

RACIST CRIME & INSTITUTIONAL RACISM IN EUROPE

ENAR Shadow Report 2014-2018



european network against racism

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Report is produced to fill the gaps in the official and academic data, to offer an alternative to these data and to bring an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those who either are or work directly with those affected by racism. It is this that give NGO reports their added value, complementing academic and official reporting.

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FOREWORD



“We have more than earned the right to live and not have our children killed in the way Stephen was.”

Doreen Lawrence, mother of Stephen Lawrence

In 2014 ENAR published a very important shadow report on racially motivated crimes in Europe and in 2019 we thought that it would be an important exercise to revisit and update the report.

Five years after the last report what we find is alarming: hate crimes that target racial and ethnic minorities are on the rise. This is clearly connected to what we all have been witnessing: a growing polarisation at a political level and within communities, the lack of sanctions and consequences for politicians and decision makers who have become emboldened to use racist rhetoric and sometimes incite violence and hate.

This report looks at how, despite the increase of violent racially motivated crimes, the mishandling of these crimes by the authorities and in particular the police is a regular occurrence and the failures of the criminal justice system to reveal institutional racism continue to impact on the lives of racial and ethnic minorities across the European Union.

Today, most EU Member States have hate crime laws. However, it seems very difficult to enforce these laws in a context of deeply rooted institutional racism found in the authorities receiving the reports of these crimes. The police attitude towards racialised and targeted communities has created significant distrust and sometimes very tense relationships, which results in variations regarding the data collected by the institutions and those collected by civil society organisations. The latter are often leading the way in this respect and there needs to be continued support and acknowledgement of their work.

Racially motivated crimes continue to be a priority work area for ENAR but we are achingly aware that a significant change is necessary within the criminal justice system, if justice is to prevail for victims in Europe. Law enforcement plays a critical role in not only punishing perpetrators but also setting the standards and values for the rest of society.

2019 is also the 20th anniversary of the Macpherson Report,¹ a report that rocked the foundations of the police service in the United Kingdom and was a defining moment in British race relations. Indeed, we continue to see the legacy of the Macpherson Report to this day.

The message in the Macpherson Report from 20 years ago continues to be relevant. This EU wide research and report highlights how addressing institutional racism has faltered at the starting line and that there are many structural and institutional barriers still to overcome. With this report, we aim to reinvigorate the commitment to remove racist structures and practices and better protect all groups from harm and violence in the EU.

Amel Yacef,
ENAR Chair

¹ The Macpherson Report refers to *The Stephen Lawrence Inquiry Report of an Inquiry By Sir William Macpherson of Cluny*, 1999. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf.

EXECUTIVE SUMMARY

In this report we revisit some of the main themes in ENAR's 2013-2014 Shadow Report on racist crime in Europe:² providing an update on statistics of hate crimes with a racial bias recorded between 2014-2018; exploring the link between under-reporting and mistrust of the police; and uncovering institutional racism within the criminal justice system.

The report covers **24 EU Member States**: Austria, Bulgaria, Croatia, the Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Spain and the United Kingdom. The data collected for this report are based on the analysis of 24 questionnaire responses using NVivo.³ The questionnaire was developed by ENAR and the responses to the questionnaire were based on national research.

Data suggest that racially motivated crimes are on the rise in many EU Member States. **Major events such as terrorist acts can cause spikes** in the numbers of recorded hate crimes. In France, the United Kingdom and Germany, there was an increase of antisemitic acts in 2018, and an increase of anti-Muslim incidents reported in France and the United Kingdom following terrorist attacks in 2015, 2017 and 2018.

The official numbers of racially motivated crime are generally considerably lower than those reported by civil society organisations. **In the absence of any clear official data, civil society is filling this gap.** Several Member States have developed informal and formal mechanisms of cooperation between civil society organisations and the police or government departments. However, the relationship between civil society organisations and the authorities are not without their difficulties.

The **EU Framework Decision 2008/913/JHA on combating certain forms and expressions of racism** and xenophobia by means of criminal law, has resulted in a better understanding and state commitment to addressing racially motivated crimes. Things have improved but the practice has not gone far enough.

One third of EU Member States report that they have **guidelines, policies or instructions to support the police in the recording of hate crimes** (Croatia, Cyprus, Estonia, France, Greece, Ireland, the Netherlands, Slovakia, Spain and the United Kingdom). At least half of EU Member States have **operational guidelines (national/local) for either recording or investigating hate crimes with a racial bias** (Croatia, Cyprus, the Czech Republic, Denmark, Finland, Greece, Hungary, Italy, Latvia, Lithuania, Slovakia, Spain, the United Kingdom). However, a common theme is noted in all Member States that in practice, these instructions are not always executed and **implementation remains limited.**

The correct recording of a hate crime is a crucial step towards effectively investigating hate crimes. However, evidence suggests that **the police do not take reports of racist crime seriously or they do not believe victims of racially motivated crimes** (Austria, Croatia, Denmark, Finland, France, Ireland, Lithuania, the Netherlands, Portugal, the United Kingdom). This practice appears to be especially true if certain groups, such as Roma, report these crimes. If the witnesses to the crime are of the same ethnicity as the victim, the accounts of the victim and the witnesses may not be included in the police's assessment of the facts. Certain groups are, through stereotyping, associated with criminality, violence, dishonesty, and/or seen as a security threat, and **this racial stereotyping is pervasive in policing at all levels.**

The police have the power to declare what is and what is not a racist crime to be investigated, thus leaving the victim to be silenced if their definition or declaration of the 'racist' element is not shared with the police.

2 European Network Against Racism. *Racist Crime in Europe – ENAR Shadow Report 2013-2014*. 2014. Available at: https://www.enar-eu.org/IMG/pdf/shadowreport_2013-14_en_final_lowres-2.pdf.

3 NVivo is a software that helps to categorise and classify qualitative data. See more information here: <https://www.qsrinternational.com/nvivo/what-is-nvivo>.

The first instance where the racial bias can 'disappear', is in the course of the police recording the crime. As experts state, the police find it more straightforward to investigate crimes such as violation of public order (hooliganism), or crimes against property, etc. than uncovering the evidence of the bias motivation. **During investigations, the bias element of the hate crime can again be 'filtered out'.**

Data and statistics on prosecutions are hard to find and often not publicly available, therefore it is difficult to offer an EU wide perspective on the effectiveness of legislative frameworks with regards to prosecuting racially motivated crimes. However, on the basis of interviews with experts, the national researchers reported **several factors that hinder the successful prosecution and sentencing of a hate crime with a racial bias.**

There are multiple **structural and institutional obstacles** that prevent the police (and other professionals in the criminal justice system) from correctly recording, investigating and prosecuting hate crimes. The main areas that were consistently raised in the national research are: **insufficient resources, definitions of hate crimes, lack of specialised units, racial bias and limited racial/ethnic diversity within the criminal justice system.**

Most Member States have put in place **complaint or appeal mechanisms for victims and their families**, if they believe that their case has been mishandled in anyway. However, the absence of financial legal assistance limits the utility of these mechanisms.

Since the 2013-2014 Shadow Report on racist crime, **there have been progressive developments in Member States' institutional practice**, broadly reported in: training and guidance; policies and legislation; working relationships with civil society organisations; data collection; and reporting by the government authorities.

Evidence in this report reveals that racialised privilege and power hierarchies form an invisible structure within the criminal justice system. **Systematic failures in the treatment, practice and policies equate to a form of structural violence for racial minority groups.** Structural violence is the failure to protect certain groups and communities from outcomes that either result in or have a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation.

The institutional response to hate crimes could improve if work is undertaken at an institutional level to review the practice, policies and procedures that disadvantage certain groups. The criminal justice system must go beyond checking unconscious bias within the police. There needs to be an acknowledgement of how white privilege – as a historical, social and political construct – can manifest in the criminal justice system and develop plans and activities to improve relations between police officers and racialised communities.

RECOMMENDATIONS

These recommendations are informed by the data and analysis provided by the national researchers. They are the key or common recommendations identified across many Member States. The recommendations listed here are related to the findings included in this report and they sit alongside the recommendations already included in the 2013-2014 ENAR Shadow Report, many of which are still relevant.

Reporting and recording racially motivated crime

- Police authorities should allow for the use of online hate crime reporting through specific and safe systems and reporting in locations other than the police station, to improve rates of hate crimes reporting. The design of such reporting systems should be developed in close cooperation with academic and civil society experts from and/or working with the communities vulnerable to racially motivated hate crimes.
- Police authorities should use the 'perception test' – the victim's perception of the crime – as the basis of the recording of hate crimes and to start investigations. The concept of the 'perception test'⁴ must be included in operational guidelines and shared and communicated across teams within police departments and the wider justice system.
- Police authorities should record hate crimes with the bias indicator, as well as information on the ethnic or racial identity of the victim and the victim's and/or witness' perception of the ethnic or racial identity of the perpetrator. Any other characteristic of diversity of the victim (sex, sexual orientation, gender identity, religion...) should also be taken into account to cater for an intersectional analysis of the crime and the bias motivation of the perpetrator.
- EU Member States must make recording of hate crimes with a racial bias systematic and mandatory and clearly outline this position in all their policies, guidelines and manuals.
- EU Member States must publish disaggregated data on hate crime bias motivation annually and in an accessible format.
- EU Member States must systematically record hate crime cases within the prosecution and court system and monitor cases that fall under the aggravated or penalty enhancement provision. The recording of these cases must comprehensively and consistently include information on the various bias motives of hate crimes in such a way that the bias element can be tracked through every stage: from the police, to the prosecution, through to the sentencing.
- EU Member States must develop clear codes of practice or guidelines that include a definition of hate crime that can be shared across the criminal justice system. There must be consistency in the guidelines, definitions and standards across the entire criminal justice system in every Member State.
- EU Member States should develop a firewall system that guarantees that, whatever the migration status, the victim or witness of a hate crime can report the crime to the police and the whole procedure will remain safe for them, without risk of arrest, extradition or deportation at any time before the outcome of the investigation and judicial process. In addition, victims reporting a hate crime, must be guaranteed that their current or upcoming claims for a regular status will not be harmed.

Investigations

- In line with Article 4 of the Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law, EU Member States must adopt specific minimum standards and guidelines for investigating, proving and processing cases with elements of hate crimes. These standards must be published in the appropriate guidelines and codes of practice for professionals of the justice system. They should also be made easily accessible to the population so that anyone willing to report, as victim or witness, knows what to expect and ask from the professionals at every stage of the procedure.
- EU Member States should develop codes of practice, guidelines and policies specific to the investigation of crimes with racial bias in consultation with civil society

4 The 'perception test' refers to the perception of the victim to the nature and circumstances of the crime. The concept first emerged from the Macpherson Report relating to the inquiry into the police investigation of the racist murder of Stephen Lawrence. See more recent research on this concept here: <https://www.iccl.ie/wp-content/uploads/2018/05/Hate-Crime-COMPARATIVE-LR-WEB.pdf>.

organisations. Alongside detailed guidelines, a short easy-to-use bias indicator guide for investigations could be produced for frontline officers.

- EU Member States must monitor, assess and provide systematic, independent supervision of investigations with mechanisms to hold officers to account if the investigation does not meet the standards set out in Article 4 of the Framework Decision. Independent police complaints commissions should be established to lead investigations into cases of police misconduct/abuse.
- EU Member States should assess the investigation times for racially motivated crimes and identify where improvements can be made to ensure that victims are protected during the case and receive timely justice.
- EU Member States must ensure that investigations of racially motivated crimes are transparent and that timely information is communicated to the victim or their families through an independent liaison officer. The officer will act as a single point of contact throughout the investigation to the prosecution. The officer will also provide assistance or direct the victim to further assistance if it is required.
- Police authorities should establish clear criteria and requirements for experts used during the criminal proceedings. For example, education level, professional background and experience, years of community work and representation of a specific community or area of interest.

Training and development

- Member States' standards regarding the collection of hate crime data, reporting, investigation and prosecutions should be continuously evaluated, monitored and assessed by the European Commission to ensure their full compliance with the Framework Decision 2008/913/JHA.
- EU Member States must provide comprehensive and continuous trainings in all aspects related to hate crimes for law enforcement professionals, prosecutors and judges. The training should involve organisations working with victims of hate crimes and provide financial remuneration for the organisations' participation.
- EU Member States should introduce hate crime awareness raising campaigns and workshops for professionals working with migrants and people vulnerable to racially motivated crimes and consult relevant organisations and/or the affected groups in the development of these campaigns and workshops.
- Police authorities must provide specialised training to all frontline police officers in identifying, recording, preventing and combating hate crime. To streamline the training, a general training on all bias indicators could be developed in collaboration with all relevant stakeholders (anti-racist, feminist, LGBTQI*, disability, faith-based...) to ensure a holistic perspective is offered to frontline officers. Regular training, updates and refresher sessions should be programmed every three or four years.
- The diversity of the police must reflect the ethnic and racial diversity of the population, including at higher management levels. EU Member States must improve the levels of recruitment, retention and progression of diverse police staff through targets and positive action where possible.
- Police authorities could create diversity networks to support police officers and raise awareness around intercultural sensitivity in policing and work to change the institutional culture of the police and race relations, inside and outside of the organisation.

Community links

- Police officers and prosecutors should use experts, psychologists, social workers, multidisciplinary teams, liaison officers and civil society organisations to ensure that victims of hate crime are adequately supported during the investigation and prosecution.
- Police authorities should collaborate with civil society organisations involved with ethnic minority and migrant communities to better recognise any rise in tensions within communities and better predict local, national and international incidents that will require a police response.
- Police authorities should develop a work plan of engagement with organisations and target groups to improve their relationship with those communities and better understand how to prevent hate crime and protect vulnerable communities. For example, understanding what buildings might be a target of hate crime, which celebrations or events; making sure that there is a safe and efficient communication between ethnic minority and migrant communities and the local police to report any threats (hate mail, harassment, hate manifestos...).
- EU Member States should create both formal and informal mechanisms of collaboration and information and data sharing between police authorities and civil society organisations, with a level of transparency and effectiveness that protects community members.

- EU Member States should conduct regular awareness raising campaigns about hate crimes and victims' rights and hold more targeted awareness sessions with vulnerable groups in foreign languages, where necessary.
- EU Member States should conduct regular victim surveys, publish the findings and use the information to continuously improve the institutional response to hate crimes.
- EU Member States should recognise hate crimes in their criminal code as a special category such as substantive offences⁷ to ensure that the crime has a greater visibility and the bias motivation is considered in its own right in court proceedings or in police reports.
- EU Member States must provide financial legal assistance to victims of racially motivated violence, if they wish to appeal the outcome of their cases or make a complaint regarding the treatment of their case.

Government legislation and policies

- The European Commission should assess Estonia's and Ireland's implementation of the Council Framework Decision 2008/913/JHA and provide direct support to ensure compliance.
- The European Commission should support and encourage Member States to acknowledge the scope of hate crimes with a racial bias and publicly commit to addressing institutional racism with a review of policies and procedures and a follow-up action plan.
- EU Member States should take into account the concept of intersectionality⁵ in their response to hate crimes – including race, migration status, gender, disability and any other protected characteristics – at all stages of the procedure.
- EU Member States must assess reports of hate crimes with a racial bias against prosecution outcomes and review the standard of proof needed for the bias element of the crime to be prosecuted, in order to reduce the likelihood of the racial bias element of a crime being systematically 'filtered out'.⁶
- EU Member States must amend their legislation to create a duty to include evidence of a racial bias motivation throughout the investigation, prosecution and through to the sentencing.
- EU Member States must develop a National Action Plan Against Racism and make commitments within this plan to collect and publish disaggregated data on hate crimes; initiatives to improve relationships between minority groups and the police; and actions to review policies and practice within the criminal justice system that may have a discriminatory impact on racialised groups.
- EU Member States must commit to improving practice in the criminal justice system, going beyond the minimum standards set by the Framework Decision 2008/913/JHA for reporting, investigating and prosecuting hate crimes. Once these standards are set, continuous monitoring and evaluation is required so that these standards are maintained and improved where relevant.
- Equality bodies should support EU Member States to establish a fully independent complaint body or mechanism to investigate complaints of mishandling of hate crime cases and allegations of criminal offences by the police or within the criminal justice system.
- EU Member States should stop cutting financial resources to the police and the judiciary. They should go back to an investment of 1% of GDP minimum into the judiciary by 2025 to ensure a basic level of functioning and efficient redress mechanisms. The low level of efficient hate crime recording and prosecution is an indicator of the level of under-financing of the criminal justice system.

