



Regional project “Strengthening access to justice through non-judiciary redress mechanisms for victims of discrimination, hate crime and hate speech in Eastern Partnership countries”

More than numbers: the importance of data, research and evidence for combating discrimination, hate speech and hate crimes in the Eastern Partnership countries, a regional review

I. Introduction

Incidents of hate speech, discrimination and hate crimes are chronically under-recorded and under-reported across the Council of Europe region. As a result, policy and decision makers do not have the necessary information and awareness with which to make crucial resourcing decisions that can increase protection, support and justice for victims. States have committed to report information and statistics on the prevalence, impact and responses to these harms to international bodies such as the European Commission Against Racism and Intolerance (ECRI), the UN Committee on the Elimination of Racial Discrimination (CERD) and the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

This background information:

- outlines the key concepts of hate crime, discrimination and hate speech, along with relevant international standards on recording and data collection
- gives a comparative overview of progress across the Eastern Partnership in recording and collating disaggregated data in these three areas
- highlights examples of regional practice
- outlines key challenges and identifies possible ways forward, with a focus on the role of equality bodies and law enforcement agencies.

This was developed in the framework of the project “Strengthening access to justice through non-judicial redress mechanisms for victims of discrimination, hate crime and hate speech in Eastern Partnership countries” and is part of the [Partnership for Good Governance Programme](#), funded by the EU and the Council of Europe and implemented by the Council of Europe.

II. Key definitions

Hate crime, hate speech and discrimination are frequently defined and legislated against in different ways at the national level across the Council of Europe member states. This leads to great diversity in how these forms of harm are understood by national authorities, affected communities and support services and therefore how the problem is addressed. The project ‘Strengthening access to justice for victims of discrimination, hate speech and hate crimes in the Eastern Partnership’ drew on international standards to assist national partners to develop practical monitoring definitions that provide for consistent and comparable recording and data collection, while allowing for institutional, social and legal diversity.

What is hate crime?

Hate crimes are criminal offences committed with a bias motive.¹ They can include ‘low level’ offences such as property damage, threats and minor assaults as well as rarer and very serious offences, including sexual assaults and murder. The bias motives that drive hate crimes are preconceived, negative opinions, or intolerance towards a particular group that shares a common characteristic such as ‘race’, ethnicity, sexual orientation and disability and other fundamental characteristics. Hate crimes are a very serious form of discrimination, which cause deep harm to victims, communities and, if unchecked, can escalate in severity and lead to broader social unrest.

¹ OSCE Ministerial Council Decision 9/09 on Combating Hate Crimes. This definition is also accepted by the European Commission against Racism and Intolerance (ECRI).

The European Court of Human Rights (ECtHR) has consistently held that Article 14 imposes a positive duty on state authorities to unmask the bias motive of a crime.² To discharge this duty, police need to be equipped with the skills, recording system and policy guidelines to capture, record and act on this information at the earliest stage. [ECRI's General Policy Recommendation 11](#) recommends that law enforcement records racist incidents, which are defined as “any incident which is perceived to be racist by the victim or any other person”. Other recommendations, including GPR 1 and 9 recommend that states publish disaggregated information about the number of incidents that are reported, investigated, prosecuted and sentenced.³ The ECtHR has also held that the police and other authorities should know or ought to know that minority communities are at risk of targeted violence where there is reliable evidence of previous incidents and negative public attitudes from NGO monitoring efforts and other sources.⁴ [The European Union Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law](#) requires that national law treats racist motivation as an aggravating factor of other already established offences.

What is discrimination?

Discrimination is the differential treatment, with no objective or reasonable justification on the grounds of sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. The case law relating to this right has shown that the term ‘other status’ includes sexual orientation, illegitimacy, marital status, trade union membership, transgender status and imprisonment. It can also be used to challenge discrimination on the basis of age or disability.⁵ Discriminatory treatment can take place in the workplace, at school, at the doctors’ and in shops, restaurants and other public places. As such, it can be pervasive, and greatly undermine people’s quality of life and sense of belonging.

EU law guarantees the right to non-discrimination through the Charter of Fundamental Rights and includes [a number of Directives](#), including the Race Equality Directive with protections in the workplace and beyond, and specific directives which cover discrimination in the workplace on the grounds of gender, religion, belief, disability and sexual orientation, and discrimination in access to goods and services on the grounds of gender. [ECRI's GPR 2](#) guides equality bodies to collect and collate disaggregated data on discrimination complaints and their outcomes, as well as information from ‘surveys, studies and data collection conducted by the body itself and analysis of equality surveys, studies and data from various sources. Collecting and systematising case law on equality, discrimination and intolerance also provides added value’.

