, in relation to the prohibition of discrimination, and warns about the rise of this phenomenon in the EU. It also provides some recommendations for taking action to fight and prevent hate crimes: education, law enforcement, penalization, specific tailored policies, comprehensive strategy, aware people of their rights, encourage the reporting, ensuring adequate protection for people who report crimes and the victims, support for training programmes for authorities, collecting of broader and reliable data on hate crime and providing mechanisms to make hate crime visible, such as "ensuring (...) that offenders are prosecuted and punished and that victims are offered proper assistance, protection and compensation, thus encouraging victims of hate crime and witnesses to report incidents".

Also, of relevance, is the Resolution of the European Committee of the Regions on Combatting Hate Speech and Hate Crime of 16th May 2019. It calls to adopt measures to prevent and protect citizens, to invest in education and to raise awareness, to encourage better cooperation and collaborative communication, to identify hate speech and hate crime at an early stage, implement appropriate measures to prevent and combat and calls for support and solidarity with all victims and witnesses (...) to report such behavior to the relevant authorities.

Aside from EU instruments, there is no also specific prohibition of hate crime in the European Convention on Human Rights. However, according a 2009 OSCE Guide to Hate Crime Law; "In a series of decisions the European Court of Human Rights has held that states have positive obligations under the European Convention on Human Rights and Fundamental Freedoms to investigate the potential racial motivation of crimes (...) While the Court has not demanded the introduction of specific legislation against hate crime, it has explicitly recognized that hate crimes require a criminal justice response proportionate to the harm caused".

In the case of Spain, the legislation has not specifically criminalized hate crime. However, references can be found in criminal resolutions aimed at protecting the rights of victims of these crimes. In this sense, it has been the Barcelona Hate Crimes Prosecutor's Office that has identified several precepts of the criminal code that would fall under the category of hate crimes, as defined by the OSCE (Decision 4/03 of the OSCE Ministerial Council) and which was already incorporated by Spain in the 2013 and 2014 hate crime reports.

Specifically, Article 22.4 of the Criminal Code (hereinafter CP) is applicable to anyone who commits an offence for reasons of racism, anti-Semitism or ideological, religious or belief discrimination, as well as for reasons of ethnicity, race or nation of belonging, gender, sexual orientation, illness or disability. In the same vein, Article 170.1 of the CP punishes threats aimed at terrorising populations, ethnic, cultural or religious groups and social groups, and Article 314 of the CP introduces discrimination in employment on the same grounds. Similarly, Article 510 CP punishes incitement to hatred or violence on these grounds with up to three years' imprisonment. Finally, Article 607 CP regulates the dissemination of ideas or doctrines that deny or justify the crimes of genocide or legitimise regimes or institutions that protect practices that generate them, with a penalty of up to two years' imprisonment.

If hate crimes are treated like other crimes and not recognized as a special category, they are often not adequately addressed. This manifests itself in different ways: investigators do not believe the victim or do not properly investigate the allegation of a biased motivation; prosecutors minimize the crime when selecting charges; and courts do not use

their power to impose harsher sentences that reflect the motivation of the perpetrator (Ministry of Employment and Social Security, 2017).

On the other hand, the identification and fight against hate crimes presents several difficulties derived from the lack of recognition of this type of crimes through public and official statistics, which are fundamental to know the approximate volume of criminality. Although in 2011 the Ministry of the Interior made modifications in the Statistical System of Crimes (SEC) to properly register any act that could be qualified as racist or xenophobic, this data still has many limitations (López, 2017), so the registered figures could be lower than the real ones. The fundamental issue is that most hate violence is not reported, since it is estimated that only 10 to 20% of these crimes reach the police, the courts or the Ombudsman (HATENTO, 2015), although reports published in Spain since 2013 indicate that the work of registration has improved as a result of the training given to police officers (Carratalá and Herrero - Jiménez, 2017).

Recently, an important circular was approved in Spain (7/2019, of 14 May, from the General State Prosecutor's Office, on guidelines for interpreting hate crimes defined in article 510 of the Criminal Code), the aim of which is to establish the criminal figures included in the new article 510 CP. The Preamble introduces the criteria derived from STC no. 235/2007, of 7 November, on the crime of denial of genocide which "limits its application to cases where such conduct constitutes incitement to hatred or hostility towards minorities" and, on the other hand, incorporates a key instrument such as Framework Decision (FD) 2008/913/JHA, of 28 November, of the Council of the European Union on combating certain forms of racism and xenophobia by means of criminal law.

## ACTIVITIES

1. To review the main European and national legal texts relating to the defence and protection of equality, non-discrimination and human dignity.
2. Reference the main articles of national legislation that cover the prosecution of hate crimes even if they are not classified as such.
3. Provide concrete examples where the aggravation of prejudicial motivation makes it necessary to apply it.