5 In "the practical application of relevant national criminal law provisions, authorities should be able to identify the protected characteristic(s) on account of which the crime was perpetrated, including where these may be multiple or intersectional". See European Commission. Guidance Note on the Practical Application of Council Framework Decision 2008/913/JHA on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law. 2018. Available at: https://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=51025.

6 The consideration of the bias motivation of a criminal offence is based on the 'penalty enhancement model'. The assessment on the possible application of the penalty enhancement provisions normally comes at a later stage as part of the court's sentencing discretion, so that the failure to identify the existence of possible bias motives of the crime in the recording phase may prevent such a bias element from being communicated forward in the investigation and in the later stages of the criminal justice process, and thus not come to the court's attention. See European Commission. Guidance Note on the Practical Application of Council Framework Decision 2008/913/JHA on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law. 2018. Available at: https://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=51025.

7 A 'substantive offence' is a separate offence that includes the bias motivations as an integral element of the legal definition of the offence. See further discussion and examples on page 31 at: <https://www.osce.org/dihr/36426?download=true>.

INTRODUCTION

This report seeks to revisit the area of hate crimes four years after we published one of the first pan-EU civil society reports on racially motivated crimes – *Racist Crime in Europe: ENAR Shadow Report 2013-2014*. In this report, we provide information on hate crimes with a racial bias recorded between 2014 and 2018. The hate crime statistics are discussed in relation to under-reporting, which remains a significant problem. Under-reporting can occur for several reasons but is often due to the historically poor treatment of ethnic and racial minorities by the police.

The report covers 24 EU Member States: Austria, Bulgaria, Croatia, the Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Spain and the United Kingdom.

This report goes beyond reporting hate crime figures and provides a deeper focus on the institutional practice during the recording and investigation of hate crimes with a racial bias. We explore how subtle forms of racism persistently appear in the criminal justice system from the moment a victim reports a racially motivated crime to the police.

In the review of institutional practices, we aim to further understand how institutional racism manifests in the criminal justice systems across Europe, in particular in relation to hate crimes with a racial bias. We provide examples of practices, policies, case studies and testimonies, highlighting how some communities continue to feel vulnerable to hate crime, the lack of protection and failure of measures for justice.

We discuss the concept of institutional racism that can influence police practice “not solely through the deliberate actions of a small number of bigoted individuals, but through a more systematic tendency that could unconsciously influence police performance generally.”⁸

That is not to say institutional racism is unconscious bias⁹ but that individuals, systems, policies and procedures are influenced by the institutional norms and assumptions based on whiteness, patriarchy and heteronormativity that persistently racialise, discriminate and fail racialised minorities. As a well-known criminologist, Ben Bowling, has explained, “some discrimination practices are the product of uncritical rather than unconscious racism. That is, practices with a racist outcome are not engaged in without the actor’s knowledge; rather, the actor had failed to consider the consequences of his or her actions for people from ethnic minorities.”¹⁰

Racism in governmental and institutional practices is difficult to uncover especially when these practices are assumed to be neutral or have been built into the legal framework for generations. Racism in institutions can be based on ignorance, mistaken beliefs and unfamiliarity with cultural traditions. But it goes further than just a lack of understanding; racist stereotyping is a practice that positions racialised groups as potential criminals, untrustworthy, or trouble-makers.¹¹ The practice becomes even more harmful within the police if it goes unchecked, with limited accountability mechanisms, and can influence the way police work is prioritised, managed and organised. Racist attitudes can thrive in traditionally hierarchical institutions where breaking ranks is frowned upon. The structures within the wider criminal justice system are also informed by racist attitudes and practices and reinforce each other, leading to racialised minorities being repeatedly discriminated against and disadvantaged by the system.

Structure of the report

The first section of this report is a review of hate crime figures and where we have seen a rise in the number of incidents reported. Appendix 1 includes data submitted to the OSCE’s Office for Democratic Institutions and

8 *The Stephen Lawrence Inquiry - Report of an Inquiry by Sir William Macpherson of Cluny*. 1999, 6.5. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf.

9 Booth, Robert. “Institutional racism: 20 years since Stephen Lawrence inquiry”. *The Guardian*, 22 February 2019. Available at: <https://www.theguardian.com/uk-news/2019/feb/22/institutional-racism-britain-stephen-lawrence-inquiry-20-years>.

10 *The Stephen Lawrence Inquiry - Report of an Inquiry by Sir William Macpherson of Cluny*. 1999, 6.33. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf.

11 *Ibid*, 6.17.

Human Rights (ODIHR) by official governments for the years 2014-2018. The first section also includes a closer look at some civil society organisations' statistics and their methodology for collecting hate crime data.

The second section of this report has a focus on recording and investigation of hate crimes with a racial bias. Policies and practices are reviewed to see if they adequately serve victims and achieve the standards set out in EU and international laws and guidelines. This section also includes case studies, testimonies and examples of where the system appears to have failed certain minority communities. Appendix 2 includes more detailed relevant case studies.

Section 3 includes a reflection on the findings and conclusions. Part of the reflection reviews how EU Member States have improved their practice since our last investigation into their work for the 2013-2014 Shadow Report. Conclusions on institutional racism and structural violence are also discussed in this last section.

Methodology

The data collected for this report are based on the analysis of 24 questionnaire responses using NVivo.¹² The questionnaire was developed by ENAR and the responses to the questionnaires were based on national research. The national research was carried out by academics, civil society organisations and independent researchers with expertise in the area of hate crimes. The list of researchers is included on page 11.

The researchers were required to interview 10 individuals each within the police, prosecution and judiciary as well as other civil society organisations. The researchers compiled the case studies and responses to the questionnaire based on desk-research, interviews with practitioners, policy makers and professionals within the criminal justice system. In total, over 238 individuals have been interviewed for this report. The researchers were provided with opportunities to comment on drafts of the report to ensure that their research and analysis was presented accurately.¹³

12 NVivo is a software that helps to categorise and classify qualitative data. See more information here: <https://www.qsrinternational.com/nvivo/what-is-nvivo>.

13 All researchers provided comments on the drafts, apart from the researchers for France and the United Kingdom.

Terminology explained

Institutional racism has been used to describe not only explicit manifestations of racism at direction and policy level, but also the unwitting discrimination at the organisation level. Indirect, institutional racism is more subtle, hidden but equally pervasive and damaging in nature.¹⁴ It is seen in "processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantages minority ethnic people".¹⁵

Stokely Carmichael and Charles V Hamilton stated that institutional racism "originates in the operation of established and respected forces in the society. It relies on the active and pervasive operation of anti-black attitudes and practices". A sense of superior group position prevails for white people and racist attitudes permeates society on both the individual and institutional level, covertly or overtly.¹⁶

Structural violence is the intentional failure to protect another group or community from outcomes that either result in or have a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation. It can be embedded in ubiquitous social structures. Structural violence is not the result of individual actions or interpersonal interactions although both are involved. Structural violence issues from institutions and affects groups whose social status denies them full access to legal and political protection.¹⁷

Structural racism is a product of a system in which public policies, institutional practices, cultural representations and other norms work in various, often reinforcing ways to perpetuate racial group inequity, and has been a feature of the social, economic and political systems in which we all exist.¹⁸

14 *The Stephen Lawrence Inquiry - Report of an Inquiry by Sir William Macpherson of Cluny*. 1999. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf.

15 Booth, Robert. "Institutional racism: 20 years since Stephen Lawrence inquiry". *The Guardian*, 22 February 2019. Available at: <https://www.theguardian.com/uk-news/2019/feb/22/institutional-racism-britain-stephen-lawrence-inquiry-20-years>.

16 *The Stephen Lawrence Inquiry - Report of an Inquiry by Sir William Macpherson of Cluny*. 1999, 6.5. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf.

17 Hamer, J. and Lang, C. "Race, Structural Violence, and the Neoliberal University: The Challenges of Inhabitation". *Critical Sociology*, 41(6): 897-912. 2015.

18 Aspen Institute. *Structural Racism and Community Building*. 2004. Available at: http://www.aspeninstitute.org/sites/default/files/content/docs/rcc/aspen_structural_racism2.pdf.

Racial justice is the systematic fair treatment of people of all races, resulting in equitable opportunities and outcomes for all. Racial justice – or racial equity – goes beyond ‘anti-racism’. It is not just the absence of discrimination and inequities, but also the presence of deliberate systems and support to achieve and sustain racial equity through proactive and preventative measures.¹⁹

Intersectionality is a concept with roots in Black feminism that considers the interconnected nature of a number of systems of oppression, such as racism, sexism, homophobia and classism. The theory highlights that social identities, such as race, gender, sexuality, class, marital status and age, overlap and intersect in dynamic ways that shape each individual. Almost any socially constructed category can shape identity; the theory of intersectionality has focused specifically on the intersection of those categories which have been definitive for the allocation of economic, social and political rights and privileges. Intersectionality shows how two or more forms of discrimination co-constitute and shape each other. The concept demands that we examine the various and intertwined power structures of our world, including racism, patriarchy, economic exploitation, and more.²⁰

Racism is an ideological construct that assigns a certain race and/or ethnic group to a position of

power over others on the basis of physical and cultural attributes, as well as economic wealth, involving hierarchical relations where the “superior race exercises domination and control over others.”²¹

Racist crime, racially motivated crime and hate crime with a racial bias are terms used throughout this report to refer to a criminal offence perpetrated because of the real or perceived ethnic or racial background of the victim. The criminal offence could be intimidation, threats, property damage, assault or murder, even if it was committed without racist/discriminatory motivation. The term refers to ‘race’ without acknowledging the existence of it. The bias indicator is defined as a negative opinion or assumption, intolerance or hatred against a group sharing common characteristics, or protected characteristics, which can be race or ethnic origin, sexual orientation, gender, age, disability, religion or belief.²²

Hate crimes are criminal acts committed with a bias motive towards particular groups of people. It is this bias motive that makes hate crimes different from other crimes.²³ The term ‘hate crime’ describes a type of crime, rather than a specific offence within a penal code. 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 racial bias in our case.

19 Human and Civil Rights. *Racial Justice in Education - Resource Guide*. Available at: <https://neaedjustice.org/wp-content/uploads/2018/11/Racial-Justice-in-Education.pdf>.

20 European Network Against Racism. *Women of Colour in the Workplace* 2017. Available at: https://www.enar-eu.org/IMG/pdf/20112_equal_work_2018_lr.pdf.

21 European Network Against Racism. *Racist Crime in Europe – ENAR Shadow Report 2013-2014*. 2014. Available at: https://www.enar-eu.org/IMG/pdf/shadowreport_2013-14_en_final_lowres-2.pdf.

22 Ibid.

23 Ibid.

| National researchers | | |
|----------------------|--|---|
| Austria | Isabel Haider | Independent researcher |
| Bulgaria | Neda Genova | Independent researcher |
| Croatia | Lucija Mulalić, Cvijeta Senta | Centre for Peace Studies |
| Czech Republic | Dr. Václav Walach, Benjamin Petruželka, Dr. Klára Kalibová | In IUSTITIA |
| Cyprus | Dr. Natalie Alkiviadou | AEQUITAS and University of Central Lancashire Cyprus |
| Denmark | Niels-Erik Hansen | Independent researcher |
| Estonia | Egert Rünne | Estonian Human Rights Centre |
| Finland | Dr. Aminkeng Atabong Alemanji | Åbo Akademi Univeristy |
| France | Kaitlin Brondum | Independent researcher |
| Germany | Eric Chuah | Independent researcher |
| Greece | Eleni Takou | Human Rights 360 |
| Hungary | Marcell Lőrincz, Cassandra de Sousa | Subjective Values Foundation |
| Ireland | Dr. Lucy Michael | Ulster University |
| Italy | Dr. Michela Semprebon | Cestim Onlus and Cattedra Unesco SSIM, Università IUAV of Venice |
| Latvia | Jekaterina Tumule | Latvian Centre for Human Rights |
| Lithuania | Birutė Sabatauskaitė, Dr. Vilana Pilinkaitė-Sotirovič | Lithuania Centre for Human Rights |
| Malta | Dr. Jean-Pierre Gauci, Christine Cassar, Dr. Jone I. Elizondo- Urrestarazu | The People for Change Foundation |
| Netherlands | Fenna ten Berge | Muslims for Progressive Values Nederland |
| Poland | Kalina Sobierajska | Independent researcher |
| Portugal | Dr. Joacine Katar Moreira | Independent researcher |
| Romania | Andreea Oglagea | Independent researcher |
| Slovakia | Zuzana Havířová | Roma Advocacy and Research Centre |
| Spain | César Arroyo López | University of Castilla - La Mancha (UCLM) and Llere |
| United Kingdom | Alan Anstead | UK Race and Europe Network (UKREN) |

1. RACIST CRIME 2014–2018

Racially motivated crimes are on the rise in many EU Member States as detailed in the data below. Major events such as terrorist acts can cause spikes in the numbers of recorded hate crimes. Across the EU there is a significant variance in the number of hate crimes recorded from year to year and from country to country. This could be due to the size of the ethnic minority population within any given Member State and/or the commitment each State has made to ensure that hate crimes are reported and recorded by officials. In addition, changes in policing methods and definitions of 'racist', 'xenophobic' and 'anti-Semitic' acts can also cause significant year-to-year statistical fluctuations. EU-wide hate crime reporting and data collection is very uneven and patchy. The official hate crime data submitted to ODIHR have been collated and included in the appendix for information and to illustrate the significant gaps in the data collected between 2014 and 2018.

Minority groups affected

Antisemitic incidents

In the countries with the largest Jewish communities, there has been an increase in the number of antisemitic crimes. There was a 74% increase in antisemitic acts in France in 2018²⁴ compared to 2017, going from 311 to 541.²⁵ The Jewish community in **France** is, by far, the largest of Europe, at around 500,000-600,000 members. Whilst the hate crime incidents seem small in number, these recorded acts are a tiny fraction of actual incidents.

Recent reporting shows that London (**United Kingdom**) recorded 1,652 antisemitic incidents in 2018,²⁶ an increase of 16% in one year. Looking at relatively comparable categories – antisemitic violence – 122 incidents were recorded in the United Kingdom in 2018 against 358 in France.

Germany is also experiencing a considerable rise in antisemitic acts even though the Jewish population

is infinitely smaller than in France or the United Kingdom. 30,000 Jewish people live in Berlin and some 100,000 in the whole country. In 2018 antisemitic acts more than tripled in the German capital: Berlin saw 24 incidents in 2018 against 7 in 2017.²⁷ In general, in Europe, antisemitic acts are concentrated in large cities and capitals, as they have the largest concentration of Jewish people.

Antigypsyist incidents

Few EU Member States record hate crimes that target Roma people. Using the ODIHR data provided by States we can see that in seven Member states, there is an incremental rise in the numbers of racially motivated crimes recorded.

| Member State | 2014 | 2015 | 2016 | 2017 |
|-----------------------|------|------|------|------|
| Croatia | | 1 | | 4 |
| Germany | | | | 4 |
| Greece | | | | 6 |
| Czech Republic | 13 | 22 | 25 | 27 |
| Poland | 61 | 26 | 47 | 62 |
| Finland | | | | 47 |
| Slovakia | | | 8 | 19 |

The official numbers of racially motivated crime are generally considerably less than what is reported by civil society organisations and in the absence of any clear official data, civil society recording is filling this gap. According to statements given by the NGO Romani Centre for Social Intervention and Studies in 2017 in **Romania**, they documented 4,343 cases of police brutality against Roma people over the previous 11 years, none of which resulted in convictions at the national level, in part because of prosecutorial decisions not to send the cases to court. Racism was not investigated as a motive in any of the cases.²⁸ In the **United Kingdom**, the NGO GATE Hertfordshire's "Report Racism Gypsy Roma Traveller" website received 115 reports of hate crime against Gypsy, Roma and Travellers between the site's inception in July 2016 and February 2018. Of these incidents only 20% (23 of 115) were reported to police.²⁹

24 Vaudano, Maxime. "Actes antisémites et islamophobes : un décompte délicat à établir". *Le Monde*, 12 February 2019. Available at: https://www.lemonde.fr/les-decodeurs/article/2019/02/12/actes-antisemites-et-islamophobes-un-decompte-hasardeux_5422565_4355770.html.