² ECtHR, Balazs v. Hungary, No. 15529/12, 14 March 2016.

³ See for example, OSCE Ministerial Council Decision 9/09 on Combating Hate Crimes

⁴ See for example, Identoba and others v. Georgia, no 73235/12, 12 May 2015.

⁵ Adapted from Adapted from ECRI GPR No. 7 to cover all forms of discrimination. See also <https://www.equalityhumanrights.com/en/human-rights-act/article-14-protection-discrimination>

What is hate speech?

[ECRI's General Policy Recommendation 15](#) explains that hate speech, 'entails the use of one or more particular forms of expression –namely, the advocacy, promotion or incitement of the denigration, hatred or vilification of a person or group of persons, as well any harassment, insult, negative stereotyping, stigmatization or threat of such person or persons and any justification of all these forms of expression –that is based on a non-exhaustive list of personal characteristics or status that includes “race”, colour, language, religion or belief, nationality or national or ethnic origin, as well as descent, age, disability, sex, gender, gender identity and sexual orientation.'

ECRI's GPR 15 guides states to collect and collate meaningful, disaggregated statistics that are 'not limited to the criminal justice sector' and, 'the relevant public authorities should have an explicit responsibility to report in a statistical format all complaints of instances in which the use of hate speech contrary to administrative, civil or criminal law is alleged to have occurred, as well as the outcome of any action taken with respect to such complaints.' GPR 15 goes on to recommend that states 'disseminate, on a regular basis, data about the incidence of hate speech, as well as its forms and the conditions conducive to its use, both to the relevant public authorities and to the public; and, draw on the results of the monitoring and the research to develop strategies to tackle the use of hate speech'. [The European Union Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law](#) requires EU Member States to punish specific forms of public incitement to violence or hatred directed against a person or persons belonging to a group defined by reference to race, colour, religion, descent or national or ethnic origin, and the commission of such acts by the public dissemination or distribution of tracts, pictures or other material.

III. Recording and data collection

Recording is the process of receiving a report - or identifying a case – of hate crime, hate speech and/or discrimination, and fully capturing the incident, including evidence and information about the discriminatory grounds. This activity is usually conducted by an individual in direct contact with the affected person, for example a police officer, a support service, or a case worker from an equality body using specific forms and procedures. The purpose is to record relevant information for two main reasons. First, for case handling purposes so that live, current, clear and accurate information about evidence of bias motives, discriminatory behaviour, risk and victims' needs is captured and used to build investigations and prosecutions, and in the case of equality bodies, as the evidential basis on which to take a decision. Second, for statistical, performance management purposes, so that patterns and trends can be identified, and then inform evidence-based decision making.

Data collection is the process of capturing and extracting information from recorded data, using agreed definitions, categories and quality standards. Depending on the quality of the data, rules on data protection and resources - including political will - this data is published and disseminated.

Other important sources of information include regular or ad-hoc surveys on people's experiences of hate crime, hate speech and/or discrimination carried out by government

agencies, equality bodies, researchers, and NGOs. These can include victimisation surveys, public attitude and/or perception surveys, qualitative research into specific experiences and case data from support services. These efforts are necessary to meet international standards on recording and data collection, and on reporting to international bodies.

IV. Why is recording and disaggregation important? Six principles for hate crime, hate speech and discrimination recording and data collection systems

When considering this topic, it can be easy to get lost in technical details. It is therefore recommended that relevant and useful guiding principles are adopted by stakeholders. Any recording and data collection system should be victim focused, transparent, inclusive, comprehensive and in-line with international norms and standards.

Principle 1, a victim focus: as set out in figure below, hate crime, discrimination and hate speech recording and data collection systems should contribute to the following outcomes for victims and affected communities:

- a reduction in risk of occurrence and seriousness of revictimisation, or escalation in social tension;
- an increase in support;
- an increase in access to justice and the effective application of relevant laws;
- an increase in accurate and available data for decision makers and policy makers.⁶

Within this principle should be the commitment to avoid unnecessary bureaucratic burdens on operational staff such as police officers, equality body case workers, prosecutors and data analysts. As far as possible, recording and data collection systems should be integrated into existing systems.

