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**COUNCIL OF EUROPE COMMITTEE  
OF EXPERTS ON HATE CRIME  
(PC/ADI-CH)**

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**Draft Recommendation CM/Rec(20XX)XX of the Committee of  
Ministers to member States on Combating Hate Crime**

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Secretariat of the Committee of Experts on Hate Crime

<https://www.coe.int/en/web/committee-of-experts-on-hate-crime/home>

## **Preamble**

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

- a) Considering that the member States of the Council of Europe have undertaken to secure the rights and freedoms enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, “the Convention”) to everyone within their jurisdiction, and that human rights and freedoms are universal, indivisible, interdependent and interrelated;
- b) Stressing that hate crime threatens the very basis of democratic societies and the rule of law, in that such offences are a threat to democratic values, social stability and peace, and an attack on the fundamental principles of equality and human dignity guaranteed by the Convention and other international instruments as well as within the domestic legal order of States;
- c) Stressing also that hate crime is a particularly serious crime, destructive of fundamental rights and freedoms of individuals, including their ability to enjoy their rights, and which interferes with the safety of individuals and groups targeted by hate crime, and is detrimental to society as a whole;
- d) Recognising the impact and harms of hate crime as experienced by victims, their communities, and society as a whole;
- e) Being aware that individuals and groups can be targeted by hate crime on different grounds, or intersecting combinations of grounds, and acknowledging that those persons and groups need special protection and support to ensure their effective access to justice, without detriment to the rights of other persons or groups;
- f) Appreciating that hate is manifested with different degrees of severity ranging from everyday stigmatisation and discrimination, microaggressions and verbal abuse, to violence, terrorism, war crimes and genocide and in that context recalling the provisions and noting the relevance of Recommendation CM/Rec(2022)16 on combating hate speech;
- g) Having regard to the obligations of member States under the Convention, as read in the light of the case-law of the European Court of Human Rights (the “Court”), to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention, to abstain from violations of and protect, among other rights, the right to life (Art 2), the right not to be subjected to ill-treatment (Art 3), the right to respect for private and family life (Art 8), the freedom of thought, conscience and religion (Art 9), the freedom of expression (Art 10), the freedom of assembly and association (Art 11), and the right to peaceful enjoyment of property (Art 1 of Protocol 1), and bearing in mind also that the enjoyment of all of these rights and freedoms must be secured without discrimination (Art 14) and without abuse (Art 17);

- h) Being aware also that interferences with such rights require, depending on the circumstances and as a matter of positive obligations, an appropriate criminal law response where the threshold of criminality is reached, and recalling in this regard the case law of the Court and the General Policy Recommendations (GPR) of the European Commission against Racism and Intolerance's (ECRI), notably GPR Nos. 7 and 15;
- i) Observing that the duty to respond to hate crimes, in light of the case law of the Court, requires a distinction to be made between such offences and other crimes and includes the setting-out of the tangible legal consequences attaching to their commission, the taking of all reasonable steps to investigate and unmask any possible hate element accompanying the commission of a criminal act and the imposition of an effective, appropriate and proportionate criminal response with respect to offenders, including by the determination of adequate criminal penalties;
- j) Noting the need to frame such criminal law responses in a manner which is consistent with Article 6 (right to a fair trial) and Article 7 (principle of legality) of the Convention, and in particular ensuring that the criminal law is not construed extensively to the detriment of the accused;
- k) Recalling in particular the reference to the principle of non-discrimination in paragraph 2.3 of Recommendation CM/Rec(2009)10 of the Committee of Ministers to member States on integrated national strategies for the protection of children from violence, and being equally cognisant of the principles of Recommendation CM/Rec(2008)11 of the Committee of Ministers to member States on the European Rules for juvenile offenders subject to sanctions or measures, and the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (2010);
- l) Recalling also the relevance of gender-sensitive approaches to addressing hate crime against women and girls in accordance with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No.210, "the Istanbul Convention") and as contained in the principles of Recommendation CM/Rec(2019)1 on preventing and combating sexism;
- m) Acknowledging that there is no binding international definition of hate crime, that States take different approaches when addressing hate crime, and that the lack of a common understanding and response can contribute to fragmented and inconsistent approaches between member States which may lead to legal gaps in criminalisation and uneven protection of victims of hate crimes;
- n) Recognising the importance of victim's rights and gender-sensitive approaches, in line with Recommendation CM/Rec(2023)2 of the Committee of Ministers to member States on rights, services and support for victims of crime, and being aware of trauma when supporting those impacted by hate crime as well as the need for targeted and specialised support in this matter;