25 *France Inter*. "L'antisémitisme en hausse partout en Europe". France Inter, 13 February 2019. Available at: <https://www.franceinter.fr/emissions/les-histoires-du-monde/les-histoires-du-monde-13-fevrier-2019>.

26 Community Security Trust (CST). Available at: <https://www.algemeiner.com/2019/02/07/uk-jewish-communal-body-reports-record-number-of-antisemitic-outrages-during-2018/>.

27 *France Inter*. "L'antisémitisme en hausse partout en Europe". France Inter, 13 February 2019. Available at: <https://www.franceinter.fr/emissions/les-histoires-du-monde/les-histoires-du-monde-13-fevrier-2019>.

28 US State Department. *Romania 2017 Human Rights Report*. 2017.

29 UK questionnaire response.

| Member State | Type of attack | Official data | 2015 | 2016 | 2017 |
|----------------|---|---------------|------|------------------|---------------------|
| Austria | Attacks against asylum seekers' accommodation | Yes | 25 | 24 ³⁰ | |
| Czech Republic | Racist incidents targeting immigrants and refugees | | 14 | 11 | |
| Cyprus | Racially motivated violent incidents reported by non-Cypriots | Yes | 5 | | |
| Finland | Attacks against reception centres | No | 47 | | |
| Germany | Right-wing motivated crimes targeting asylum accommodation | Yes | 1031 | 988 | |
| | Acts of violence against asylum seekers and refugees | Yes | | 2,545 | |
| | Attacks on migrants and refugee shelters | Yes | | | 2,200 ³¹ |
| Greece | Racist incidents targeting immigrants and refugees | No | 75 | 31 ³² | 34 ³³ |
| Ireland | Racist incidents targeting 'foreigners' and refugees | No | 9 | 34 | 46 ³⁴ |

30 Zara. *Racism Report 2016 - Individual case report about racist attacks and structures in Austria*. Available at: <https://assets.zara.or.at/download/pdf/racism-report-2016.pdf>.

31 Deutsche Welle. "Germany: Fewer attacks on migrants". *Deutsche Welle*, 12 August 2018. Available at: <https://www.dw.com/en/germany-fewer-attacks-on-migrants/a-45050359>.

32 The Racist Violence Recording Network. *2016 Annual Report*. 2017. Available at: <http://rvrn.org/2017/04/annual-report-2016/>.

33 The Racist Violence Recording Network. *Annual Report 2017*. 2018. Available at: <https://www.unhcr.org/gr/en/6711-racist-violence-reporting-network-annual-report-2017.html>.

34 For the first half of 2017; see *ENAR Ireland's January – June 2017 iReport.ie*. 2018. Available at: <http://enarireland.org/enar-irelands-january-june-2017-ireport-ie-reports-of-racism-in-ireland-published/>.

It is reported in the **Czech Republic, Bulgaria and Slovakia** that the most frequent target of racially motivated crimes are Roma people.

Anti-migrant incidents

During the years following 2014-15 there were higher numbers of migrants travelling to the EU. As outlined in the 2015-16 Shadow Report on racism and migration, anti-migrant hate crimes increased in many EU countries, and were most significantly recorded in **Germany**. In the **United Kingdom**, as in many other EU Member States, anti-migrant language used by some mainstream politicians has corresponded with spikes in hate crimes.³⁵

Anti-Muslim incidents

There was an increase in anti-Muslim incidents reported in **France** following terrorist attacks in 2015. France experienced 133 anti-Muslim incidents in 2014, 429 in 2015, and 182 in 2016.³⁶ In the **United Kingdom**, there are substantial hate crime statistics and we can see clearly how racially motivated hate crime increased during the EU referendum campaign and according to the Home Office, religious hate crime increased by 40% in the two years to March 2018, to 8,336 incidents, likely due to offences after the Westminster, London

Bridge and Manchester Arena terrorist attacks.³⁷ Muslims or those perceived as Muslims are particularly vulnerable to hate crimes in the aftermath of political events, whether that be terrorist attacks or following political statements.

Under-reporting and mistrust of the police

There are myriad reasons why victims do not report hate crimes. Victims may be embarrassed or do not realise that they are part of a trend of targeted criminality; there may be cultural-lingual barriers or they just do not know who to call. It is often cited, however, that for victims of racially motivated crimes, police mistreatment, abuse and brutal violence is a determining factor in a victim's decision to not report crimes to the police.

The researchers for this report provided several examples of the police mishandling cases, of racial profiling and of the police as perpetrators of violence as a reason for victims not feeling able or willing to report crimes of racial violence to the police. As reported in **Cyprus**, the poor relations with the police have a large impact on the victim's willingness to report hate crimes but also previous mishandling of cases directly or indirectly deter victims from reporting to the police.

35 European Network Against Racism. *Racist Crime in Europe – ENAR Shadow Report 2013-2014*. 2014. Available at: https://www.enar-eu.org/IMG/pdf/shadowreport_2013-14_en_final_lowres-2.pdf.

36 Ms. Fionnuala Ni Aoláin, UN Special Rapporteur. *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*. 2019.

37 Weaver, Matthew. "Hate crime surge linked to Brexit and 2017 terrorist attacks". *The Guardian*, 16 October 2018. Available at: <https://www.theguardian.com/society/2018/oct/16/hate-crime-brexit-terrorist-attacks-england-wales>.

In the **United Kingdom**, a victim reported a hate crime incident to the British Transport Police, the first time she had ever reported such an incident, but she describes the process as traumatic, distressing and confusing. At one point, the victim was asked “What colour are you?” by an officer over the phone, an insensitive question that the victim found difficult to answer. She says she would be unlikely to report to the police again, unless the incident was more serious in nature (see case study 2 in the appendix).

Researchers and activists in **Portugal** report of serious and violent attacks on black and Roma individuals perpetrated by the police. It is reported that there are a number of cases of racial profiling that have never become formal charges or complaints against the police, even though in some cases the violence may even be seen in videos released on social media and which are part of everyday conversation among young black people (see case study 1 in the appendix).³⁸

In some Member States and for some ethnic and racial groups, the mistreatment by the police is historic, systemic and deeply embedded in their practice. In **Bulgaria**, a judge states that Roma people have been subjected to racism and abuse (including institutional) by the police for years. These cases of police abuse are not documented, often because police officers dealing with a complaint do not leave a paper trail on purpose.



Practice development: Romania

In October 2015, a strategy for increasing effectiveness of investigations into mistreatment by State agents, in connection with their professional duties, was issued. The then Prime Minister Dacian Cioloş claimed that a police complaints mechanism had been implemented within the Romanian judicial system. However, the strategy was not made public until a lawsuit was filed for their refusal to provide this public information. The document was made public in June 2017. It is still unclear if the strategy has been implemented.

Individuals with a migration status fear being asked for their paperwork or worry that reporting the crime would impact on the outcome of their immigration case (**Cyprus, the Czech Republic, Estonia, Greece, Italy, Latvia and Spain**). The reluctance of police officers to recognise and record hate crimes (see section 2) also contributes to the low number of officially recorded racially motivated crimes.



Practice development: Italy

A specific fund was introduced in 2014 to financially support victims of discrimination, if they decide to report a crime. The fund is managed by UNAR, the Italian equality body, together with the National Forensic Council. To the researcher’s knowledge, it has barely been used to date.

Examples of racist behaviour and attitudes of the police, circulated within communities and in the media, reinforce the belief that the police mistreat ethnic and racial minorities. In each violent act, abuse or mishandling of a case by the police, their image is recreated, sustained and hardened in the wider community of the victims.

- In **Ireland**, *iReport.ie* finds that less than a third of violent crimes are reported to Gardaí.
- According to a report prepared by The Polish Ombudsman Adam Bodnar, and ODIHR, only 5% of crimes with a racial bias are reported to the police in **Poland**.
- The Crime Survey **England and Wales** 2015-2018 combined estimates show 101,000 race hate crime incidents a year. The number of race hate crimes reported to police in England and Wales in 2017-2018 was 71,251 incidents, which shows possible under-reporting of 25%.

Source: ENAR questionnaire responses

Civil society cooperation and support

In several Member States there are informal and formal mechanisms of cooperation between civil society organisations and the police or government departments. In **Croatia**, the police and civil society cooperate through the participation of one civil society representative in the Task Force for monitoring hate crimes, coordinated by the Office for Human Rights and Rights of National Minorities of the Croatian government. In **Greece**, there is cooperation between the police and organisations that specialise in providing assistance to victims of crimes. The Hellenic police cooperates with the Racist Violence Recording Network (see page 16), which publishes an annual report on hate crimes.

In the **United Kingdom**, the National Police Chiefs Council signed a national information sharing agreement with NGOs (including Community Security Trust and Tell MAMA) who operate third party reporting sites. These NGOs share anonymous hate crime data with the police and help the police recognise any rise in tensions and

38 Portugal questionnaire response.

predict local, national and international incidents that will require a police response. In return these NGOs often receive government funding. The Ministry of Housing Communities and Local Government said that Tell MAMA was 100% funded by government.

Civil society organisations and representative bodies for minorities have been helpful in pushing hate crime cases to prosecution. For example, the Central Council of German Sinti and Roma, through their advocacy role and third party sharing and collaboration, have advocated for recognition of antigypsyist hate crimes.

Victims of hate crimes may find support from organisations at every stage of the process. For instance, Victim Support **Malta** (a registered non-governmental organisation) provides support and assistance to victims of crime, including legal information pertaining to the relative criminal procedures and practical assistance. Through Report Racism Malta, The People for Change Foundation offers a third-party reporting system by which victims and witnesses, if interested, would receive support and guidance on how to proceed with racist incidents, including hate crimes.

The relationship between civil society organisations and the authorities are not without their difficulties. CTID, the Collective against Islamophobia and Discrimination (**the Netherlands**), hold quarterly meetings with civil society, police, and Anti-Discrimination Agencies. They have expressed that the Public Prosecution Service is reluctant to participate. Civil society experts also speak of difficulties in developing a shared approach against discrimination: *“Every institution has their own guidelines they don’t diverge from, creating little room for a shared strategy to improve the handling of these cases”*.³⁹

There is a long history of racialised minorities collectively fighting against violence and harassment through recording of these crimes and using the data to advocate for improved services, protection or justice. Civil society data on racist attacks play an important role in challenging official and public understandings. Their consistent data collection and contextualisation shifts the point of discussions away from racist violence as an exceptional event, to demonstrating that it is part of a more pervasive experience of racism. This form of data collection is all the more important in light of the fact that most attacks are not reported to the police for fear of re-victimisation or because the police themselves have been the agents of such violence and harassment.⁴⁰

39 Netherlands questionnaire response.

40 Ashe, S., Virdee, S. and Brown, L. “Sticking back against racist violence in the East End of London, 1968-1970”. *Race & Class*, 58(1): 34-54. 2016.



Practice developments: cooperation with civil society

The civil society organisation Art.1 is commissioned to publish the yearly report on discrimination figures in the **Netherlands** for police, Anti-Discrimination Agencies, the Human Rights Institute and MiND (Meldpunt Internet Discriminatie). Experts state this practice emphasises the trust Dutch authorities can have in civil society and see this as a stepping stone towards more means of cooperation.

OSCAD, the Observatory for Security against Acts of Discrimination in **Italy**, receives notifications of hate crimes from individuals but also from the equality body UNAR, from anti-racist civil society organisations (such as Lunaria), associations (such as ASGI), representatives of religious communities and ethnic minorities (such as the Jewish community of Rome and the Association 21 luglio, dedicated to the protection of the civil rights of Jewish and Roma and Sinti people), non-profit civil rights associations (such as ARCI, COSPE, Rete antirazzista), other associations (such as the Observatory on anti-Semitism, Transgender Europe, Jehovah’s Witnesses).

In 2015, several institutions of the **Spanish** government signed a cooperation agreement to implement an inter-institutional collaboration to achieve the objectives of the Integral Strategy against racism, racist discrimination, xenophobia and other related forms of intolerance. A monitoring commission and three working groups (Sentences and Statistics, Hate Speech and Training) were consequently created in which civil society organisations are taking part as observers.

Civil society hate crime data

In several Member States, there are civil society organisations collecting hate crime data. The following examples are a small sample of the varied work that civil society organisations carry out in response to hate crime. Each example includes the information on the methodology used to collect and analyse the data. Each organisation does more than record data; behind each data report is advocacy work and engagement with various communities and authorities.

Collective Against Islamophobia in France (CCIF)

For years, the CCIF has been recording Islamophobic acts. The intranet tool introduced in 2014 has improved the accuracy and efficiency of case management, insofar as this tool facilitates the production of data and graphic analysis of hate crimes.

The online platform automatically generates statistics that allows CCIF to have full visibility on the number of people who use it and the number of Islamophobic acts in real time. The CCIF legal department systematically examines every report received.

| Year | Physical attack | Verbal abuse | Desecration/graffiti | Women/Men |
|------|-----------------|--------------|----------------------|------------|
| 2017 | 31 | 9 | 8 | 69%/31% |
| 2016 | 39 | 18 | 25 | 75%/25% |
| 2015 | 55 | 42 | 60 | 74%/26% |
| 2014 | 22 | 28 | 25 | 81,5%/18,5 |

Greek Racist Violence Recording Network (RVRN)

The RVRN applies a strict methodology from the outset, recording incidents exclusively on the basis of interviews conducted with the victims. The victims' willingness to come forward is therefore key in terms of the number of incidents that are actually recorded.

All members of the RVRN have adopted the consolidated recording form of the RVRN. Each RVRN member organisation appoints focal points to record the incidents, i.e. social workers, lawyers, or other professionals or volunteers, who are trained by the RVRN. Recording forms are completed anonymously and used exclusively by the RVRN for the purpose of combating racism and hate crimes. Based on these data, the RVRN publishes an annual report with its assessment of racist violence trends in Greece.

| Year | Racism and Xenophobia | Antisemitism | Muslim | LGBTQI | Roma | Total |
|------|-----------------------|--------------|--------|--------|------|-------|
| 2017 | 34 | 11 | | 47 | 1 | 93 |
| 2016 | 31 | 5 | | 57 | | 93 |
| 2015 | 75 | | 1 | 185 | 2 | 263 |
| 2014 | 46 | 3 | | 32 | | 81 |

ENAR Ireland

ENAR Ireland uses the iReport.ie online platform, through which users self-report incidents. Analysis of the survey data, including coding and analysis of the narrative is conducted by Dr Lucy Michael, a sociologist with a background in criminology and law. Analysis of the iReport.ie data is regularly submitted in articles to reputable international peer review journals.

| Year | Racism and Xenophobia | Antisemitism | Anti-Muslim | Roma, Traveller and Sinti | Total |
|---------------------|-----------------------|--------------|-------------|---------------------------|-------|
| 2017 | 110 | | 22 | 8 | 140 |
| 2016 | 75 | 8 | 20 | 12 | 115 |
| 2015 | 92 | | 10 | 6 | 108 |
| 2014 (Aug-Dec only) | 26 | 1 | 7 | 3 | 37 |

In IUSTITIA (Czech Republic)

In IUSTITIA has systematically collected information on hate incidents with the aid of six tools: field work; an online form; a telephone line; collaboration with non-governmental and non-profit organisations, community organisations and religious communities; collaboration with criminal justice authorities; and media and Internet monitoring.