Principle 2, a comprehensive approach: effective recording and data collection systems are one part of a comprehensive approach to addressing hate crimes, hate speech and discrimination. High quality practice guidelines, and an inclusive legal framework are also equally important pieces of the puzzle.

Principle 3, international alignment: hate crime, hate speech and discrimination recording and data collection, training, policy and law are supported by a relatively comprehensive international framework of norms and standards. National responses (law, policy, training, etc.) should be aligned with this framework as far as possible. Specifically, the concepts of hate crime, hate speech and discrimination should be clearly delineated, and data collected and reported separately. At the practical level, this ensures that the resulting data is more easily submitted to regular requests from intergovernmental organisations and that the correct application of the law is effectively operationalised in investigation and prosecution approaches. It also ensures that the legal and strategic framework is adjusted taking into consideration the data available.

Principle 4, transparency: the general public and affected communities are key stakeholders in efforts to understand and address hate crime, hate speech and discrimination. Where

⁶ Perry, J. (2019), 'Connecting on Hate Crime Data in Europe'

possible data on investigations, cases and court outcomes, as well as information about the steps that the authorities are taking to address the problem, including training and guidelines, are easily available and accessible.

Principle 5, understanding prevalence and context: Evidence suggests that only a small percentage of hate crimes and incidents of discrimination and hate speech are reported to and recorded by the authorities. Various actions can be taken to understand the ‘dark figure’ or the actual prevalence of hate crime and discrimination including organising national surveys and reviewing data collected by civil society organisations.

Principle 6, commitment to cooperation: the success of a joint approach is based on a commitment to cooperation across criminal justice agencies, government ministries and with relevant civil society organisations. Such cooperation is more likely to succeed if it is underpinned by cross-government protocols and frameworks with clearly set out roles and responsibilities. Concerning hate speech, ECRI GPR No 15 on combating hate speech recommends that states ‘support the monitoring of hate speech by civil society, equality bodies and national human rights institutions and promote cooperation in undertaking this task between them and public authorities’. The [EU Framework Decision](#) (see above) provides a strong impetus for effective cooperation by requiring national legislation to punish specific forms of hate crime and hate speech through the criminal law.

V. Comparative analysis of data collection practice in the region

This section reviews available information on:

- the main legal provisions relating to hate crime, hate speech and discrimination (main legal provisions include provisions that clearly fall within the definitions set out above)
- the institutions that record and/or collect data
- a summary of the type of data recorded and collected by the main institutions in terms of data recorded for case handling in real time and data collated for statistical purposes
- information about publication of data.

The tables below show that there are legislative and institutional gaps across the region in terms of recording and data collection on hate crime, hate speech and discrimination. While some disaggregated data is routinely collected by specific institutions, there is limited inter-institutional coordination. Data frequently remains unpublished and unavailable to the general public and affected communities. Examples of promising regional practice are presented later in this document. It is also important to note that NGOs and civil society organisations provide much needed data on minority communities’ experiences. Further detail is provided in specific national reports.

Armenia

For more information, see [here full report on data collection in Armenia](#)

	Hate Crime	Hate speech	Discrimination
Law	The core hate crime laws consist of a combination of a general sentencing provision (Article 63) that aggravates the sentence of any offence in the criminal code and several specific sentencing provisions that apply to murder (A 104), various forms of assault (112, 113) and damage to property (185, 265). These provisions encompass 'racial' and 'religious' motives only.	The core hate speech laws consist of a specific offence of incitement to national racial or religious enmity (Article 226) and a subsection incitement to hatred offence on broader grounds including sex, colour, disability, age and other characteristics.	While there are constitutional provisions that prohibit discrimination, there is no distinct anti-discrimination law in Armenia.
Institutions that record/collect data	Police, the Police information Centre, the General Prosecutor's Office, the Judicial Department, and the Ombudsman's Office.	Police, the Police information Centre, the General Prosecutor's Office, the Judicial Department, and the Ombudsman's Office.	There is currently no process to systematically record information relating to discrimination.
Summary of data recorded and collected	<p>Recorded for case handling: Crimes are recorded by police and prosecutors according to main criminal code provisions only. Narrative sections in police reports allow for information about bias indicators to be recorded.</p> <p>Collected and collated for statistics: Data is collated and processed by all agencies according to main criminal codes only and are not disaggregated by subsection or by the general enhancement sentencing provision (i.e. by the three grounds of motive listed above). As a result, distinct, disaggregated hate crime data is not available.</p>	As a distinct criminal code provision, Article 226 offences can be distinctly recorded by police and captured by existing data collection and statistical processes.	N/A
Publication of official data	Official data is not published; however the Police Information Centre can make data available to a member of the public or institution on request. Information on cases can be published in annual reports of the Ombudsman.	The Judicial Department included one case of incitement to racial or religious enmity in its 2015 report.	N/A

