

Conclusions and Recommendations

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Previous research has highlighted that LGBTI persons across the European Union continue to face prejudice, discrimination and violence because of their sexual orientation, gender identity or sex characteristics. Existing publications also show that there are numerous shortcomings in how countries respond to hate crimes, including through criminal law and policy solutions.

315

While the body of knowledge on how states respond to hate crime has grown recently, this research is the first study focused on the access to justice, for victims of anti-LGBTI hate crime, across 10 EU jurisdictions. It contains robust legal analyses as well as capturing the views of professionals on issues such as reporting and recording, rights of victims and provision of victim support. In some member states, the study has found, *inter alia*:

- Gaps in the legal frameworks, including criminal laws and victims' rights laws.
- Deficiencies in training professionals on LGBTI issues and hate crime issues.
- Difficulties in understanding and working with the concept of hate crime.
- Downplaying, and in some cases, denial of the harms of anti-LGBTI hate crimes and the vulnerability of victims.
- Insufficient efforts to encourage reporting.
- The inability to record hate crime cases and a lack of recording procedures.
- Lack of adequate, accessible and inclusive networks of victim support services.

The professionals who were interviewed, as well as country researchers who analyzed the data, made numerous recommendations on how to improve the response to anti-LGBTI hate crimes and facilitate access to justice for victims. While some recommendations are country-specific, many are relevant to all countries in the region. Key recommendations include:

Legal and Policy Frameworks

316

- Enable an effective response to anti-LGBTI hate crimes by:
 - ensuring that all crimes motivated by bias based on the victim's real or perceived sexual orientation, gender identity, gender expression or sex characteristics attract higher penalties than comparable, otherwise motivated crimes;
 - ensuring that investigations and prosecutions of offenses involving anti-LGBTI bias are not dependent on reports or accusations made by victims, who are often particularly vulnerable and reluctant to initiate legal proceedings;
 - developing and implementing policies, strategies and action plans to tackle anti-LGBTI hate crimes; and
 - reforming measures aimed at re-socialization of offenders, including through the practice of restorative justice.
- Evaluate the legal and policy framework on victims' rights with the view of assessing whether it responds to the support and protection needs of victims who experienced hate crime, or victims who may be vulnerable because of their sexual orientation, gender identity, gender expression or sex characteristics.

Professionals

- Raise awareness and build capacity of professionals by ensuring appropriate, systematic and sustainable training on LGBTI issues and on anti-LGBTI hate crimes for law enforcement officers, prosecutors, members of the judiciary, as well as social services and providers of victim support services.
- Ensure that all agencies and institutions responsible for reporting, recording, investigating, prosecuting and sentencing anti-LGBTI hate crimes, as well as supporting victims, share an

understanding of hate crime, and that any working definitions are inclusive of sexual orientation, gender identity, gender expression and sex characteristics.

- Create opportunities for professionals from different sectors to build connections with the LGBTI community and exchange knowledge and good practices in reporting, recording, investigating, prosecuting and sentencing anti-LGBTI hate crimes, as well as supporting victims.
- Ensure that law enforcement officers and prosecutors have up-to-date guidelines on investigating hate crimes and hate.

317

Encouraging Reporting

- Facilitate reporting by setting up and promoting alternative and third-party mechanisms to report anti-LGBTI hate crimes and hate incidents, as well as ensuring a prompt and adequate response to reports.
- Organize public campaigns targeting members of the LGBTI community aimed at raising awareness of the legal framework and rights of victims, providing guidelines on how to react to attacks, encouraging victims to report and informing them about available support services.
- Build trust between LGBTI communities and law enforcement authorities by setting up police outreach programs and promoting diversity in the police force.
- Organize public campaigns targeting the general public with a view to improving respect for LGBTI persons, raise awareness of anti-LGBTI hate crimes and promote taking a stand against hate.
- Guarantee that anti-LGBTI hate crime victims have access to special protection measures guaranteed for vulnerable victims, such as always being interviewed by the same person.

Monitoring and Recording

- Improve access to knowledge on the scale and nature of hate crimes by ensuring that all relevant institutions have the capacity to identify and record all hate crimes and produce publicly-available statistics where data can be disaggregated by bias motivation, type of crime and region.
- Carry out regular surveys aimed at capturing the level of under-reporting of anti-LGBTI hate crimes and the level of trust in the criminal justice system.

318

Victim Support

- Enable access to justice for all victims of anti-LGBTI hate crimes, regardless of whether or not the crime was officially reported, by setting up, funding and promoting a reliable network of dedicated victim support services, including legal and psychological help and emergency accommodation, and ensuring that generalist support services are accessible and inclusive for LGBTI persons.

For all of the above to be possible, policy makers should provide leadership for law enforcement and criminal justice agencies, and other institutions by announcing the policy of “zero tolerance” for anti-LGBTI hate crime offenders.

The European Union plays a major role in improving access to justice for victims of anti-LGBTI hate crimes. While some steps have already been taken, there is still a lot the Union can and should do. First of all, the European Commission should assess to what extent the transposition of the Victims’ Rights Directive in each member state guarantees the rights and responds to the needs of victims who experienced hate crime or are vulnerable because of their protected characteristic(s). Following the assessment, the Commission should take firm action against those member states which continue to fail anti-LGBTI hate crime victims. Second, the Commission should continue to inspire and support representatives of member states within the framework of the EU High Level Group on combating racism,

xenophobia and other forms of intolerance. At the same time, the Commission should increase the support for civil society organizations supporting victims and advocating for improved responses to anti-LGBTI hate crime, particularly in countries where governments do not provide such support.