A significant number of incidents is taken from the police statistics that are verified against the data provided by the regional police headquarters, public prosecutor's offices, and courts. The information is gathered from different sources and has changed over the years.

For example, some sources were not available in different years. It is also important to note that the statistics allow for intersectionality, meaning that one incident can have more than one motivations. As a result, the count of motivations might be higher than the number of total incidents.

| Year | Anti-Semitism | Arab | Anti-Muslim | Roma and Sinti | Other | Total |
|------|---------------|------|-------------|----------------|-------|-------|
| 2017 | 12 | 15 | 21 | 38 | 3 | 89 |
| 2016 | 17 | 6 | 28 | 53 | 2 | 106 |
| 2015 | 20 | 5 | 30 | 34 | | 89 |
| 2014 | 10 | | 3 | 34 | 1 | 48 |

2. INSTITUTIONAL RESPONSES TO RACIALLY MOTIVATED CRIME

Police recording of hate crimes

The European Convention on Human Rights (ECRI) General Policy Recommendation 11: Combating Racism and Racial Discrimination in Policing, paragraph 12, recommends that a system for recording and monitoring racist incidents be put in place.⁴¹ In one third of EU Member States, there are guidelines, policies or instructions to support the police in recording hate crimes (**Croatia, Cyprus, Estonia, France, Greece, Ireland, the Netherlands, Slovakia, Spain and the United Kingdom**).

Correct recording of a hate crime is a crucial step in the process of effectively investigating hate crimes and it helps to ensure that the legislation is implemented. As stated in the EU guidance note on the practical application of the Council Framework Decision 2008/913/JHA, prompt and effective investigation and prosecution of hate crimes depends on the ability, in particular of reporting or first responding police officers, to identify and record incidents as potential hate crime offences in the case file. This requires thorough knowledge by those officers, of the concepts of hate crime and the applicable national provisions which may be relevant for a preliminary legal qualification of the conduct.⁴²

In **Hungary**, hate crime legislation is long established, however, the police still continue to under-qualify hate crimes with a racial bias. Civil society organisations report that it is difficult to convince the police to qualify hate crime incidents, as such, from the beginning. The practice of under-qualification of hate crimes is typical. The police prefer to first start the investigation with the intention to upgrade the recording if evidence of racial bias is uncovered during the investigation. Experts and stakeholders report that the upgrade almost never happens. This is the first instance where the racial bias can ‘disappear’ in the course of the recording of a crime.

41 Council of Europe European Commission Against Racism and Intolerance (ECRI). *ECRI General Policy Recommendation N°11 on Combating racism and racial discrimination in policing*. 2007. Available at: <https://www.refworld.org/docid/51bec4fe4.html>.

42 European Commission. *Guidance note on the practical application of the Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law*. 2018. Available at: https://www.google.com/url?sa=t&ct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwi6y4TP8rvjAhXQPFaKHXYzAg0QFjAAegQIAxAC&url=https%3A%2F%2Fec.europa.eu%2Fnewsroom%2Fjust%2Fdocument.cfm%3Fdoc_id%3D55607&usq=A0vVaw3FipG8p3yzxyO5qbhm4ppN.



Practice development: Malta

Malta does not have a policy that supports the police in recording a hate crime with a racial bias. However, the system to record hate crimes was recently (2018) changed. Now, when a victim reports a crime, the police uses one generic form in which the kind of crime is specified. Since the reform, the system automatically asks whether it is a ‘hate-related offence’ (yes/no) and if the answer is ‘yes’ a drop-down menu appears to choose the bias. This makes the flagging and recording of bias motivation considerably more straightforward.

In **Austria**, “even after explicitly pointing out that the bias motivation must be recorded in the report, in a number of cases the police waived the issue by saying that it will be considered at a later stage of the proceedings. This is particularly striking as both the prosecution and courts see the critical stage to identify the bias motivation with the police”.⁴³ Dimitar Markov in **Bulgaria** says: “once a crime is recorded as a general offence, the possibility of taking into account the racial bias is done away with and everything moves forward as if it was an absolutely conventional crime”.⁴⁴

As discussed in more detail below, if the police do not recognise the hate crime bias, it becomes unlikely that it will be a feature of the investigation. The police prefer to identify and interview the perpetrator in order to understand the bias motivation. If the perpetrator is never identified, the incident may never be upgraded to a hate crime.

Perception of the victim

The perception of the victim is also important when the police decide how to record a racially motivated crime. The Macpherson Report sets out that: “A racist incident is any incident which is perceived to be racist by the victim or by any other person”.⁴⁵ In the **United Kingdom**, where the perception of the victim is employed, it has had a positive influence on the logging of incidents, and has gained general acceptance within criminal justice agencies. The

43 Austria questionnaire response.

44 Bulgaria questionnaire response.

45 Athwal, Harmit and Burnett, Jon. “Investigated or ignored? An analysis of race-related deaths since the Macpherson Report”. *Race & Class*. 2014. London: Sage.

Macpherson definition is reported to be used in **Ireland** but with limited success. In 2001, An Garda Síochána adopted the Macpherson definition of a racist incident ('the perception test'). This was publicised through their website and in contact with NGOs working in the area, as well as through publicity campaigns. However, evidence suggests there is a lack of training and clarity of when to apply the definition across the An Garda Síochána and there is extensive evidence of racist motives not being recorded with criminal offences because of inadequate understanding on the part of police officers.⁴⁶

'Institutional Indifference'

Even where there are policies, instructions or guidelines to ensure proper recording of racially motivated crime, practice shows that these instructions are not always executed. Researchers attribute this police practice to evidence that the police do not take reports of racist crime seriously (**Austria, Croatia, Denmark, Finland, France and Portugal**). Some racially motivated crimes are never recorded as such because they are judged as not important, either by the victims or by the police (**Greece, Lithuania, the Netherlands**). In **Portugal**, activists report that this 'institutional indifference' can be a significant hindrance to justice and one of the interviewees speaks of a "subliminal code" in institutions, where minorities are treated less carefully.⁴⁷

In **Denmark**, a victim of a racially motivated crime recounts: As the perpetrators ran away, Ibrahim calls the police. The police arrive, but Ibrahim does not feel they are taking him seriously. At first the police reacted by asking: "Is it you who has been assaulted?"[...] Ibrahim feels interrogated and is asked five or six times, whether he is sure about the incident. The police appear sceptical even though there are six witnesses who attest to what happened (see case study 3 in the appendix).

In the **Netherlands**, a victim states: "We, as LGBTQI people of colour, are not important. Why would I go through all that effort [to report the crime] if they don't even believe me?" (see case study 4 in the appendix).

In **Poland**, the police force is under direct supervision of the Ministry of Internal Affairs and politicians from the ruling party have downplayed the seriousness of racism and Antisemitism in order to present Poland in a better light. It is reported that the police also feel the pressure to obscure the problem in order to demonstrate better statistics

to supervisors.⁴⁸ Recently in **Cyprus**, an old army officer confessed that he killed five migrant (Filipino) women and two girls in the last years. The victims were domestic workers and their daughters. The missing people were reported to the police but the police apparently did not take action until there was a confession from the perpetrator.⁴⁹



Practice development: the Netherlands

The Individuele Beoordeling (IB), an individual assessment on vulnerability based on a questionnaire filled in by victims on their experience, has been in use since June 2018 in line with European Commission guidance regarding minimum norms for victims of crime.

Racial stereotypes and beliefs

Cases from **Austria, Finland, Ireland, Lithuania, the Netherlands and the United Kingdom** were provided that describe how the police refused to believe reports of racially motivated crime. This practice appears to be especially true if certain groups report these crimes, such as Roma or black people (see case study 5 in the appendix). If the witnesses to the crime are of the same ethnicity, the accounts of the victim and the witnesses may not be included in the police's assessment of the facts because they are not seen as credible or reliable. Certain minority groups are, through stereotyping, associated with criminality, violence, dishonesty, and/or seen as a security threat and this racial stereotyping is pervasive in policing at all levels.

Research has shown that service providers are more likely to see the evidence as credible if it confirms a certain stereotype and in contrast, a service provider is more likely to look for error if the information does not confirm the stereotype. This has been described by researchers as confirmation bias, seeking or interpreting evidence in ways that are partial to the existing beliefs, expectations or a hypothesis that affirms current beliefs, while not looking at information or ignoring information that disconfirms such beliefs. This is linked to racial stereotyping and has been argued as one of the major causes of criminal investigation failures.⁵⁰ The refusal to accept that crimes are racially motivated

46 Ireland questionnaire response.

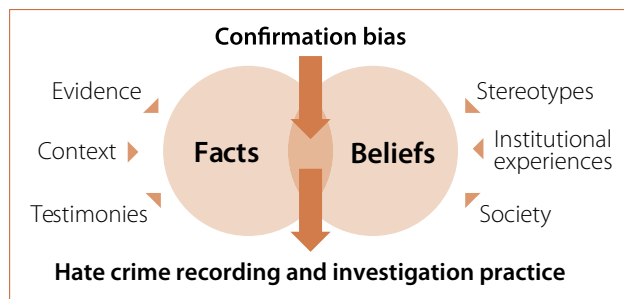
47 Portugal questionnaire response.

48 Poland questionnaire response.

49 Smith, Helena. "It's hard to take in: how Cyprus serial killings left country reeling". *The Guardian*, 12 May 2019. Available at: <https://www.theguardian.com/world/2019/may/12/its-hard-to-take-in-how-cyprus-serial-killings-left-country-reeling>.

50 Minhas, Rashid & Walsh, Dave, Crowther-Dowey, Christopher (Reviewing editor). "Influence of racial stereotypes on investigative decision-making in criminal investigations: A qualitative comparative analysis". *Cogent Social Sciences*, 4(1). 2018. Routledge.

occurs throughout the criminal justice system. There is a report of a judge questioning the victim during the trial of the case (assault with a bias motivation) saying: “I don’t think you’re lying, but I don’t believe you”.⁵¹ This refusal to believe the victim is a key sign that the criminal justice system fails their duty to identify these racist crimes correctly and is one of the first and potentially the most crucial moment that institution racism manifests.




Stereotypes of certain groups emanate from the wider society; however, research suggests that strong racist stereotypes and views are even more prevalent in the police. According to statistics in **France**, and reiterated in an interview with an expert at SOS Racisme, over 50% of French police voted Front National in 2017. The far-right political party is associated with racist discourses and known internationally for sparking hate towards the ‘other’. The French newspaper *Libération* reports that over 30% of police officers voted for Front National in 2012 and 51.5% in 2015.⁵²

France is not an isolated case and **Bulgaria, Finland and Greece** provided examples of the police or security services politically supporting or being more significantly involved with far-right, racist or violent groups. **German** police have also been linked to the far right and a neo-Nazi cell within the Frankfurt police force named themselves NSU 2.0.⁵³

The police response to hate crimes is often inadequate, not simply because they do not record the hate bias but due to the wider institutional assumption that hate and violence occur in a vacuum. As we have reported in previous ENAR Shadow Reports, racist violence can be connected to a hate filled political and media environment. Violence that is misunderstood as detached from society, separate from a wider context is also framed as something random,

sporadic, unpredictable, opportunistic or part of the local culture. Case study 6 in the appendix from France, illustrates how the police play down the intent of violent perpetrators as simply a “settling of scores” between “the youth of the neighbourhood”.

Racist violence is not random or sporadic but underpinned by a ‘territorial logic’ in Europe that seeks to expunge those “others” from the “white terrain”,⁵⁴ and there is ample evidence to suggest that those who commit such offences are drawn from across society.⁵⁵



Practice development: Cyprus
The police stated that in accordance with the European Commission, Cyprus has good practices regarding recording hate crime and hate crime training. This is due to the fact that there are training resources developed for the police, including a hate crime programme for police officers and sergeants working on investigation, as well as training courses and materials to raise awareness about intercultural sensitivity in policing. The re-opened Cyprus Police Academy has employed several external lecturers to train on human rights and non-discrimination and the Office for Combatting Discrimination of the Police offers in-house trainings alone or in conjunction with the Ombudsperson. However, more time and resources are required to develop the skills and attitudes as well as the knowledge of police officers in relation to hate crime.

Intersectionality and ‘mixed motive’ incidents

Another frequent reason cited for the under-qualification of hate crimes are related to mixed motive crimes, where victims were targeted due to more than one bias indicator or motive. In **Greece**, the ‘mixed motive’ incidents mostly concern racist attacks emanating from and in conjunction with labour exploitation or racist attacks followed by removal of assets (mobile phones, money and/or legal documents of residence). In the **Netherlands**, a racist and homophobic attack was reported to the police, but was not recorded as such and it was felt that the case was not followed up appropriately before the investigation was closed. After the investigation was closed, it is reported that:

51 Netherlands questionnaire response.
52 France questionnaire response.
53 Cockburn, Harry. “Far-right cell’ in German police ‘threatened to kill lawyer’s two-year-old daughter”. *Independent*, 17 December 2018. Available at: <https://www.independent.co.uk/news/world/europe/german-police-neo-nazi-cell-seda-basay-yildiz-lawyer-death-threat-daughter-frankfurt-a8687731.html>.

54 Ashe, S., Virdee, S. and Brown, L. “Sticking back against racist violence in the East End of London, 1968-1970”. *Race & Class*, 58(1): 34-54. 2016.
55 European Union Agency for Fundamental Rights. *Making hate crime visible in the European Union: acknowledging victims’ rights*. 2012. Available at: https://fra.europa.eu/sites/default/files/fra-2012_hate-crime.pdf.

Omar (victim) specifically requested a meeting at his local police office with a member of the Pink in Blue Network, a network of LGBTQI police officers. During the meeting, the officer acknowledged the case should have been investigated as a hate crime and that the incident was recorded improperly in the Basisvoorziening Handhaving, the Dutch police incident recording system. The officer notified Omar of the possibility to reopen the case and record the incident properly by filing a complaint, but Omar refrained from doing so: "I don't have the energy for that. I have to be on watch 24/7 just because of who I am, it drains me. I'm just not important". (see case study 7 in the appendix).

Our research shows that the understanding of intersectionality and hate crimes is at the developmental stage in many police authorities. This also appears to be the case for researchers, workers in civil society organisations as well as those in the criminal justice institutions. In response to our question: "Does the police recording of the hate crime bias allow for an intersectional approach?" many researchers responded yes. Most forms or systems for recording hate crimes allow for multiple flagging or checking of multiple boxes in reference to bias indicators, however, to be truly intersectional it is necessary to understand the specificity of the hate crimes that are experienced at the intersection. For example, an assault of a Muslim woman may be a racially motivated crime if her hijab is violently removed. A racially motivated crime would not manifest in the same way for a Muslim man or a black woman with no visible religious clothing. The concept of intersectionality can be useful in better understanding victimisation and also improve the police investigation of these crimes.⁵⁶

There needs to be more understanding of what may constitute a racially motivated crime for people at the intersections of different characteristics of diversity. One researcher noted: "We are not aware of any case in which the idea of intersectionality would be explicitly utilised and taken into account as regards the police qualification or court decisions".⁵⁷ However, the data included in this report regarding Muslim women show they are likely to be victims of violent hate crimes. This understanding may positively influence the investigation by the police and ensure that victims are provided with the adequate support and protection.

Police investigations

The report on the implementation of the Council Framework Decision 2008/913/JHA states that EU Member States must ensure "that racist and xenophobic motives are properly unmasked and adequately addressed".⁵⁸ At least half of EU Member States have operational guidelines for either recording or investigating hate crimes with a racial bias (**Croatia, Cyprus, the Czech Republic, Denmark, Finland, Greece, Hungary, Italy, Latvia, Lithuania, Slovakia, Spain, the United Kingdom**), however, implementation remains limited. For example, it is reported that frontline officers were unaware of the proper process outlined in the operational guidelines. The researchers state that the lack of recording and poor investigation or poor police practice are more significant factors, when trying to establish the racial element of a crime; rather than narrow legal definitions.