Georgia

	Hate Crime	Hate speech	Discrimination
Law	<p>The Criminal Code of Georgia consists of a general sentencing provision [Article 53¹] that aggravates the sentence of any relevant offence. According to the mentioned Article protected characteristics are as follows: race, skin colour, language, sex, sexual orientation, gender, gender identity, age, religion, political or other views, disability, citizenship, national, ethnic or social affiliation, origin, property or birth status, place of residence or other signs of discrimination. In addition, bias as an aggravating circumstance is added to certain crimes such as: murder [A 109 (2) (d)], various forms of assault [117(1) and (5) (d), A118(3), A126(1)(2)(g), etc. However, compared to the general sentencing provision they only cover 5 characteristics: gender, race, religion, nationality, ethnicity. There are also number of provisions that envisage the bias in the substantive part of the provision (e.g. A.156) but the list of protected grounds are limited.</p>	<p>The main hate speech provision in Criminal Code relates to public incitement to acts of violence orally, in writing or using other means of expression in order to cause a discord between certain groups based on their racial, religious, national, provincial, ethnic, social, political, linguistic and/or characteristics, provided that this poses clear, direct and substantial risk of acts of violence.</p>	<p>The main discrimination provisions are a mix of criminal [article 142 and Article 142²] and non-criminal provisions [Law on the Elimination of all Forms of Discrimination]. The protected grounds are ‘race, colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics.’</p>
Institutions that collect data	<p>The Information-Analytical Department and Human Rights Protection and Investigation Quality Monitoring Department of the Ministry of Internal Affairs, Human Rights Protection Unit of General Prosecutor’s office of Georgia the Office of the Public Defender, the Statistical Office and the Supreme Court.</p>	<p>The Office of the Public Defender records and collects data on cases of incitement to discrimination.</p>	<p>The Information-Analytical Department and and Human Rights Protection and Investigation Quality Monitoring Department of the Ministry of Internal Affairs, , Human Rights Protection Unit of General Prosecutor’s office of Georgia , the Statistical Office, the Supreme Court and the Office of the Public Defender.</p>
Summary of data recorded and collected	<p>Recorded for case handling purposes: Although the Ministry of Internal Affairs was collecting some statistical information before, since September 2020 (see below), the process of collecting data on hate crimes has been substantially improved.</p> <p>The Human Rights Protection and Investigation Quality Monitoring Department records data through internal and external monitoring tools on criminal offences including detailed bias indicators, according to criminal code provisions. Rules specify strict timeframes for sharing information about hate crime investigations with the Human Rights Protection and Monitoring Department of the Ministry of Interior and, where appropriate, passed to the Human Rights Unit of the Prosecutor’s</p>	N/A	<p>Criminal data is outlined in column one.</p> <p>The Office of the Public Defender records and collates data on its own activities including the number of cases it has examined and the outcome, disaggregated according to the protected grounds listed above.</p>

	<p>Office, to ensure that specialist assistance is offered to identify and address specific hate crime issues in the investigation and criminal justice process .</p> <p>The Office of the Public Defender records hate crime cases referred to them.</p> <p>Collected and collated for statistics: a Memorandum of Understanding on recording, data collection and publication was signed in September 2020. The Ministry of Internal Affairs will report on the number of investigations of crimes disaggregated by discriminatory grounds according to criminal code provisions. The number of investigations to be reported will be divided by the territorial distribution principle as well. The Prosecutor’s Office will report on the number of decisions to initiate/not to initiate decisions to prosecute and/or to terminate investigations and prosecutions and other actions, disaggregated by discriminatory grounds. The Supreme court will collect and report on the number of persons convicted, the types of punishment imposed, and the application of the aggravating sentencing provision disaggregated by intolerance motive. All data from all bodies will be disaggregated geographically, by territorial or regional divisions.</p>		
<p>Publication of data</p>	<p>Data is published by the General Prosecutor’s Office of Georgia. Statistics segregated by specific articles of the Criminal Code is published by the Information-Analytical Department of MIA monthly as well as annually. In addition, specialized statistics on hate crime can be found in reports of the Human Rights Protection and Investigation Quality Monitoring Department that is shared with the public several times a year.</p> <p>Data is also shared with OSCE-ODIHR for inclusion in its annual hate crime reporting process.</p>	<p>N/A</p>	<p>The Office of the Public Defender publishes regular and detailed reports including information on its own activities as well as information and insights on legal and policy developments and the progress of its recommendations.</p>