## 4) CHARACTERISTICS OF HATE CRIMES

**CONTENTS**

"Hate crimes are criminal acts motivated by bias or prejudice towards particular groups of people. To be considered a hate crime, the offence must meet two criteria. The first is that the act constitutes an offence under criminal law. Secondly, the act must have been motivated by bias." OSCE - ODIHR

Therefore, hate crimes must be considered crimes within the legal system of the country and in addition the victim (s) have been selected because of their real or perceived membership, or their link to a human group with its own characteristics.

Therein lies the essential difference between a hate crime and the rest of the crimes, which is precisely that this type of crime is very relevant for the legislator, something that in other types of crimes is not key.

In this sense, the perpetrator of the hate crime identifies his victim with a certain stereotyped group, regardless of his actual link to it. Each state has determined a series of characteristics that are protected against hate crimes (ethnic origin, religion, sex, gender, sexual orientation, poverty...).

In this sense, in addition to the impact that these crimes have on the physical and psychological health of the subject, this type of crime victimizes the group to which it belongs as a whole, as the individual victim is a representative of the other.

**ACTIVITIES**

1. Provide a concrete case from the country in which the typical characteristics of a possible hate crime are identified. Show the importance of the perpetrator's motivation in committing the crime (someone is attacked because of their identification with a group or their association with it, regardless of whether this is correct or not).
2. Separate the concept of hateful feeling from the sense of hate that is applied and used in the field of hate crimes.

## 5) VICTIMS AND VULNERABLE GROUPS



## CONTENTS

**Protected features**

A hate crime constitutes an action or a speech that can be objectified, even if it contains subjective ideological or prejudicial elements with defined characteristics (Díaz, 2018; López, 2017):

- They are based on prejudices towards persons or groups based on their real or assigned characteristics.
- Reduce people to some of the traits or stereotypes from which rejection of them is constructed.
- The victim is always chosen on the basis of the group or collective to which he or she belongs and towards those characteristics that cannot be modified.
- It is aggressive behavior or hostile speech that incites violence.
- It always represents a threat to the collective and divides communities.

It is, therefore, a crime that has as its objective the humiliation or denigration of the victim and the group that he or she represents and, therefore, those groups or collectives that have been historically and socially discriminated against are considered victims of hate violence.

The feeling of hate is not a requirement for hate crimes - what makes an act a hate crime is the biased motivation of the perpetrator.

As mentioned above, each state has determined a series of characteristics protected against hate crimes (ethnic origin, religion, sex, gender, sexual orientation, poverty...), according to its historical and social context. These characteristics are relevant because they determine which motivations can later be judged as hate crimes.

"A protected characteristic is a common element shared by a group, such as language, religion, ethnicity, nationality, gender, sexual orientation or any other similar common factor that is fundamental to their identity. While there is no precise answer as to what types of groups should be protected, they should be considered from the perspective of characteristics that are perceived by others as defining identity". (Together Project).

The protected characteristics generally cannot be changed and are fundamental such as the colour of the skin. But not all fundamental or unchangeable characteristics are defining of the status of a group.

The European Union includes six different groups that must be protected. In the case of Spain, the legislation considers 13 factors:

"Committing the crime on the grounds of racism, anti-Semitism or any other kind of discrimination related to the victim's ideology, religion or beliefs, the ethnicity, race or nation to which he/she belongs, his/her sex, sexual orientation or identity, gender reasons, the disease he/she suffers from or his/her disability".

However, it does not include some that should be incorporated as homelessness, territorial origin or physical appearance among others.

### Impact on health

Hate crimes and the violence associated with them have a very important impact on the physical and mental health of the people who suffer them, as well as having a very significant impact on the collective in which they are integrated and the societies in which they occur, fracturing and polarising them. Some examples of impacts on people's health

- Physiological, in this case depending on the type of aggression, but ranging from mild to very serious impacts and even death.
- Psychological and emotional, this type of crime attacks the person's identity, as it is a characteristic that cannot be detached from, which leads to a greater sense of vulnerability. Other effects are terror, rage or anger; fear for oneself or one's family, loss of self-esteem, feelings of helplessness and powerlessness, deep

Impact on human groups: It is important to emphasize that in hate crimes the victim is selected because he or she belongs to a human group with a certain identity. In this sense, the victim also becomes the target of the action because he or she receives the discriminatory and rejection message that covers the individual aggression. Therefore, the group as a whole is an indirect victim, feeling this type of act as a threat to any of its members.

Impact on society as a whole

- This type of crime attacks the fundamental values of democratic societies, as it attacks the dignity of people, in addition to denying their fundamental rights (equality, respect...)