Non-exhaustive check list during the investigation and charging stages of the criminal process:

01. Complainant and witness testimony of verbal slurs and prejudiced epithets;
02. Police-worn cameras and mobile phone footage of verbal slurs;
03. Recordings of incidents that include words spoken in the background;
04. Background information of the accused, including: past convictions, membership of hate-based groups, websites, and blogs;
05. Previous conversations with associates evidencing identity-based prejudices; and police questioning which may elicit hostilities;
06. Previous convictions for hate-based offences;
07. Possession of hate-based signs and symbols;
08. Social media posts displaying hate speech;
09. Text messages expressing identity-based hostility;
10. Possession of leaflets, letters or other written documents with hate-content;
11. Conduct that specifically targets the identity/perceived vulnerability of the victim (e.g. tipping someone out of a wheel chair or purposefully pulling off a religious headscarf);
12. Contemporaneity with trigger events or in the context of historically hostile relationships.

Source: <http://sro.sussex.ac.uk/id/eprint/70598/3/FINAL%20REPORT%20-%20HATE%20CRIME%20AND%20THE%20LEGAL%20PROCESS.pdf>

56 Mason-Bish, Hannah. "Beyond the Silo". In *The Routledge International Handbook on Hate Crime*. 2014. London: Routledge.

57 Czech Republic questionnaire response.

58 European Commission. *Report from the Commission to the European Parliament and the Council on the implementation of Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law*. 2014. Available at: <https://publications.europa.eu/en/publication-detail/-/publication/ea5a03d1-875e-11e3-9b7d-01aa75ed71a1>.

National researchers provided evidence highlighting how the bias indicator of a crime can disappear during the investigation. In **Lithuania**, experts mentioned that since the criminal justice system does not fully recognise the hate crime concept, the necessary information on the bias motivation is not collected sufficiently or negligently collected during the pre-trial investigation, therefore affecting the later investigation. This means the victim must repeatedly ask for the recognition of a hate motive. It also requires victims or potential victims to be fully aware of legal procedures and regulations of hate crime, to be able to recognise the importance of asking for the recognition and investigation of a hate crime.⁵⁹

As experts state, the police find it more straightforward to investigate crimes such as violation of public order (hooliganism), or crimes against property, etc. In some instances, law enforcement authorities prioritise finding and prosecuting the suspect for the most obvious elements of the crime rather than uncovering the evidence to prosecute the hate crime element. In line with the experts' viewpoint, the European Court of Human Rights has repeatedly held that Member States have breached Article 14 of the European Convention of Human Rights (non-discrimination) if the State overlooks the bias motivation behind a crime.

In the **Czech Republic**, it is reported that an off-duty police officer was accused of a racially motivated assault. The police arrived at the crime scene and held the perpetrator. As the perpetrator was a police officer, the case was referred to the General Inspection of Security Forces. The Inspection concluded that, instead of criminal offence, the perpetrator committed a misdemeanour. The victim's lawyer submitted a request for a review to the public prosecutor, however the decision was confirmed. The bias motive was not proven, although the Inspection asked the perpetrator and witnesses about it. The perpetrator is still on duty as a police officer (see case study 8 in the appendix).

As mentioned elsewhere in this report, it is vitally important that the police record the crime with the bias indicator to ensure that it is at least investigated. In **Bulgaria**, a current case at the pre-trial stage is led under Article 131.12⁶⁰ – physical assault with 'hooligan, racist or xenophobic motives'. According to the victim it is a racially motivated assault. The crime has not been recorded as a crime with a racial bias and it is not yet clear what the prosecutor will include in the indictment; however, it is the element of hooliganism (and not the racist motivation) which is currently being investigated by the police (see case study 9 in the appendix).

Establishing the facts

During the investigation the police aim to collect evidence and establish the 'facts'. Simplistically, hate crimes with a racial bias are seen as acts with distinguishable roles and elements: eye witnesses, victims, racist perpetrators with intrinsic attributes. However, the context and perception of the racist motivation need to be included in the assessment. In most cases, the context and perception of the victim is not determined as fact. The power of who declares what is and what is not a racist crime to be investigated is not in the hands of the victim but in the hands of the police officer, thus leaving the victim to be silenced if their definition or declaration of the 'racist' element is not shared.

In **France**, it is reported that there is a high bar to reach regarding what is accepted as racially motivated based on the evidence. The police are not expected to look too far into the case or investigate why the person committed the crime, which means that the bias element of the crime should be apparent. The bias must be shown through the facts and the actions of the perpetrator and their spoken word or speech. This requires the racial motivation to be very clear and undeniable, but significantly, it is the police officer who determines during the investigation whether the evidence supports the claim of a racially motivated crime.

59 Lithuania questionnaire response.

60 Criminal Code of Bulgaria, primarily provisions pertaining to bias-motivated crime, "hate speech" and discrimination. See more information here: <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=2ahUKEwjFs-aPzKrijAhXFL1AKHdzBCOYQFjABegQIARAC&url=https%3A%2F%2Fwww.legislationline.org%2Fdocuments%2Fid%2F22041&usg=AOvVaw1lPei8W7xSpM4gGSCum0Rp>.



Practice developments: Special units and investigators

In **Hungary**, it is reported that if the investigation reaches the special unit then the investigation is of a better quality but if it stays with the local police, then the hate element is likely to disappear. There are around 68 special departments and offices for dealing with racial violence and the personnel are adequately trained which does not apply to the frontline staff in police stations.

It would seem that special units provide a level of expertise, knowledge and consistency that has a positive impact on the quality of the investigations and prosecutions of hate crimes. However, experts in **Lithuania** report that regardless of the nominal existence of these specialised professional bodies, the number of pre-trial investigations identifying hate crimes is very small.

In **Slovakia**, hate crimes fall within the remit of the National Anti-Terrorism Unit, which has an exclusive position in recording, investigating and clarifying the criminality of extremism. In the Czech Republic, more serious cases of extremism/hate crime can be investigated by the National Central for Organised Crime (of the Service of Criminal Police and Investigation).

In the **United Kingdom**, the Metropolitan Police Force created a special online hate crime unit in 2017 in a two-year London pilot, staffed by five police officers, to investigate hate crime on social media. The government intends to fund an England and Wales online hate crime hub, which will report to the National Police Chiefs Council and be staffed by four officers from Greater Manchester Police.

Despite the use of the Macpherson definition in the **United Kingdom**, meaning that racially motivated incidents are logged based on the perception of the victim, the racial motivation can be erased from certain offences if the evidence does not reach a particular threshold or can be reclassified as disputes, robberies or other forms of hostility.⁶¹

In the focus on establishing facts, police officers and prosecutors may miss essential information or testimonies and fail to reflect on the wider context and understanding that is necessary to establish that a racially motivated crime has taken place.

61 Athwal, Harmit and Burnett, Jon. "Investigated or ignored? An analysis of race-related deaths since the Macpherson Report". *Race & Class*. 2014. London: Sage.

Lengthy investigations

A judge in **Bulgaria** notes that police investigations in her region often take months to start, which leads to an increased difficulty in collecting relevant evidence.

In **Poland**, a case was suspended after eight months of investigations. A spokesperson of Warsaw prosecutor's office said: "We were forced to suspend the investigation because we still haven't received the opinion from the expert witness. It is important because we need to know the victim's exact injuries, how they were inflicted and when". This was the official statement of the prosecutor's office. Unofficially some police officers admitted that there are many doubts over the victim's testimony' (see case study 10 in the appendix).

Although long police investigations are typical of many complicated criminal cases, a long investigation can be problematic for victims of racially motivated harassment, which can escalate into more serious racist crimes if not adequately addressed when first reported to the police.

On 14 February 2016, the tents of Romanian citizens were set on fire in Linz, **Austria**. The possessions of the families were burned and about 50 people, including children, were affected. Just two days later, another arson attack occurred targeting the same group, who had new tents and settled in a different place. On 2 March, a third arson attack took place. The offenders have not been identified (see case study 11 in the appendix).

Article 14 of the European Convention on Human Rights, read in conjunction with Article 2 (the right to life), means the State has a positive obligation to protect life, one aspect of which is to undertake a full and effective investigation.⁶² The lack of a proper investigation can be discriminatory on the grounds of race and that police authorities have an additional duty to take all reasonable steps to unmask any racist motive in an incident involving the use of force by law enforcement agents. In 2012, the EU adopted the Victims' Directive introducing minimum standards for the rights, support and protection of victims. Article 22 states that in assessing the needs of victims, it must be determined if the victim has any particular "protection needs... due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation".⁶³

62 European Commission. *Directive 2012/29/EU of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA*. 2012. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32012L0029&from=EN>.

63 Ibid.



Practice: Police diversity networks and community liaison officers

Diversity groups and networks within the police may be helpful in recognising that people have different needs, whether that is within the police or the wider community. In the **United Kingdom**, there is the National Black Police Association (NBPA), an interest group of the Black and Minority Ethnic (BME) staff of the UK police forces that speaks out on racism within the police. These networks can also have an impact on the investigation of hate crimes, for example, in the **Netherlands**, the Pink in Blue Network appear to have played a positive role in one of the hate crime case studies (see case study 2 in the appendix).

Member States report the use of community liaison officers and how they can support the communication between certain communities and the police. The **Czech Republic** and **Germany** have community liaison officer links to minorities, **Spain** has something similar called: community contact agent (*interlocutor social*) and Ireland has a Communications and Victims Liaison Unit. In the **United Kingdom**, each local unit of a police force should have a hate crime lead officer but there have been cuts to these roles. There are also examples of other liaison units, for example liaison between the police or prosecution and centres on diversity or discrimination. In **Spain** there is a Diversity Management Team and in **Ireland** there is the Garda Racial, Intercultural & Diversity Office (GRIDO) established in 2000 (now the Garda Bureau of Community, Diversity and Integration).

Prosecutions

Article 4 of the Framework Decision 2008/913/JHA requires EU Member States to “take the necessary measures to ensure that racist and xenophobic motivation is considered an aggravating circumstance or alternatively that such motivation may be taken into consideration by the courts in the determination of the penalties”.⁶⁴

Data and statistics on prosecutions are often not publicly available, therefore it is difficult to offer an EU-wide perspective on the effectiveness of legislative frameworks with regards to prosecuting racially motivated crime. On the basis of interviews with experts, the national researchers reported several factors that hinder the

⁶⁴ European Commission. Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law. 2008. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008F0913>.

successful prosecution and sentencing of a hate crime with a racial bias and these include:

- Lack of proper recording of the racial elements of the crime by the police. If it is not recorded by the police, there is limited chance of rectifying this during the prosecution;
- Poor and inadequate investigation by the police;
- Separate and compartmentalised working between the police and the prosecution;
- Lack of clear and unified definitions of hate crimes with a racial bias;
- Lack of training and limited capacity for both the police and the prosecution; and
- The aggravated clause of ‘hate’ is under-used by the public prosecution.

Researchers have provided evidence of lenient punishments, for example:

In **Croatia**, in December 2015, a Cameroonian man was attacked in a restaurant located on a highway rest area because of his race, where the perpetrators, before and during the attack, made derogatory and racist comments. The charges were first filed with a misdemeanour court (and not qualified as a hate crime), then later amended into a criminal case. The case was in court for two years, eventually a guilty sentence was confirmed. The attackers received a 10-month probation sentence without any jail time. Although the victim believes that justice was served as the perpetrators were found guilty, the lenient sentence reveals the lack of severe punishments of hate crimes, even when the elements of the attack are particularly serious (see case study 12 in the appendix).



Practice development: Poland

There are some adequate policies and guidelines in place, however, there are still failings in the system. In 2014 guidelines were published stating that a regional prosecutor is obliged to appoint one or two district Prosecutor’s Offices, in which the district prosecutor would name two prosecutors responsible for prosecuting hate crime. Nevertheless, according to experts in non-governmental organisations, this system does not work, and there is no will to fight hate crimes on the prosecutors’ side, who are described as passive and insensitive.

In some Member States, the legislative framework does not provide adequate sentences for racially motivated crimes, taking into account its profound and negative impacts on the lives of victims. For example, in **Portugal**, sentences for racially motivated crimes are generally low.

In **Italy**, a couple, of Nigerian origin, were walking in the city centre of Fermo. Not far away, two men were waiting for the bus and one of the two yelled to the woman: "African Monkey" and other insults. Her husband reacted. A fight started. He was beaten to death. The main perpetrator of the crime, affiliated with a far right group, was arrested on charges of manslaughter, aggravated by racist motives, but after that, for months, the lawyer of the main author of the crime, together with a part of the local and national media, pleaded legitimate defence. In January 2017, the perpetrator agreed to a reduced sentence of four years before the judge for the preliminary investigation of Fermo (see case study 13 in the appendix).

If the bias motivation is systematically filtered out at different levels of the process, whether it is during the investigation, the prosecution or judgement, it is an indicator of institutional racism. Certain practices within these institutions result in ethnic or racial minorities receiving different and less favourable treatment than the majority population in the criminal justice system.

Structural and institutional obstacles

There are multiple structural and institutional obstacles that prevent the police (and other professionals in the criminal justice system) from correctly recording, investigating and prosecuting hate crimes, such as

inadequate training, limited resources, lack of translators and specialists with cultural competences, and lack of diversity in the police. These factors continue to be incredibly significant with regards to combating hate crimes.

The main areas that were consistently raised in the national research are:

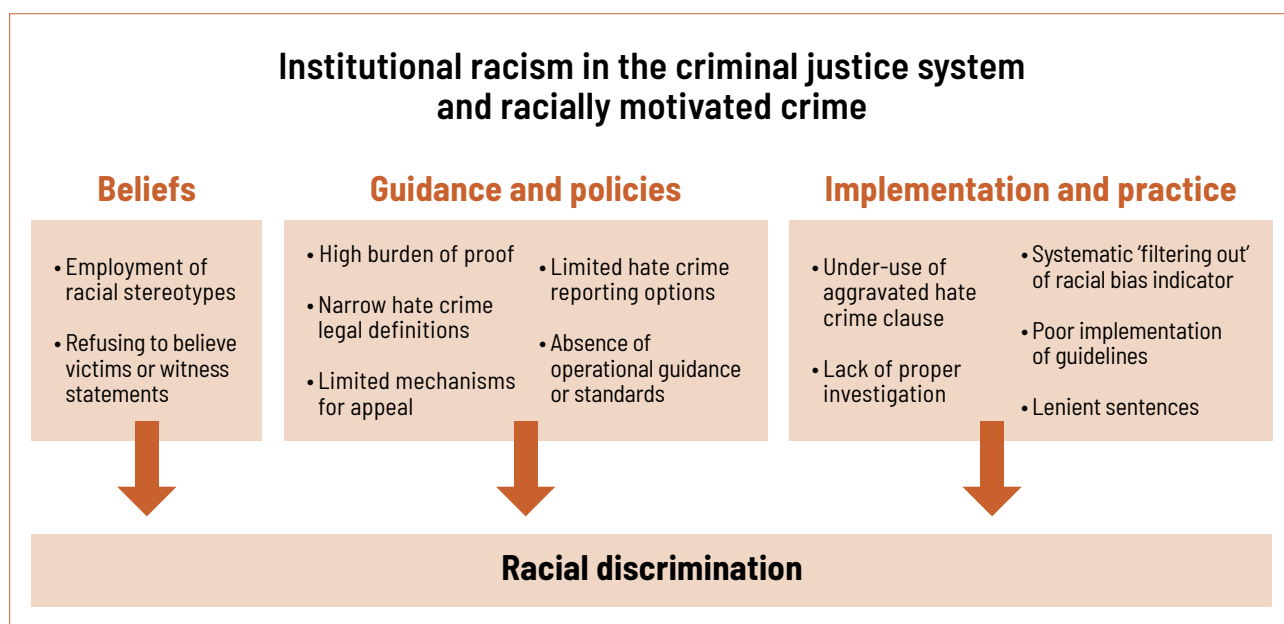
Insufficient resources

■ **Insufficient police resources (training, expertise or staffing)** were reported as a key problem in relation to hate crimes (**Austria, Croatia, Hungary, Ireland, Italy, Malta, the United Kingdom**). For example, police officer numbers across England and Wales have fallen by 20,000 since 2010 and funding cut by 19%. Further cuts in officer numbers are expected in 2019 and the Ministry of Housing Communities and Local Government said that hate crime specialists in the police forces had all but disappeared.⁶⁵

Hate crime concept

■ **Politically motivated crime** is a concept used in **Germany** and is seen as an obstacle for both victims and professionals during the recording, investigation and prosecution of hate crimes with a racist motivation. The doctrine of 'political extremism' has become the main ideological frame through which bias crime is seen also in the **Czech Republic** and **Slovakia**. This concept tends to disregard the bias motive in those crimes that were not committed by political extremists (far-right or neo-Nazis).