	Hate Crime	Hate speech	Discrimination
Law	The core hate crime laws consist of a general sentencing provision [Article 77] that aggravates the sentence of any offence in the criminal code and several specific sentencing provisions that apply to murder [Article 145(2)(1), various forms of assault [Article 151 (2)(1), 152(2)(1) and damage to property [Article 197(2)(b), Art. 222(2)(b)]. Protected grounds are limited to 'racial, social, national or religious hatred'.	The main hate speech provisions define hate speech as 'any form of expression that causes, propagates, advocates or justifies racial hatred, xenophobia, anti-semitism or other forms of intolerance-based hatred" [Law no 64/100 On Freedom of Expression]. Hate speech is also defined in the Code of Audiovisual Media Services n. 174 on broader grounds as "hate speech is a message that propagates, incites, promotes or justifies racial hatred, xenophobia, antisemitism or other forms of hatred based on gender, racial or ethnic origin, nationality, religion or belief, disability or sexual orientation." Incitement to discrimination can also include incidents of hate speech.	In addition to constitutional provisions prohibiting discrimination, the main discrimination provisions include a definition of discrimination set out in the Law 121.2012 on Ensuring Equality (Art 2) and a criminal offence of incitement to discrimination. Protected grounds include race, colour, nationality, ethnic origin, religion or belief, sex, age, disability, opinion, political affiliation or any other similar ground, in the political, economic, social, cultural fields and other fields of life, with an additional provision prohibiting discrimination on the grounds of sexual orientation in employment.
Institutions that collect data	Hate crime data are collected by the Information Centre of the Ministry of Internal Affairs, the police, the General Prosecutor's Office and the National Bureau of Statistics.	The CPEDEE	The CPEDEE
Summary of data recorded and collected	Recording for case handling purposes: The police record crimes according to criminal code provisions, with not specific information on hate crimes. The prosecution service does not allow data to be disaggregated by protected characteristics. Recording for statistical purposes: The police records data on a statistical spreadsheet which allows the specific classification of crimes committed on the grounds of 'racial, social, national or religious hatred', with no further	The CPEDEE records and collects data on incitement to discrimination offences that amount to hate speech. The courts do not record or collect specific data on hate speech.	The Council for prevention and elimination of discrimination and ensuring equality (CPEDEE) records and collates data on its own activities including the number of cases it has examined and the outcome, disaggregated according to the protected grounds listed above. Records are updated as cases progress and are finalised, and statistical data is extracted from its online database.

	<p>disaggregation, which is processed by the Ministry of Internal affairs. The prosecutor's office does not keep separate records allowing the disaggregation of hate crime data. Similarly, the courts do not keep separate records allowing the disaggregation of hate crime data.</p>		<p>CPEDEE also conducts regular surveys of public perception regarding discrimination. The courts do not record or collect specific data on discrimination. The police record instances of criminal discrimination as defined by article 176 of the Criminal Code.</p>
<p>Publication of data</p>	<p>No specific data on hate crime is published. Data is shared with OSCE-ODIHR for inclusion in its annual hate crime reporting process.</p>	<p>Data on instances of incitement to discrimination, a form of hate speech, that are within the remit of the CPEDEE are published in its regular reporting.</p>	<p>The CPEDEE regularly publishes data on its own activities as set out above as well as findings from its public perception surveys.</p>

Ukraine

For more information, see [here full report on data collection in Ukraine](#)