- o) Stressing that member States should encourage reporting of hate crime and put in place appropriate support mechanisms for victims of hate crime, and acknowledging the vital role of a well-funded civil society in supporting the provision of such assistance, having regard to the need to address the harms of hate crime regardless of whether the victim engages with the criminal justice process or not and recognising the different ways in which hate crime manifests and impacts different groups and individuals with multiple intersecting characteristics and statuses, and in this regard recalling Recommendation CM/Rec(2023)2;
- p) Acknowledging the potential of restorative justice as a tool to address the harms of hate crime and prevent future offending and being particularly aware of the relevance to hate crime responses of Recommendation (2018)8 of the Committee of Ministers to member States concerning restorative justice in criminal matters;
- q) Recognising the capacity of the criminal law, its processes and its institutions to reflect the need to continually reassert society's condemnation of such acts, as well as its normative role in ensuring the proper administration of justice in a democratic society, and stressing the urgency of ensuring that the pernicious nature of hate crime is adequately addressed in the criminal law and procedure of member States, to recognise the specific nature of hate crimes as particularly destructive of fundamental rights;
- r) Appreciating the capacity of criminal law, its procedures and institutions to generate and maintain the confidence of actual and potential victims in the ability of state authorities to protect them from hate crimes, but also that obstacles to accessing justice may be present within those laws, procedures and institutions, and recalling in this regard ECRI General Policy Recommendation ("GPR") No 11 on Combating racism and racial discrimination in policing;
- s) Being aware that hate crime may also be committed by agents of the State having the very task of protecting people from hate crime, which constitutes a very serious violation of the European Convention of Human Rights and international law;
- t) Having regard to the First Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems as well as to Recommendation CM/Rec(2022)16 and to the General Recommendation N° 1 on the digital dimension of violence against women adopted by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) in October 2021, and particularly deploring the abuse of the internet for the purposes of preparing for, or facilitating or committing hate crime;
- u) Concluding, in the light of the foregoing considerations, and in view of the profound attack on the universal dimension of human rights and on societal cohesion caused by hate crimes, that a comprehensive multi-stakeholder approach is needed to combat hate crime, comprising a coherent strategy and a wide-ranging set of legal and policy measures that take due account of specific situations and broader contexts also including the prevention of hate crime;

- v) Building on existing Council of Europe treaties and other relevant standard-setting instruments, drawing on the relevant case law of the European Court of Human Rights and the findings and recommendations of the Council of Europe's monitoring bodies, in particular Recommendation CM/Rec 2010(5) of the Committee of Ministers to member States on measures to combat discrimination on grounds of sexual orientation or gender identity, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Recommendation CM/Rec 2022(16) of the Committee of Ministers to member States on combating hate speech, and Recommendation CM/Rec(2023)2 on rights, services and support for victims of crime, and being cognisant of the broader international human rights standards;

**Recommends that member States:**

- i. Take all necessary measures and dedicate sufficient resources to ensure the prompt and full implementation of the principles and guidelines appended to this Recommendation by the adoption and effective implementation of legislative and other measures to prevent and combat hate crime and provide access to justice for victims of hate crime;
- ii. Engage with the relevant stakeholders, including civil society organisations, equality bodies, specialist victim support providers, and national human rights institutions; and take appropriate action to support key stakeholders addressed within the appendix to this recommendation to adopt the corresponding measures;
- iii. Ensure that legislation, policy, and other measures are monitored and reviewed by way of the collection, analysis, and publication of disaggregated data across the criminal justice system, including victim support, for the purposes of evaluating the effectiveness of their implementation and their impact on combating hate crime;
- iv. Promote the goals of this recommendation at national, European and international levels by engaging in dialogue and co-operation with all stakeholders nationally and internationally to achieve these goals, including through addressing drivers of hate crime, measures for its prevention, and the mitigation of the direct and indirect impacts of hate crime;
- v. Ensure that this recommendation is translated into national, regional and minority languages, and disseminated as widely as possible among competent authorities and stakeholders, as well as make sure that it is accessible and understood by persons with disabilities, through all accessible means among competent authorities and other stakeholders;
- vi. Review regularly the state of implementation of this Recommendation with a view to enhancing its impact and inform the Committee of Ministers of the measures taken by member States and other stakeholders and progress achieved as well as remaining shortcomings.