65 United Kingdom questionnaire response.



- Where there is **no recognition within the legislation** or clear definition of hate crime, as seen in **Estonia and Ireland**, the criminal justice system struggles to adequately respond to hate crimes with a racial bias.

Specialised units

- As discussed above, **special units** are seen as positive structural elements for the proper investigation of hate crimes, however there are reports that the training and expertise stays within the units and is not shared by the frontline personnel in police stations. There is a severe gap in the specialised knowledge and awareness needed by frontline police personnel (**Greece, Hungary, Malta**).

Racial bias and lack of diversity

- **Racial bias** within the police and criminal justice system more widely seen through practices such as stop and search, profiling, police violence, continues to prevent a trusting relationship between the police and victims of racially motivated crimes. There are reports in all Member States of incidents where the police have mistreated certain groups. Poor relations with the police are often linked to under-reporting to the police.

- **Ethnic and racial** diversity is significantly lacking in the police. Still years after the Macpherson Report recommendations on improving diversity within the **UK** police, they are still struggling to reach their diversity targets. While 14% of the population are from an ethnic minority, just 7% of police in England and Wales are – up from 2% when the Macpherson Report was published 20 years ago.⁶⁶ The Commission on the Future of Policing in **Ireland** considered the fact that, since 2014, not a single person from Africa or the Caribbean has been employed in the police force, is a case bordering on institutional racism.⁶⁷

Complaint and accountability mechanisms

Some Member States have put in place complaint or appeal mechanisms for victims and their families if they believe that their case has been mishandled in anyway. The list below highlights some practices and gaps in procedures across the EU. Financial legal assistance is necessary to ensure that these mechanisms can be exercised. Without this assistance minority groups may be disadvantaged in their access to justice.

⁶⁶ Dodd, Vikram. "Police leader calls for laws to allow positive race discrimination". *The Guardian*, 22 February 2019. Available at: <https://www.theguardian.com/uk-news/2019/feb/22/police-leader-calls-for-laws-to-allow-positive-race-discrimination>.

⁶⁷ Institute for the Study of National Policy and Interethnic Relations, European International Tolerance Centre, Centre for Monitoring and Comparative Analysis of Intercultural Communications (Moscow Institute of Psychoanalysis). *European Centre for Democracy Development Xenophobia, Radicalism, and Hate Crime in Europe Annual Report*. 2018. Available at: <https://www.osce.org/odihr/395336?download=true>.

Independent complaint bodies

Austria – According to the Styria Antidiscrimination Office, currently the only independent appeal body is the People’s Advocate’s Office.

Romania – One of the independent complaint bodies is the National Council for Combating Discrimination, an administrative body which has jurisdictional activity.

United Kingdom – The victim or a representative can bring a complaint to the Independent Office for Police Conduct, which replaced the Independent Police Complaints Commission in 2018. Victims can also seek a review of certain Criminal Prosecution Service decisions under the Victims’ Right to Review Scheme.

Ombudsman

Cyprus – Victims and their families may request an Ombudsperson for investigation and an opinion.

Greece – If a civil servant is implicated as perpetrator in the case, the victim can submit a complaint to the Ombudsman. The “National Mechanism for the Investigation of Incidents of Abuse”, which was launched in 2016, allows the Ombudsman to intervene in internal disciplinary proceedings in various institutions, including the police.

Netherlands – A complaint to the National Ombudsman can only be made if the police complaints procedure concludes in an unsatisfactory manner, within one year.

Poland – Victims can make a complaint to the Ombudsman Office.

Appeal

Czech Republic – Victims or their attorneys may participate at every step of the criminal proceedings. They however lack the right to appeal against the court decision with an exception concerning a decision on the compensation for damages.

Estonia – The complaint is processed by the regional prosecutor’s office or the Office of the Prosecutor General. If the victim does not agree with the decision of the prosecutor’s office or the Office of the Prosecutor General, they have the right to file an appeal with the preliminary investigation judge of the county court. The appeal is resolved with a written procedure within 30 days.

Finland – There is no existing process to challenge the mishandling or investigation of their case by the police. The victims of hate crimes (and their family) have an opportunity to appeal the outcome of a case in a court of appeal. They can also appeal to have a senior prosecutor look into their case.

Greece – If a case is closed because of lack of evidence, the victim can ask the Prosecutor of Appeals to re-open the case. If the case goes to court and the victim is not satisfied with the outcome, the victim can request the Prosecutor to appeal against the decision.

Malta – The decisions of the courts can be appealed. In the case of a breach of fundamental rights, the victim can present at any given moment a claim to the Constitutional Court.

Slovakia – The appeal of a decision (judgment or order), according to the current legislation in the Slovak Republic, is the only legal remedy.

3. REFLECTIONS AND CONCLUSIONS

Developments since 2014

Since the 2013-2014 Shadow Report on racist crime in Europe, there have been progressive developments in Member States' institutional practice. The national researchers were asked to review the recommendations in the ENAR 2013-2014 Shadow Report and assess to what extent there had been developments in their Member State. Broadly positive developments are reported in:

- Training and guidance;
- Policies and legislation;
- Working relationships with civil society organisations;
- Data collection, reporting by the government authorities;
- Government commitment to addressing hate crimes through better cooperation with different stakeholders and engagement in the form of expert and working groups; and
- Public discussion or public recognition of hate crimes.

The most significant improvements were in the areas of education, guidance and training and the policy and legal framework. In almost all Member States, there are examples of training provided to the police or new guidance having been issued.

In two Member States (Bulgaria and Hungary), it is categorically reported that there have been no improvements or positive developments in the last four years in relation to the ENAR recommendations included in the 2013-2014 Shadow Report on racist crime.

Reporting and recording

It is encouraging to see that there have been developments, but the evidence reviewed in this report also shows that implementation and day-to-day practice still require significant improvement, and this should start with the police. Whilst there are reports of the police receiving training and guidance, the training is not provided consistently to all frontline officers, or just in capital cities and not elsewhere.

A shift in attitude is needed. The police and law enforcement officers need to commit to taking racially motivated crimes

seriously and there must be processes and systems in place to monitor how effectively officers are responding to hate crimes. Monitoring must go hand in hand with providing resources for training and comprehensive communications to raise practitioners' understanding of minimal level requirements of responding to and investigating a racially motivated crime.

For the victims of racially motivated crimes, their families and the wider community, it is essential that the bias motivations are recognised through proper recording of the crimes and that the police start the investigation on that basis. The lack of attention that the police and prosecution place on uncovering racial motivation of hate crimes is an 'institutional approach'. Victims of violent crimes are entitled to a thorough investigation and criminal proceedings capable of leading to the conviction and punishment of offenders.⁶⁸

Justice is not only achieved in the final outcome of the case but an assurance that the case has received due process and that there are procedural protections in the form of transparency, monitoring and accountability.

Data collection as a tool to combat hate crimes

In the first section of this report we included data and information on the methodologies used by civil society organisations collecting hate crime data in four EU Member States. Racist violence can provide the impetus of political action, including different forms of mobilisation and coalition building.⁶⁹ These civil society organisations are also drawing attention to the significant gaps and inconsistencies in the practice of the police and other authorities and institutions in their data collection and monitoring of hate crimes. Police statistics and other state sponsored surveys under-estimate the prevalence of hate crimes and the figures from civil society organisations are almost always higher than the official figures because victims are less likely to report their cases to the police.

68 European Union Agency for Fundamental Rights. *Proceedings that do justice, justice for victims of violent crime Part II*. 2019. Luxembourg: Publications Office of the European Union.

69 Ashe, S., Virdee, S. and Brown, L. "Sticking back against racist violence in the East End of London, 1968-1970". *Race & Class*, 58(1): 34-54. 2016.

In some Member States we can observe a vicious circle. If there is under-reporting and under-recording of hate crimes, there may be an impression that there is no hate crime. This was specifically mentioned in **Estonia, Poland and Romania**. **Estonian** officials and policy makers do not believe there is a significant hate crime problem but there are examples of mishandling of reporting of hates crimes that suggest that poor practice is systemic (if not frequent).

One way in which the findings in this report point to institutional racism is in the difficulties that victims, witnesses, civil society organisations all have in ensuring that the criminal justice system and other state agencies acknowledge the severity of the problem. Unless there is proper recognition of the problem, the relevant policies, resources and commitment will never manifest.

Lack of protection

As detailed in Section 1 of this report, hate crimes are on the rise in many EU Member States and often there are spikes in hate crimes that are related to other political events. On reviewing the data on hate crimes and the lack of proper institutional response, we can see that the police are also not seeking to protect certain groups from harm. In some Member States, including the **United Kingdom and France**, we can see a spike in racially motivated crimes targeting, in the main part, Muslim communities. Minorities that are targeted in response to terrorist acts or political events such as Brexit, demonstrate a need for protection.

It is important to note that racially motivated crime is not, unfortunately, an abnormality, solely extremist behaviour that exists outside the ranks of society. Research has shown that violence or the threat of violence distorts the everyday lives of racialised minorities, including forcing them to make adjustments to their daily routines just so they can minimise the risk of being attacked.⁷⁰

Protection can be the physical presence of the police, and feeling protected by police, but it can also be in the form of taking reports of racial harassment or of racist behaviour seriously. In an article from the United Kingdom in 2014, the authors noted that since the publication of the Macpherson Report in February 1999, there had been at least 93 deaths with a known or suspected racial element. They stated that if the authorities, including the police, had on occasion intervened earlier against persistent harassment and low-level abuse, some deaths

might have been prevented.⁷¹ In the criminal justice's mishandling of racially motivated crimes or harassment they also fail to demonstrate their commitment to protect the public. In **Portugal**, the Public Prosecution Service inspection department issued a statement in 2018 relating to several complaints of police abuse submitted by residents of Amadora, an area with a large percentage of Black inhabitants, that had not been taken seriously. The relationship between the police and the prosecution and the compartmentalisation of regulation, prevention and investigation failed to protect that community from impunity within the criminal justice system.

Institutional racism in European criminal justice systems

In 1999, there was a paradigm shift in the United Kingdom in relation to how racist crimes were responded to by the criminal justice system and this shift reverberated across Europe. Since the Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law, there has been a progression in the understanding of racially motivated crimes and how States should respond. It would appear that things have improved but the changes have not gone far enough. The police still have some way to go in building trust with communities that have historically been abused and victimised by the police.

The data provided for this research reveal a common characteristic of the criminal justice system across the EU: there are policies and guidance in place but there is 'institutional indifference' to the impact of racial violence and at times denial about its existence. Whilst there is commitment in some EU Member States to training, that goes only so far if there is limited monitoring, transparency and accountability.

Across the EU, racially motivated hate crime is normalised – there is no moral panic, both the victims and the institutions express a sense of inevitability that these incidents will take place and that it is unlikely that justice will prevail. Through this research, hundreds of reports and case studies were provided detailing the mishandling of racially motivated crimes, due to incompetence, failure

70 Ibid.

71 Athwal, Harmit and Burnett, Jon. "Investigated or ignored? An analysis of race-related deaths since the Macpherson Report". *Race & Class*. 2014. London: Sage.

of leadership, and a lack of commitment to the protection and care of victims. If the racial bias motivation of a hate crime is dropped due to systemic failure and poor practice by the police and other authorities, this becomes a key feature of institutional racism and non-compliance with Article 4 of the Framework Decision.

Hate crime is often seen independently of other economic, social and political forces but racially motivated crime is complex and can be linked to other structural forces. If we limit the response to the field of criminal justice, we fail to acknowledge that racially motivated crimes are a wider signal to the rest of the community.

Racialised privilege and power hierarchies do not disappear once inside the criminal justice system. It is not as simple as checking unconscious bias within the police but considering relations between police officers, who are mostly white across Europe, and other racialised communities. Systematic failures in the criminal justice system equate to a form of structural violence for racial minority groups. Structural violence, as explained earlier in this report, is the intentional failure to protect another group or community from outcomes that either result in or have a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation. It can be embedded in ubiquitous social structures. Structural violence is not the result of individual actions

or interpersonal interactions, though both are involved. Rather, structural violence issued from institutions primarily targets groups whose social status denies them full access to legal and political protection.⁷²

The police response to hate crimes will improve with more training but there must be work undertaken at an institutional level to review the policies and procedures that 'unwittingly' disadvantage certain groups or that do not acknowledge how white privilege can manifest in the criminal justice system. Racist structures and practices often remain invisible. However, the data provided for this report highlight the problem of policies, practices, the lack of commitment, lack of oversight or monitoring of the actions and outcomes related to successful prosecutions. Acknowledging and addressing institutional or systemic racism is not an easy task but with leadership and commitment and the support of civil society organisations, the criminal justice system can review and assess their policies and practice.

This report and update shows that more needs to take place to dismantle racist structures. It requires the criminal justice system to take a deep look at specific, racist, patterns of thought and address the 'justice gap' which sees a significant number of hate crime cases being dropped as a hate crime.

72 Hamer, J. and Lang, C. "Race, Structural Violence, and the Neoliberal University: The Challenges of Inhabitation". *Critical Sociology*, 41 (6): 897-912. 2015.