	Hate crime	Hate speech	Discrimination
Law	The core hate crime laws consist of a general sentencing provision [Article 67] that aggravates the sentence of any offence in the criminal code and several specific sentencing provisions that apply to murder [Article 115(14)], various forms of assault [Article 121 (2), 122(2), 126 (2)]. Protected grounds are limited to 'racial, national or religious intolerance'.	Ukraine criminalises hate speech on limited grounds, 'wilful actions inciting national, racial or religious enmity and hatred, humiliation of national honour and dignity, or the insult of citizens' feelings in respect to their religious conviction' (Article 161). Other provisions sanction prohibit incitement to national, racial, or religious enmity and hatred in television and advertising and prohibit certain advertising content on broader grounds.	The main discrimination provisions include a definition of discrimination set out in the Law on the principles of prevention and combating discrimination in Ukraine, which includes a definition of discrimination. Protected grounds include race, colour, political, religious and other beliefs, sex, age, disability, ethnic and social background, citizenship, family and property, place of residence, language or other characteristics that have been, are, and may be actual or perceived. Other main legislative provisions relate to prohibiting discrimination in employment, on the grounds of gender and disabilities, and a criminal law provision (Article 161) punishing 'any direct or indirect restriction of rights, or granting direct or indirect privileges to citizens based on race, colour of skin, political, religious and other convictions, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics'
Institutions that collect data	Hate crime data are collected by the General Prosecutor's Office, the Ministry of Internal Affairs, the Ombudsoffice, the State Department on Sentence Execution and the State Statistics Committee.	No institutions routinely collect data on hate speech. The Ombudsman's Office reports on specific cases.	The Ombudsman's Office State Court Statistics Office Police (criminal provision)

<p>Summary of data recorded and collected</p>	<p>Recorded for case handling purposes: Police can record the victim's perception of bias motivation, including race, nationality, religion or belief and against LGBTI community and people with disabilities. There is a Unified Register of Pre-Trial Investigations, indicating the preliminary criminal law qualification of the offence in accordance with the Criminal Code of Ukraine, which does not allow for disaggregation. The Register is maintained by the General Prosecutor's Office of Ukraine, preliminary legal qualification may change depending on the evidence obtained during the investigation.</p> <p>Recorded for statistical purposes: Hate crime data disaggregated by bias motive and types of crimes is collected by the Main Investigation Department of the National Police of Ukraine from police crime records and from the investigative departments of National Police Directorates for each region of the country which have staff responsible for monitoring and identifying information about crimes that may indicate the presence of prejudice. Data from the Register of Pre-Trial Investigations is also collected but is not disaggregated. The National Police of Ukraine requests information that it needs from other organizations and institutions, for example, the State Judicial Administration of Ukraine, or the Ombudsoffice. The Prosecutor's Office does not generate data on hate crimes. Information can only be filtered according to articles of the Criminal Code of Ukraine. Statistical information from the State Judicial Administration is based on separate articles of the Criminal Code of Ukraine but does not include information on bias motivation in sentenced cases.</p>		<p>The Ombudsoffice records and collects disaggregated data on progress on its recommendations and the outcomes of cases considered by the court. There is no set procedure to gather data from other institutions. The Ombudsman's Office send requests for information to other institutions and agencies.</p>
<p>Publication of data</p>	<p>Statistical information on hate crimes is published annually on the official website of the National Police.</p>	<p>Some cases are included in the annual report of the Ombudsman's Office.</p>	<p>The Ombudsman's Office regularly publishes the data it collects in its annual reports.</p>

VI. Regional practice

This section summarises examples of national practices on data collection and monitoring.

The Council on Preventing and Eliminating Discrimination and Ensuring Equality (CPEDEE), Moldova

The equality body of the Republic of Moldova, the CPEDEE, takes a variety of approaches to understand, and to raise awareness about, the prevalence, impact and context of discrimination and certain forms of hate speech. These activities fall into three main areas. First the body collates and shares data on its own legal and operational functions, including the number and type of recorded complaints, examined cases and issued decisions relating to individual claims of discrimination and certain forms of hate speech. Data disaggregated by protected characteristics and field of discrimination (e.g. employment, access to goods and services, etc) is published on its case-law database and in its annual reports. Second, in the absence of national victimisation surveys, the CPEDEE conducts periodic national surveys into attitudes towards minority groups. The surveys conducted so far, in 2015 and in 2018, revealed two important trends. First, there is a high degree of intolerance towards LGBTI communities, persons living with HIV, Roma communities and Muslims. Second, the second survey indicated a slight improvement in attitudes. A third approach taken by the CPEDEE is to publish recommendations to responsible authorities, based on the cases it has dealt with. Thus the CPEDEE manages to both report on specific outcomes of the cases it hears, raise awareness on broader attitudes and prejudice that form the context of discrimination and direct a strategic focus on institutional actions that can prevent future cases of discrimination and certain forms of hate speech. A significant enabling factor in this approach is that the CPEDEE has a clear legal mandate to take this strategic and broad approach to collecting and reporting on discrimination.