## ACTIVITIES

1. Provide examples of hate crimes, emphasize the separation between hate as a feeling and hate crimes as crimes, where motivation is the key element.
2. Consult the group about who they think might be victims of a hate crime
3. To reflect on which protected and collective characteristics are those included in their national legislation, to promote debate on the pros and cons of having a broad or more limited list.
4. Ask about the possible impact on different areas of individual and community health.

### 6) CLOSING OF THE SESSION

- Refresh all the concepts that have been explained along the session. Include those cases mentioned by the participants or any other that were relevant during the session.
- Draw conclusions on this section together with the participants.
- Evaluation.

# SESSION 3

## **TITLE: DETECTION, INFORMATION, REFERRAL AND ACCOMPANIMENT**

**DURATION:** 5 HOURS

**OBJECTIVES:**

- To cover aspects related to the phenomenon of hate violence and its under- denunciation
- To provide keys for the detection of potential victims of hate crimes in the health services
- To contribute to improving the comprehensive care and referral of victims of hate crimes

**CONTENTS**

- Infringement
- Detection
- Information, referral and accompaniment

**METHODOLOGY/DEVELOPMENT**

**DETECTION, INFORMATION, REFERRAL AND ACCOMPANIMENT**

1) UNDERREPORTING

**CONTENTS**

As already mentioned, victims of hate crimes are given special consideration, as they have been selected and attacked because of their identity. In this sense, these groups are characterized by their special vulnerability, which contributes to the fact

that on many occasions the detection and reporting of this type of violence is complex.

## **NATIONAL DATA**

The organizations estimate that only about 10% of hate incidents are reported, of which only a fraction is investigated and prosecuted as hate crimes.

In this regard, the latest Report on the Evolution of Hate Crimes in Spain 2018 by the Ministry's Secretary of State and Security states that the facts collected as possible incidents of hate on the part of the State Security Forces and Corps were 1598.

The detection by state security forces of a possible hate crime is complex, sometimes due to deficient criminal investigations, minimization of the facts, lack of preparation or awareness of police and prosecutorial personnel. However, the very particularities of this type of crime and the vulnerability of the victims make investigations and detection more complex.

The most common motivations that often lead victims not to file complaints are

- Discrimination as an everyday and "normal" experience.
  - A belief that nothing will happen.
  - Distrust or fear of the police.
- Foreign victims who do not have a residence permit in our country are unlikely to go to a police station to file a complaint, for fear of a possible government file for expulsion from the national territory
- Fear of reprisals.
- Extreme vulnerability of certain types of victims.
- Lack of knowledge of the law.
- Shame.
- Denial.
- Fear of revealing their sexual orientation.
- Fear of revealing their ethnic, religious or political affiliation Minimisation of the facts, in certain cases, by those responsible for investigations or prosecutions

## **ACTIVITIES**

1. Check on how many hate crimes you think occur in your state, compare

the official figure (when available) with data collected by NGOs and other independent bodies.

2. Ask the group what they think might be the causes of a violation of this type of crime.
3. Give examples for each of the causes that clarify the reasons given for not reporting.

## 2) DETECTION.

### CONTENTS

Health professionals are a relevant actor in the detection of potential victims of hate crimes when they enter the health system. In this sense, and as already explained, it is sometimes complex for victims to identify and/or recognize themselves as victims of a possible hate crime.

The relationship with health professionals (especially with those with whom they have a more long-term relationship such as those in primary care) can facilitate this detection process. To do this, professionals must be sensitized and trained in the issue and also be aware of certain different indicators that allow the different agents to obtain information to guide the investigation of whether there is an element of hate behind such behavior so that it can be identified and pursued as such .

These indicators are "objective facts, circumstances, or patterns connected to a criminal act(s) that, alone or in conjunction with other facts or circumstances, suggest that the offender's actions were motivated in whole or in part by any type of bias.

During the care of the victims of a potential hate attack, there are indicators of suspicion which, if identified and collected by the health services, would facilitate subsequent police investigations, as well as encouraging the health systems to provide advice and accompany or direct the victims to other professionals who can provide psychosocial and legal support.

#### Some of them are:

1. The perception of the victimized person. In this regard, the main international bodies recognize that the victim's perception of the possible hate attack should already oblige the different agencies to conduct an investigation along

these lines.