APPENDIX 1: ODIHR DATA

| Austria | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|---------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 227 | 39 | 36 | - | - | 302 |
| 2016 | 356 | 41 | 28 | - | - | 425 |
| 2015 | 323 | 41 | 31 | - | - | 395 |
| 2014 | 111 | 58 | 17 | - | - | 186 |

| Bulgaria | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|----------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 7 | 4 | 9 | 2 | - | 22 |
| 2016 | - | - | - | - | 28 | 28 |
| 2015 | - | - | - | - | 704 | 704 |
| 2014 | - | - | - | - | 617 | 617 |

| Croatia | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|---------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 10 | - | 2 | 4 | - | 16 |
| 2016 | - | - | - | - | 35 | 35 |
| 2015 | 15 | 2 | 1 | 1 | - | 19 |
| 2014 | 17 | - | - | - | - | 17 |

Cyprus - no official data

| Czech Republic | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|----------------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | - | 27 | 3 | 27 | - | 57 |
| 2016 | - | 7 | 28 | 25 | - | 60 |
| 2015 | 26 | 1 | 6 | 22 | - | 55 |
| 2014 | - | 10 | 1 | 13 | 24 | 48 |

| Denmark | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|---------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 223 | 38 | 67 | - | - | 328 |
| 2016 | 141 | 21 | 56 | - | 104 | 322 |
| 2015 | 102 | 13 | 41 | - | - | 156 |
| 2014 | - | - | - | - | - | - |

| Estonia | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|---------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | - | - | - | - | - | - |
| 2016 | 10 | - | - | - | - | 10 |
| 2015 | - | - | - | - | - | - |
| 2014 | - | - | - | - | - | - |

| Finland | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|---------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 1146 | 9 | 137 | 47 | - | 1339 |
| 2016 | 1068 | 10 | 67 | - | - | 1145 |
| 2015 | 1356 | - | - | - | - | 1356 |
| 2014 | 829 | - | - | - | - | 829 |

| France | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|--------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 882 | 311 | 95 | - | - | 1288 |
| 2016 | 1195 | - | - | - | - | 1195 |
| 2015 | 739 | 715 | 336 | - | - | 1790 |
| 2014 | 678 | 851 | 133 | - | - | 1662 |

| Germany | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|---------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 1860 | 233 | 268 | 4 | - | 2365 |
| 2016 | 2846 | 185 | - | - | - | 3031 |
| 2015 | 2447 | 192 | - | - | - | 2639 |
| 2014 | 2039 | 413 | - | - | - | 2452 |

| Greece | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|--------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 72 | 4 | 3 | 6 | - | 85 |
| 2016 | 35 | 2 | 2 | - | - | 39 |
| 2015 | - | - | - | - | 60 | 60 |
| 2014 | - | - | - | - | 71 | 71 |

| Hungary | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|---------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 52 | - | - | - | - | 52 |
| 2016 | - | - | - | - | - | - |
| 2015 | - | - | - | - | - | - |
| 2014 | - | - | - | - | - | - |

| Ireland | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|---------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | - | - | - | - | - | - |
| 2016 | - | - | - | - | - | - |
| 2015 | - | - | - | - | - | - |
| 2014 | 43 | 2 | - | - | - | 45 |

| Italy | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|-------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 828 | - | - | - | - | 828 |
| 2016 | 494 | - | - | - | - | 494 |
| 2015 | 369 | - | - | - | - | 369 |
| 2014 | 413 | - | - | - | - | 413 |

| Latvia | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|--------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | - | - | - | - | - | - |
| 2016 | - | - | - | - | 11 | 11 |
| 2015 | - | - | - | - | 11 | 11 |
| 2014 | 13 | - | - | - | - | 13 |

| Lithuania | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|-----------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 6 | - | - | - | - | 6 |
| 2016 | 16 | - | - | - | - | 16 |
| 2015 | 16 | - | - | - | - | 16 |
| 2014 | - | - | - | - | - | - |

Malta - no official data

| Netherlands | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|-------------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 327 | 432 | 27 | - | 90 | 876 |
| 2016 | 1723 | 335 | 352 | - | 752 | 3162 |
| 2015 | 2215 | 428 | 439 | - | - | 3082 |
| 2014 | 1313 | 717 | 117 | 2 | 1043 | 3192 |

| Poland | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|--------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 624 | 78 | 123 | 62 | - | 887 |
| 2016 | 592 | 103 | 158 | 47 | - | 900 |
| 2015 | 133 | 50 | 42 | 26 | - | 251 |
| 2014 | 123 | 39 | - | 61 | 778 | 1001 |

| Portugal | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|----------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | - | - | - | - | - | - |
| 2016 | - | - | - | - | - | - |
| 2015 | - | - | - | - | - | - |
| 2014 | - | - | - | - | 21 | 21 |

| Romania | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|---------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | - | - | - | - | 1 | 1 |
| 2016 | - | - | - | - | 10 | 10 |
| 2015 | - | - | - | - | 15 | 15 |
| 2014 | - | - | - | - | 25 | 25 |

| Slovakia | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|----------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 11 | 1 | 3 | 19 | - | 34 |
| 2016 | - | - | 2 | 8 | - | 10 |
| 2015 | - | - | - | - | 6 | 6 |
| 2014 | - | - | - | - | 3 | 3 |

| Spain | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|-------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 524 | 6 | - | - | - | 530 |
| 2016 | 416 | 7 | - | - | - | 423 |
| 2015 | 505 | 9 | - | - | 24 | 538 |
| 2014 | 475 | 24 | - | - | - | 499 |

| United Kingdom | Racism & Xenophobia | Anti-Semitism | Anti-Muslim | Roma and Sinti | Unspecified | Total |
|----------------|---------------------|---------------|-------------|----------------|-------------|-------|
| 2017 | 71251 | 672 | 2965 | - | - | 74888 |
| 2016 | 62831 | - | - | - | - | 62831 |
| 2015 | 49419 | 786 | 2372 | - | - | 52577 |
| 2014 | 43113 | - | - | - | - | 43113 |

Source: OSCE Office for Democratic Institutions and Human Rights (ODIHR). Hate Crime Reporting. Available at: <http://hatecrime.osce.org/>.

APPENDIX 2: CASE STUDIES

Case Study 1: Police harass and attack a young black man (Portugal)

In January 2016, a young black man was meeting his girlfriend, his mother and a few more people in Chelas (an area in Lisbon with a large Black community) when a police van with several officers passed by them. From inside the van one of the police officers asked in a rude manner why he was looking at the van; the officer then came out of the van and asked for the young man's identification, who refused as the police officer was not willing to identify himself. The officers started to assault the young man in front of the people he was with, in the middle of the street. The officers then pushed the man inside the van and violently attacked him. The young man pressed charges against the police, but the officer who started the assault also pressed charges against the man alleging he had assaulted him and he had been physically injured. The judge ignored the statements of the expert who said the police officer's injuries were not from aggressions inflicted by the young black man, but from an old illness. The witnesses were discredited with the claim "they did not deserve credit in court" since they were all family and friends of the young man. The judge convicted the young black man to a fine of 10,000 euros and the charge was then filed by the Public Prosecutor's Office. Although demoralised, the young man appealed the ruling with the support of a pro bono lawyer and, in a new court ruling [*Tribunal da Relação*], he was acquitted of all charges and the sentence was annulled on 28 November 2018. The police officer, despite having assaulted the young man, falsified documents, wrongly accused the young man, and lied in court, was not sanctioned.

Source: Interview with legal representative.

Case Study 2: Transport Police's inappropriate handling of racist incident (United Kingdom)

Zara reported to iStreetWatch a racist incident in London that left her feeling angry and hurt. She describes what happened as follows: "I was on the tube, and these two ladies were sitting next to me, and I caught her eye, the woman on my right, and I smiled at her, and then she looked at me and said 'You're not English are you?' and I was really taken aback and shocked. I was just trying to be friendly, and it was like a moment of identity crisis, which I have a lot, being dual-heritage, because my father is English and my mother is Indian, so a lot of the time I don't feel English and I feel a bit different. But at the same time I'm a Londoner, I was born here, and I didn't want her to

just assume. How dare she just assume what I am or what I'm not? So I just looked back at her and said, "Actually, yes I am." Zara says she would have appreciated if someone had spoken up or offered support in the moment, but her fellow passengers remained silent. Later, she made a report to the British Transport Police, the first time she had ever reported such an incident, but she describes the process as traumatic, distressing and confusing. At one point Zara was asked "What colour are you?" by an officer over the phone, an insensitive question that Zara found difficult to answer. She says she would be unlikely to report to the police again, unless the incident was more serious in nature.

Source: The case was reported to iStreetwatch, a third party reporting site run by Migrants Rights Network.

Case Study 3: Under-qualification of racist attack (Denmark)

In a 2017 report, the Danish Institute for Human Rights describes an incident from summer 2014, when a young man named Ibrahim was attacked by four young white men while riding his bike in the street.

As the perpetrators ran away, he calls the police. The police arrive, but Ibrahim does not feel they are taking him seriously. Their first reaction is: "Is it you who has been assaulted?" "[...] When I am questioned, I am asked five or six times whether or not something happened prior to the incident." The police appear sceptical even though there are six witnesses who can also attest to what happened.

Ibrahim is told by the police that there is no camera where the assault took place and that therefore, the police cannot take any further action in the case. One month after the incident, he is called in by the police to see if he can recognise the perpetrators in the police photo database of perpetrators. He is not able to identify them in the database. A month later, the police contact him and inform him that they have closed the case without finding the perpetrators, and thus stopped further prosecution.

This example illustrates that the police is looking for any other motive than hate, when they repeatedly ask him whether he had contact with the perpetrators prior to the incident. The fact that he is simply attacked because of the colour of his skin is 'too simple'. The police is searching for some form of prior conflict (due to money, a girl, or something else), in order to prove that this is not a hate crime. Even though the victim and the witnesses also explain that the

perpetrators called him “nigger”, it is still not credible that these youngsters should attack him only because of his ethnic origin. Since the perpetrators were not found, he gets an overall impression that his fear is not taken seriously, and that he may be attacked again on hate grounds.

Source: “Hate crimes in Denmark, Nine personal stories”, p. 16, available at: https://menneskeret.dk/sites/menneskeret.dk/files/media/dokumenter/udgivelser/ligebehandling_2017/hadforbrydelser_web.pdf.

Case Study 4: Racism and homophobia permeating the criminal justice system (Netherlands)

Petra, a bicultural young woman wanted to enter a club in Utrecht with a friend in June 2018, and was denied entrance by two bouncers, who made racist and homophobic insults. When objecting to the insults, she and her friend were physically assaulted, her friend being hit in the head so hard it resulted in a concussion. Petra stated she immediately reached out to two nearby officers, one of whom responded saying “I don’t know what to do”. After asking another officer for help, the incident was recorded in the *Basisvoorziening Handhaving* (BVH) as a declaration, and wrongly documented as ‘bar fight’ and not as ‘discrimination’. In the end, Petra decided to not formally file a report as she was doubtful of the effectiveness of doing this. She states: “It [The Dutch justice system] is not made for us. We, as LGBTQI people of colour, are not important. Why would I go through all that effort if they don’t even believe me?” Prior experiences of Petra reporting incidents to the police contributed to her decision. In the past she had reported a total of six other cases to the police, of which only one was prosecuted and brought to court. During the trial of the case, assault with a discriminatory motivation, the judge questioned her experience, stating “I don’t think you’re lying, but I don’t believe you”.

Source: Interview with the victim.

Case Study 5: The police fail to protect and to investigate vicious attack (Portugal)

In the early hours of 24 June 2018, Nicol Quinayas, 21, was waiting for bus 800 in Bolhão (Porto) and was violently assaulted at the bus stop by an employee of the security company “2045” who was carrying out inspection duties for the *Sociedade de Transportes Coletivos do Porto* [public transport company]. Nicol is from Colombia and arrived in Portugal when she was a child. She was prevented from getting on the bus and violently beaten by this man who punched and kicked her while many people watched. During the attack the security man made racist insults such as: “You will not enter here you negro woman shit,

you wanna catch the bus, you go back to your country” and “these negroes will never change”.

Nicol criticised the bus driver’s passivity and apathy and accused the police of not having protected her when called to take action, as the police only listened to the attacker and did not want to listen to any other witnesses including the victim herself, despite legal requirements. On the morning after, on 25 June, Nicol went to the police station to make a complaint and was told that there was no record of the incident and that the security man had not been identified by the police the day before.

Nicol was disfigured and had to undergo hospital treatment. The video of the aggression was placed on social networks, as well as a photograph of her face, forcing the media and the Portuguese state to pay attention. The security man alleged that Nicol offered resistance. The man was temporarily suspended from work and the case is still being investigated by IGAI – General Inspection of Internal Administration.

Source: <https://newsmavens.com/news/pattern-recognition/1689/go-catch-a-bus-back-to-your-country-racist-assault-by-portuguese-security-guard>.

Case Study 6: White washing a racist attack (France)

According to a team member of the anti-racist NGO *SOS Racisme* in France, a very serious incident occurred in July 2018 in the city of Beaune near Dijon. A group of youngsters were the victims of a racist attack as they were talking in a park. Two men brutally attacked them by driving their car into the group while screaming “dirty arabs” with the promise they would return with a gun, which they did. The website and news network France Info confirmed the event stating that several of the group members were in hospital, two of which in intensive care, according to the NGO team member. The racial motivation of the crime was also confirmed by the deputy prosecutor of Dijon, Thierry Bas, who stated the perpetrators were “indicted and imprisoned for : attempted murder, violence aggravated by (...) notably including the circumstances which included that the facts were committed because of the membership of a so-called race, religion or ethnicity, real or supposed, racial public insults, death threats of a racial nature”. The source indicates that the police’s public statement and reaction was to declare that the reason for the aggression was simply a “settling of scores” between “the youth of the neighbourhood” and the identity of the victims (minority, black) was “a coincidence”.

Source: L’Express https://www.lexpress.fr/actualite/societe/fait-divers/beau-ne-racisme-vengeance-ou-conflit-communautaire_2030657.html.

Case Study 7: Police fail victim of racist and homophobic attack (Netherlands)

In February 2018 Omair was harassed both on grounds of his origin and sexual orientation while on a bus in Utrecht, to the point that the bus driver himself stopped the bus and called the police. The police officer, arriving late, initially wanted to send Omair to a nearby police station despite the perpetrators still being present, and did not want to document witnesses' statements or check the bus camera images, about which Omair himself had to notify the officer. Four months later, Omair received a generic statement by the police that the case could not be pursued due to lack of evidence. Not only were the witness statements not considered, the camera images were never viewed.

Omair specifically requested a meeting at his local police office to discuss the statement with a member of the Pink in Blue Network, a network of LGBTQI police officers. During the meeting, the officer acknowledged the case should have been investigated as a hate crime and that the incident was recorded improperly in the *Basisvoorziening Handhaving*, the Dutch police incident recording system. She notified Omair of the possibility to reopen the case and record the incident properly by filing a complaint, but Omair refrained from doing so: "I don't have the energy for that. I have to be on watch 24/7 just because of who I am, it drains me. I'm just not important". Furthermore, Omair states: "When I used the word racist (in regard to the first officer's attitude) she told me the conversation was over. They don't care about me as citizen. I was discriminated three times".

Source: Interview with the victim.

Case Study 8: No accountability for racist abuse (Czech Republic)

In autumn 2015, in a city of the Zlín region, an off-duty police officer, drunk, assaulted a Roma family standing in the street in front of a block of flats. First, he shouted racist insults such as "Negroes! I hate Negroes!" at the mother with a stroller and her older son. Then he attempted to physically assault the older son unsuccessfully due to his intoxication and the active defence of victim. After that, the friends and partner of perpetrator tried to stop him. He broke out of their grip, and as he meant to continue his attack, he fell on the mother and stroller, throwing both to the ground. As a result, the mother cracked her acetabulum.

The police arrived at the crime scene and held the perpetrator. Since he was a police officer, the case was referred to the General Inspection of Security Forces. The Inspection concluded that, instead of a criminal offence, the perpetrator committed a misdemeanour. The victims' lawyer submitted a request for a review to the public prosecutor, however the decision was confirmed. The case was then referred to the City Office. In 2016, the City Office decided that the perpetrator was guilty and imposed a fine on him. The perpetrator appealed against the decision to the Regional Office. The Regional Office ordered the City Office to take the complaint into account except for the claim for material and physical compensation. Nowhere in the process was the bias motive proven, although the Inspection asked the perpetrator and witnesses about it. Nobody seemed to remember. The perpetrator is thus still on duty as a police officer.

Source: Articles published on Romea.cz, such as: <http://www.romea.cz/en/news/czech/romani-musician-ida-kelarova-on-verdict-against-gunman-we-re-disappointed-the-czech-court-ignored-the-racist-motivation>.

Case Study 9: Police do not investigate racist element of crime (Bulgaria)

On 29 September 2018 Mr Leon Kofi*, a person of colour and a British national living in Sofia, was attacked by a large group of football hooligans after a football match. The incident happened in front of the Ministry of Interior in the centre of the city and was recorded by surveillance cameras, including of the police. The perpetrators imitated the sounds of a monkey while physically assaulting Mr Kofi, who was the only black person in the group of people he was with, and also the only one attacked. He lost consciousness during the physical assault. One hospital (University Hospital 'Tsaritsa Yoanna' – ISUL) refused to admit him, stating that there was no need for an emergency admittance, despite the visible injuries (including missing front teeth) he had suffered. He was then admitted in the Pirogov hospital. The pre-trial proceeding is led under Article 131.12 – physical assault with 'hooligan, racist or xenophobic motivation'⁷³ but according to a lawyer practising in Sofia and working with the Bulgarian Helsinki Committee, the assault is not yet registered as a crime with a racial bias. It is not yet clear what the prosecutor will include in the indictment, however it is the element of hooliganism (and not the

73 Criminal Code of Bulgaria, primarily provisions pertaining to bias-motivated crime, "hate speech" and discrimination. See more information here: <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=2ahUKEwjFs-aPzKrijAhXFL1AKHdzBCOYQFjABegQIARAC&url=https%3A%2F%2Fwww.legislationline.org%2Fdocuments%2Fid%2F22041&usq=AOvVaw1P8i8W7xSpM4gGSCum0Rpu>.

racist motivation) which is currently being investigated by the police.