Promo-LEX, Moldova

The Promo-Lex association has been researching and reporting on hate speech in the media, online and other public spaces since 2017. Trained monitors gather data over six months, which is analysed and publicly shared. The reports present a large variety of disaggregated data, including the number of identified cases, public resonance (views and shares), sex and age of the authors, sex and age of the victims, the political, religious and other context of the incident, the protected grounds, the politicians and political parties which used hate speech and which were affected by it, and the media which used hate speech. Promo-LEX's 2018 report found that the most affected groups included LGBT communities, women, politicians, Muslims and persons with disabilities. Promo-LEX uses the data as the basis for wide-ranging recommendations to government institutions, the media and politicians. In terms of impact, the organisation's work helped put the need for legislative change to hate crime and hate speech on the agenda after the 2019 parliamentary elections and observed a positive shift in media reporting following the publication of its 2018 report. Promo-LEX has also used its data and expertise to develop the skills and capacity of young activists and professionals through the PromoTE fellowship.

Police and Prosecutor Human Rights Units, Georgia

Both the Ministry of Interior (police) and the General Prosecutor's Office have human rights units, which are responsible for reviewing recorded cases of hate crime according to specific procedures, within agreed timescales. In addition to capturing hate crimes in real time,

manual reviews of police-recorded hate crimes are conducted in order to reduce the risk that hate crimes are missed. Where there is evidence that a victim or witness perceives an incident to be a hate crime this is added retrospectively to the analysis. Bias indicators are captured and recorded according to the criminal code provisions on hate crime. The Human Rights Protection Division of the General Prosecutor's Office reviews flagged cases as they are passed from the Ministry of Interior and offers specialist case handling guidance and direction to prosecutors. In October 2020, both parties signed a 'Memorandum of Understanding of Cooperation on Collection of Data on Crimes Committed on the Grounds of Intolerance with Discrimination Basis and Publishing a Joint Report', which specifies the data points to be recorded by each agency and published in a joint publication, also including data from the Supreme Court.

[The Main Investigation Department of the Police, Ukraine](#)

The Police Main Investigation Department in Ukraine produced 'Methodological Recommendations on Investigating Hate Crimes', which explains the hate crime concept, and gives detailed guidance the identification and investigation of hate crimes. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) worked with the National Police, the Ministry of Internal Affairs and the Prosecutor's Office as well as civil society organisations to produce '[Categorising and Investigating Hate Crimes in Ukraine: A Practical Guide](#)', published in 2019. This guide builds on existing national practice to show how key judgements from the European Court of Human Rights apply at the national level, uses national examples and case studies, and includes specific guidance on recording and data collection.

[Pink Armenia](#)

Pink Armenia conducts monitoring of hate crimes against LGBT communities in several ways. Detailed information on cases of hate crime, hate speech and discrimination as well as gaps in public responses are included in its annual reviews of the human rights situation of LGBT communities in Armenia. Between 2011-2018, Pink Armenia researched 198 people's experiences of anti-LGBT hate crime, hate speech and discrimination. Quantitatively, findings are clearly disaggregated by type of incident. Qualitatively, individuals' personal experiences, the context of the incidents, perpetrator backgrounds and the responses of public authorities are reported in detail. Importantly, barriers to reporting, such as fears of being 'outed' are also evidenced. The 2018 report is one of several in-depth studies and guides on the impact of hate speech, guidance for mental health professionals and others.

[The Media Development Foundation, Georgia](#)

The Media Development Foundation (MDF) has been publishing annual reports on hate speech since 2015. The Foundation maps sources, investigates the context and content of misinformation, and uses its evidence and data to develop programmes on media literacy. Its most recent report in 2018 monitored the activities of media outlets, politicians, clergy, public organizations and individuals in the public eye. The objective of its monitoring activities is to study and reveal contemporary forms of hate speech, to identify trends and to increase transparency by revealing the sources of hate speech in the media and public discourse. Its work and investigations have explored and exposed the connection between misinformation about migrant communities, negative public attitudes and hate speech. Its motto is 'discover truth yourself!' and its educational programmes aim to equip students with tools to distinguish between quality media and manipulated media.