2. The victim belongs to one of the above-mentioned vulnerable groups, or any other susceptible group, on the basis of their ethnic, racial or religious identity, sexual orientation or identity, disability, etc.
3. Linking the victim to one of the groups already mentioned, which makes him/her a victim by association, even if the victim does not share his/her identity.
4. The apparent gratuitousness of violent acts, without any other obvious reason. Considering this factor as a very powerful indication.
5. The nature of the violence, as it is extreme and in line with the apparent gratuitousness of the events.
6. That the incident occurred near a place of worship, a cemetery or an establishment of a group considered to be a minority in the vicinity, such as a human rights defense association or NGO
7. That the events occurred on a certain date, which commemorates or is significant for the victim group, or for the possible aggressor.
8. Comments, written statements or gestures in the context of the incident.
9. The drawings, marks, symbols and graffiti
10. Patterns/frequency of previous crimes or incidents in the area where the attack took place.
11. Participation of organized hate groups or their members during the attack

This checklist can be used to guide the attention of health professionals during injury care. In the case of patients assisted in Primary Care, there are also other indicators related to health and personal situation that would allow the detection of cases whose physical consequences are not evident (harassment, insults...), for example:

- Unspecified chronic ailments
- Attitude and emotional state of the person (depression, anxiety, panic...)
- Social isolation

The strategy for collecting this information from the potential victim must include full attention and care for their physical and psychological needs and absolute respect for their individual rights. Questions that address the person's identity and situations such as these are often complex and could be invasive.

## Indicators

- Ask participants which indicators could be decisive in identifying that an attack has been motivated by hate. Contrast with the above.
- Identify whether indicators could vary when collected from emergency services or primary care
- \*Ask about the best strategy for collecting this information in each type of service and those requirements that favour respect for the victim and avoid secondary victimisation or aggression against their fundamental rights.

## Collection of information

One of the key aspects of hate crimes and their prosecution is the lack of data on them. Gathering information that allows for a broader view of the phenomenon could contribute to the protection of victims and promote understanding of the phenomenon for society as a whole and, in particular, for law enforcement agencies. In the study we carried out in Shelter in Spain, health personnel were consulted about the different data recorded in the health report. According to the sample of the investigation, in more than 70% of the cases, the physical injuries, the type of violence, the filiation, the location of the injuries, the place, date and time, the doctor and the therapeutic measures are registered. In more than 50% of cases, the psychological state of the victim, the relationship with the aggressor, the motivation for the aggression and whether there has been a complaint are also recorded.

However, about 50% of the sample states that the perceptions of the victim, the existence of witnesses or the description of the aggressors, are recorded only half of the time. Nor is it usual for the victim's companions to be recorded, as well as in the case of repeated aggressions.

In this respect, certain information collected during the first moments after the attack is decisive for more effective police investigations and for the protection of the victim.

In the event that there is an indication of a potential victim of hate crimes, some of the data that should be collected, with the highest standards of safety and rights for victims, are

- Data on victim affiliation and socio-demographic characteristics
- Potential motivation (gender, age, ethnicity, religion, sexual orientation, disability, etc.)

- Type of violence against the victim
- Description of the type and severity of physical injuries
- Description of the location of the injuries
- Reference of the victim's psychological state
- Therapeutic measures carried out
- Place, date and time of the incident
- Victim's perception of being a hate crime
- If the case is reported to the police, public prosecutor's office or other judicial institution
- Description of the aggressors
- Possible witnesses
- Relationship with the aggressor
- Reference to previous or repeated aggression
- Data on the assisting practitioner
- Victim's Companions in the health services

BY COUNTRY - Some of this information should be incorporated into the victim's medical record and also be included in the injury report given to police officers or sent to the courts.

### **ACTIVITIES**

1. Ask what kind of information is collected in the medical records in your countries and in the injury reports. Contrast if the proposal appears in it. Ask how it could be incorporated and provide useful information that could be used in further research.

### **3) INFORMATION, REFERRAL AND ACCOMPANIMENT**

### **CONTENTS**

Following detection, information gathering and the realization that we are dealing with a potential case of hate crime, it is essential to provide comprehensive support to the victim. In this respect:

- The Health Service must offer comprehensive and interdisciplinary care, addressing not only physical but also psychosocial injuries
- It is necessary to inform you that you have been a potential victim of a hate crime, guiding you on what further steps you can take, and in relation to what legal and social resources are available to you in the environment.
- In the event that the person gives their consent, the hospital/health centre must facilitate the referral and accompaniment to other institutions and agents.
- Contact the police and the courts (according to national legislation in cases of assault and battery) and hand in the injury report, including any evidence of hate crimes.

## ACTIVITIES

1. Ask participants what kind of comprehensive care victims would need
2. Ask about what information should be offered to a person who has suffered hate violence, so that they can be aware of the alternatives and the repercussions it may have on their day-to-day life.
3. Ask the participants about what psychosocial and legal resources they know about in the environment. Present the main ones that exist, how they work and what kind of support they give, after being collected by the trainer.

### 4) CLOSING OF THE SESSION

Refresh all the concepts that have been explained along the session. Include those cases mentioned by the participants or any other that were relevant during the session.

Draw conclusions on this section together with the participants.

Evaluation.