The Bulgarian Helsinki Committee has in the meantime taken on the case and will be representing Mr Kofi. The video recording of the evidence has still not been made available. According to Mr Kofi's statement in a TV show (Bgonair.bg, 2018), he saw a police car in the immediate vicinity of the incident shortly before he was attacked. The case is still very fresh and it is yet to become clear if police officers were direct witnesses of the incident and why they did not intervene earlier.

* Names and places have not been anonymised as the case is publicly known.

Source: Nikolov, I. 2018. Битият Леон Кофи с разказ пред Bulgaria ON AIR: Две болници го върнали, приятелите му избягали (Leon Kofi, who was beaten up, tells Bulgaria ON AIR: Two hospitals refused him, his friends ran away). Bgonair.bg. 24 October. Available at: <https://www.bgonair.bg/sutreshen-blok/2018-10-24/bitiyat-leon-kofi-s-razkaz-pred-bulgaria-on-air-dve-bolnitsi-go-varnali-priyatelite-mu-izbyagali>.

Case Study 10: Closure of the investigation of a racist attack against a school girl (Poland)

In February 2018 a young girl from Turkey (she was 14 years old at that time) was attacked in Warsaw, while she was coming back from school. The media reports that the perpetrator shouted "Poland only for Polish people" during the attack. The prosecutor, Łukasz Łapczyński, said these words indicated the bias and motivation.

At first, Mateusz Morawiecki, Polish Prime Minister, gave this case a priority status and wrote on Twitter: "There must be no racism in Poland. This attack, based on the skin colour of a girl, is an example of behaviour which must be condemned. We need to do all we can to make Poland a safe place for everyone." The minister of Internal Affairs, Mariusz Błaszczak, also appeared to be committed to this case. Edyta Wisowska, a spokeswoman for the Warsaw Police (police headquarters in Ochota district), confirmed that the police would treat this case as a priority.

Nonetheless, eight months later, the investigation was suspended. Łukasz Łapczyński, the spokesman of Warsaw prosecutor's office, stated: "We were forced to suspend the investigation because we still haven't received the opinion from the expert witness. It is important because we need to know the girl's exact injuries, how they were inflicted and when". Unofficially, some police officers admitted that there were many doubts about the victim's testimony. The prosecutor's spokesman also stated that

although they showed videos from the surrounding monitoring cameras, the victim was not able to identify the perpetrator and her description was too general to prepare a police sketch. Eventually, on 31 December 2018 the prosecutor's office decided to close the investigation since they were not able to identify the perpetrator.

Source: <http://wiadomosci.gazeta.pl/wiadomosci/7,114883,22862321,do-radczy-ni-kurskiego-po-rasistowski-ataku-na-dziecko-pyta-a.html>] and 14-letnia Turczynka napadnięta na Ochocie, 04.01.2018, published by TVN Warszawa, TVN24: <https://tvnwarszawa.tvn24.pl/informacje,news,14-letnia-turczynka-brnapadnieta-na-ochocie,249952.html>.

Case Study 11: Publicly sanctioned criminalisation and victimisation of Roma people (Austria)

On 14 February 2016 the tents of homeless Roma people were set on fire in Linz. The entire possessions of the families were burned and about 50 people, including children, were affected. Just two days later, another arson attack occurred targeting the same group of people, who had got new tents and settled in a different place. On 2 March 2016 a third arson attack took place. This time the exact position of the camp was made public online on www.Schau.auf.linz.at beforehand. The website serves as a complaint mechanism where citizens can bring attention to defective street lighting, garbage that has been disposed of illegally or similar things, and then get a prompt answer from the municipal administration. In the past, the page has often been used to incite hatred against or insult Roma people.

The perpetrators have not been identified. The victims were only supported by civil society organisations. Although the city of Linz condemned the incidents, it at the same time disparaged the families as organised beggars and no safe accommodation was provided. Whether the investigations included a potential bias motivation is unclear. Interestingly, the city of Linz initially refused to delete the above-mentioned post on their website by stating that it did not breach their terms of use. The post was deleted only after Romano Centro's threat to file a report.

Source: <https://www.bonvalot.net/brandanschlaege-auf-roma-lager-in-oberoesterreich-567/>; https://diepresse.com/home/panorama/oesterreich/4938791/Linz_Wieder-Brandanschlag-auf-RomaLager.

Case Study 12: Racist hate crime at highway rest area (Croatia)

In December 2015 a Cameroonian man was attacked (beaten and stabbed) in a restaurant located on a highway rest area because of his race. The perpetrators, before and during the attack, made many derogatory and racist comments. The charges were first filed with a misdemeanour court (and not qualified as a hate crime), then later amended into a criminal case. The case was in court for two years, before the sentence was confirmed. The perpetrators received a 10-month probation sentence without any jail time. Although the victim believes that justice was served as they were found guilty, the lenient sentence says a lot about the lack of severe punishment of hate crimes, even when the elements of the attack are particularly serious.

Source: <https://www.jutarnji.hr/vijesti/crna-kronika/divljacki-napad-kod-macole-rasisti-napali-kamerunca-koji-radi-kod-general-a-gotovine-zbog-ozljeda-zavrsio-u-bolnici/194827/>.

Case Study 13: Lenient sentence for murderer of Nigerian refugee (Italy)

In July 2016 a couple of Nigerian origin were walking in the city centre of Fermo. Two men were waiting for the bus nearby and one of them yelled to the woman: "African monkey" and other insults. Her husband reacted. A fight started. He was beaten to death. The main perpetrator, affiliated with a far-right group, was arrested on charges of manslaughter, aggravated by racist motives, but after that, for months, the lawyer of the main author of the crime, together with a part of the local and national media, pleaded legitimate defence. In January 2017 the man agreed to a reduced sentence of four years, house arrest, before the judge for the preliminary investigation.

Source: https://www.repubblica.it/cronaca/2017/05/12/news/migrante_ucciso_amedeo_mancini_torna_in_liberta_-165279520/.

Case Study 14: Police mistreatment of Roma people (Slovakia)

In 2013 a police raid took place in the town of Moldava nad Bodvou. More than 60 police officers with dogs physically attacked 30 people, including women and children. The police entered the houses owned by Roma people without permission and police officers also caused material damage. At the instigation of a worker of the non-governmental organisation ETP Slovakia, who on the second day documented the situation after the police raid, several comments and complaints from various sources were

submitted to the police inspection for investigation. The police inspection found that the police had acted correctly and in accordance with the law. The inspection was based on investigations only from investigating information from police officers. No other witness was included in the inspection. According to the Interior Ministry, there was no reason to hear from them. One victim filed a criminal complaint, but this was dismissed as unfounded. The Ombudsman also found and noted violations of several fundamental rights of the victims from Moldava nad Bodvou. In 2014-2015 an investigation was ongoing, but criminal prosecution was suspended in 2016, and all complaints of victims were rejected. In 2017 charges of perjury (six) were brought against the victims of the police intervention, thereby making the victims offenders. To date, legal proceedings are underway and the final judgment has not yet been ruled. This case illustrates why people lose confidence in the police when reporting hate crimes with a racial bias.

Source: "Policajná razia v Moldave - 5 rokov po", 2018, available at: www.policajna.razia.sk.

Other selected case studies

Case Study: Inaccessibility of legal protection for undocumented migrants (Cyprus)

An undocumented migrant (failed asylum seeker) was a victim of hate crime in March 2017 in Larnaca. He was hurt and needed medical attention but did not go to the public hospital, nor did he report it to the police, for fear of deportation. This person has suffered serious Post-Traumatic Stress Disorder following the attack.

Source: Provided by the researcher – individuals and organisations wish to remain unidentifiable.

Case Study: Public harassment (Estonia)

A representative of a refugee organisation described a case that could potentially be qualified as a hate crime that was not reported to the police. In 2018 a refugee woman was spat in the face in central Tallinn while waiting for a bus. She did not respond in any way, just moved a couple of steps aside, but the perpetrator came after her and spat at her again. This could qualify as a breach of public order pursuant to § 262 of the Estonian Penal Code. The motivation could have been her skin colour or her religion (she was wearing a hijab). She did not report the incident to the police, as she did not believe anything could be achieved by it and she did not wish to bring any attention on herself.

Source: Interview with the Support Services Coordinator of the Estonian Refugee Council on 13 November 2018.

Case Study: Police criminalises victim of racist abuse and victimises perpetrator (Croatia)

A black man was travelling home on the tram in September 2018 in Zagreb, when a Croatian man in his thirties verbally abused him with racist insults and threats. When they both exited the tram at the next stop, police from nearby arrived and only asked for identification from the black man who was the victim of the verbal attack. Only because witnesses in the tram came forward, the police took all the concerned parties to the police station, where upon questioning the black man was not presented with his rights and options, and instead advised not to take the matter further as they explained that the Croatian man was “under stress and was just letting off steam”.

Source: Interview with the victim.

Case Study: Racist harassment by bus driver (Greece)

In May 2017 a woman entered a bus and without any prior incident, the bus driver started shouting racist insults at her and demanded that she got off the bus. The incident stopped because another citizen defended her. She did not report the incident to the police because she considers it a minor incident that the authorities will not pay any attention to.

Source: Recording of the Racist Violence Recording Network.

Case Study: Lack of trust in police service (Ireland)

Black-Irish and Eastern European staff experienced harassment and threats from a person known to them in Cork in March 2018, who made racist comments during his threats. They did not report to police: “I didn’t want to call the police. I don’t trust their service to be honest - due to experience of people close to me of ethnic profiling by Garda.”

Source: Report received by iReport.ie on 5 March 2018.

Case Study: Institutional neglect of victims of racist attacks (Lithuania)

An incident against an exchange student of Latin American background occurred in June 2018 next to the Vilnius university dormitory: the person was pepper-sprayed by two young persons covered in hoods shouting: “This is not your country fucking shit”. The person reported the incident to the Vilnius university dormitory administrator and also to the International Students Coordinator. Later accompanied by another student of Vilnius University, he went to the police station to report a hate crime. The

police officer in the police station sent them to another police station. The victim was disappointed with the response and did not go to another police station. Vilnius university sent a letter to all the students and staff about the racist incident, encouraging them to inform the staff about such incidents if experienced or witnessed by anyone. No other assistance was offered either by the police, or the university. The victim did not believe it was efficient to pursue the case.

The victim also reported the case to the dormitory administrator and suggested preventive measures for future attacks, like more cameras and lights. The dormitory coordinator explained this was not the first time that foreign students came to complain.

The victim stressed that in the days after the incident, he talked with his friends and realised that he “was not the first guy attacked in this way and heard the story of an Uzbek and an Indian guy who were attacked in similar conditions”. There are some known cases when people report and experience a very negative police reaction. When such cases become public, that negative police reaction feeds into the issue of under-reporting, because there is an impression among the public that such incidents are not treated seriously.

Source: Case reported via email by victim in June 2018.

Case Study: Unresolved racial harassment (Spain)

On 8 October 2018 in Granada, a woman, who also has Bolivian nationality, reported a hate assault to the police after suffering a physical aggression in the street that required health care. The assault was the culmination of two years of harassment, threats and verbal attacks which were carried out due to her origin, and which led her to abandon two jobs for fear of being on the street with the aggressor who was consequently arrested.

Source: This case was collected by the Citizens Ombudsman, an autonomous local body that supports citizens in the city of Granada, and a regional NGO.

Case Study: Institutional racism impedes Roma people’s access to justice (Czech Republic)

The case of a Romani singer and choirmaster points to difficulties that racist crime victims may experience when attempting to file a criminal complaint. In August 2016 she and other participants of a music camp for disadvantaged Romani children in Northern Bohemia were attacked by a man living next to the camp, and had to make

tremendous efforts to get the police to investigate the case. The police declined twice to come to the crime scene, even though the perpetrator was still nearby, and he had a firearm from which he shot several times in the air. When the choirmaster went to the police station, she was met with hostility and reluctance. Finally, she made the police officer accept the criminal complaint. Several weeks later the attack was qualified as a minor offence. Following work by the victim's lawyers, the qualification was changed to criminal offence and the case was brought to court. In October 2018 the court sentenced the perpetrator to imprisonment for six months, suspended for two years, and the forfeiture of the firearm. The racist motive however was not proven. The case gained media and public attention, which might explain why the police eventually started to take it seriously.

Source: Articles published on Romea.cz, such as: <http://www.romea.cz/en/news/czech/romani-musician-ida-kelarova-on-verdict-against-gunman-we-re-disappointed-the-czech-court-ignored-the-racist-motivation>.

Case Study: Police ignores racist element in hate crime (Finland)

On 23 February 2018 three Finnish youths brutally attacked (stabbed) an immigrant non-white man in Vantaa. The police, after due investigation, determined that the attack was not a hate crime but rather an attempted murder. This is on grounds that the three youths were under the influence of alcohol and drugs. The police officer also claimed that the three Finnish youths were not racist so the crime could not be a hate crime, although the victim repeatedly pointed out that he believes the attack was a racially motivated hate crime. It is impossible to determine if the investigating officers at any point of their investigation ever marked the crime as a hate crime.

Source: Interviews with Enrique Tessieri and online sources such as Migrant Tales: <http://www.migranttales.net/to-finland-from-a-pakistani-family-a-second-letter-about-hate-crime/> and Helsinki Times: <http://www.helsinkitimes.fi/finland/finland-news/domestic/15357-pakistani-immigrant-stabbed-in-vantaa-finland.html>.

Case Study: Under-qualification of racist element in murder case (Czech Republic)

In 2017 in the Ústecký region, a Romani man was shot dead while driving his van through a housing estate with a significant number of Roma inhabitants. The shooting was preceded by a quarrel of the victim with his uncle. As the uncle threatened him, the victim wanted to hide and leave with his van. The perpetrator ran out of the doorway with his legally held, loaded firearm, and fired the entire gun magazine on the van. A witness – the mother of the victim – heard the perpetrator saying, shortly before the shooting: “Shut up your black mouth, you Gipsy fuck!”

During the criminal proceedings, the bias motive was discussed but was never confirmed. The testimony of the witness was seen as insufficient proof. The judge said that it was unclear if it really was the accused who shouted it. The attorney of the victim's family also did not want to emphasise the bias motive, as she assumed that this might have jeopardised the whole criminal proceedings. On the one hand, there was a lack of evidence. On the other hand, the emphasis put on the bias motivation might have turned against her client, as the situation at the local level was quite tense. There was already a strong distrust between the Roma and non-Roma inhabitants of this neighbourhood.

Source: In IUSTITIA's Report on Bias Violence in the Czech Republic in 2017, available at: <https://www.in-ius.cz/dwn/zpravy-o-nzn/rbv2017-eng-web.pdf>.

RACIST CRIME & INSTITUTIONAL RACISM IN EUROPE

ENAR Shadow Report 2014-2018

ENAR's Shadow Reports provide a unique monitoring tool on racism and related discrimination in Europe. They provide the vital perspective of those who are or work directly with those affected by racism.

The 2014-2018 Shadow Report, covering 24 EU Member States, focuses on racist crime and institutional racism in Europe. It provides data on hate crimes with a racial bias between 2014 and 2018, and documents institutional practice during the recording, investigation and prosecution of hate crimes with a racial bias.

The report reveals how subtle forms of racism persistently appear in the criminal justice system from the moment a victim reports a racially motivated crime to the police, through to investigation and prosecution. This leads to a 'justice gap': a significant number of hate crime cases end up being dropped as a hate crime.

The European Network Against Racism (ENAR) is the only pan-European network combining racial equality advocacy with building a strong network of anti-racist organisations across Europe. We ensure that laws and policies address racism and reflect the experiences of racialised people. We provide a unique space for organisations to connect and exchange strategies on how to combat racism and support our communities.



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