VII. Key thematic challenges and ways forward

Patchy and incomparable data at the national level means that questions about the prevalence and impact of hate crime, hate speech and discrimination, and the effectiveness of responses to these harms cannot be answered. This section highlights specific gaps and suggests steps to be taken.

Legislative gaps

Gaps in legislation cause several barriers to effective recording, evidence gathering and data collection including:

- a lack of protection against hate crime, hate speech and discrimination for specific groups, including LGBTI communities and people with disabilities, among others
- a lack of clarity on national concepts of hate speech and discrimination, which, in practice, can lead to the misapplication - or lack of application - of the law in investigations and prosecutions. ~~often leading to lowering the gravity of the offence~~
- an insufficient mandate given to equality bodies to hear cases, grant remedies and raise awareness about discrimination.

National authorities should review and adopt relevant recommendations from national reports and from ECRI country reports.

Achieving data disaggregation

Where data is captured on hate crime and hate speech, it is often by general criminal code provision only, precluding the possibility of recording and collating disaggregated data on groups that are currently protected under national hate crime laws. Agreeing and using shared monitoring definitions can help ensure for full disaggregation of data on groups that are currently included as well as groups that should be included by relevant laws.

Need for comprehensive training and implementation frameworks

Quality data is generated by victims and witnesses who are confident to report an incident and by skilled practitioners who are able to identify potential cases of hate crime, hate speech or discrimination, to capture relevant evidence, and to identify victims' needs. National learning and development programmes in the region have yet to comprehensively incorporate relevant training and capacity building across police, prosecutors, courts and equality bodies. The necessary guidelines, instructions, technical and policy frameworks are developing, but not yet comprehensive. For example, guidance on encouraging reporting and on how to identify and record hate crimes using 'bias indicators', amendments to institutional recording systems to accommodate detailed recording of criminal and civil cases, inter-agency agreements on 'flagging' cases so that they can be shared from the investigation to prosecution stages are all actions that can be taken to strengthen current frameworks. Such work should be underpinned by inter-institutional steering groups and working groups.

Limited resources of NGOs

ECtHR judgments, as well as ECRI country reports, recognise the validity of NGO data in evidencing the national situation of hate crime, hate speech and discrimination. NGOs also play a central role in supporting victims of these harms. However, national authorities do not regularly consider NGO data in assessments of prevalence and impact, and NGOs are not systematically considered a strategic partner in national action planning, or a partner in

supporting successful investigations. A chronic lack of resources makes it difficult to conduct and publish high quality monitoring and to run comprehensive support services. National reports suggest specific recommendations on supporting practical and strategic cooperation between public authorities and NGOs.

Political leadership

Changes can be evidence-based, informed and supported by practitioners, yet they cannot be effectively implemented without political leadership. It is important that leaders communicate the message that discrimination, hate crime and hate speech are against constitutional and foundational principles, and that they support legislative and institutional reform and progress. On a practical level, speaking out against hate speech, welcoming an increased number of incidents of hate crime, hate speech and discrimination being recorded as a sign of improved systems and increased confidence and making data easily accessible are very importance steps. Finally, ensuring that victims and communities have access to justice and protection can mean directing resources where they are most needed.

Strengthening and supporting equality bodies

Evidence, information and data on the prevalence and impact of hate crime, hate speech and discrimination is of central relevance to the role of equality bodies and those ombudspersons' offices that have an equality function. However, equality bodies do not always have the necessary resources, mandate or specialist knowledge to coordinate and make visible this information, or to act on it. The regional practice section above includes useful examples of how the equality bodies have used their mandate to coordinate activities, and to raise awareness in this area.

Need for national strategies to combat hate speech

Hate speech monitoring and disaggregated data are necessary in order to provide evidence for public authorities and civil society responses to hate speech. In each country in the region, comprehensive strategies to combat hate speech are a necessary step to tackle this problem. Hate speech incidents can rapidly proliferate, challenging national recording and monitoring systems. Effective monitoring and responses also require coordination across a large number of national institutions and with social media companies.

Need for mentality change

High quality, compelling data and information tell the story of the damaging impact of hate crime, hate speech and discrimination, and raise public awareness about the need for change and equality. In turn, political leaders are more likely to be motivated to drive the necessary legislative and institutional reform when they see that this is what the public demands. Reliable, conceptually grounded, and comprehensive recording and data collection practice by state and non-state entities lays the groundwork for this transformation.