## **Appendix to Recommendation CM(20XX)XX**

### **Principles and guidelines on a comprehensive approach to combating hate crime**

#### **Scope, definition and approach**

1. The aim of the following principles and guidelines is to provide guidance to member States and other relevant stakeholders in developing and implementing measures aimed at combating and preventing hate crime in a comprehensive manner within the framework of human rights, democracy, and the rule of law, and to avoid fragmented approaches to this phenomenon.
2. For the purposes of this Recommendation hate crime is understood as a criminal offence committed with a hate element based on one or more real or attributed personal characteristics or status, where:
  - (1) “Hate” includes bias motivation, bias, prejudice, or contempt;
  - (2) “Personal characteristics or status” includes, but is not limited to, “race”, colour, language, religion, nationality, national or ethnic origin, age, disability, sex, gender, sexual orientation, gender identity and expression, and sex characteristics.
3. Member States should ensure that, in addressing hate crime at a legislative, policy and operational level, it is understood that hate crime can be linked to several intersecting personal characteristics or statuses and that such manifestations of hate crime often lead to an amplified impact on victims.
4. When developing and implementing policies, legislation, strategies or action plans against hate crime, member States should pay due attention to the importance of:
  - a. being aware of the direct and indirect harms of hate crime on victims, the community or group to which the victim belongs or is perceived to belong or to represent, other persons sharing the victim’s personal characteristics or status, and those who are affiliated with or support the victim(s);
  - b. the damage hate crime causes to pluralistic and democratic societies more broadly, which can lead to an exacerbation of social divisions and intergroup or interethnic tensions;
  - c. having an evidence-based, gender-sensitive, intersectional and multi-sectoral collaborative approach to policy-making which recognises the importance of civil society in this regard;
  - d. providing for an adequate criminal response to hate crimes to ensure that the hate element is recognised as distinguishing hate crime from non-hate-based offending, and determining the greater gravity of the offence having regard to its impact on individuals, groups and society at large;
  - e. ensuring and promoting access to justice for victims of hate crime, including by making available targeted, specialised supports and assistance and protection to victims of hate crime, and putting in place measures to encourage reporting, while ensuring that such support is available whether or not they engage with the criminal justice system;
  - f. the need for the criminal justice system to identify, address and take measures to eliminate any institutional biases and discrimination in order to increase the

trust of victims in that system and improve the experiences of those that engage with the system;

- g. developing implementation measures to underpin legislation, and the requirement for supporting policies, strategies and action plans to support and operationalise hate crime legislation.

### **Basic principles**

5. Combating and preventing hate crime demands a holistic and multi-faceted approach which requires those working within public institutions to engage with one another, as well as with civil society organisations and those belonging to and working with groups at risk of being targeted by hate crime, for the purposes of understanding, responding to, combating and preventing hate crime.
6. Member States should ensure that there are specific, effective and proportionate criminal law provisions in place to combat and prevent hate crime, and to respond to its occurrence. In accordance with the principle of legality and proportionality, such provisions require specific criminalisation and the attachment of tangible legal consequences to the offence. Criminal law responses to hate crime should equally be framed and implemented with due regard to the rights of the victims.
7. To that end, member States should ensure the effective implementation of the criminal law, including by prioritising the unmasking of the hate element(s) of a crime as this is the constitutive element that differentiates hate crimes from other criminal offences.
8. Member States should develop, adopt and implement a comprehensive strategy which includes a system-wide, gender-sensitive, and trauma-informed approach to combating hate crime through an action plan, with particular focus on aspects such as prevention, monitoring, awareness-raising, and training, as well as on supporting and protecting victims of hate crime.
9. Member States should put in place effective support systems and mechanisms for those affected by hate crime, including by way of the introduction of wide-ranging appropriate and effective gender-sensitive psychological, psycho-social, medical, financial, and legal supports.
10. Those in positions of power or authority should be conscious of their responsibilities, and seek to prevent and combat individual and institutional biases and discrimination, and foster an inclusive society which promotes principles of human rights including, *inter alia*, operationalising the principles of ECRI GPR No. 11 across all personal characteristics mentioned, also taking note of parts IIE and IIF of CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism, and as per CM/Rec(2022)16, ensuring that public authorities or institutions actively prevent and combat hate speech and its dissemination and to promote the use of inclusive language, speech and behaviours.

## **Victim support**

11. Member States should provide access to targeted, specialised support services and assistance to victims of hate crime, independently of whether those experiences of victimisation are reported to the police or not. Such support should continue to be available following the investigation or finalisation of any criminal justice proceedings.
12. Member States should recognise the particular importance of putting in place measures which take into account the qualitatively different manner in which intersectional victimisation operates and calibrate victim support measures in that light.
13. Member States should take a holistic approach to creating a supportive, gender-sensitive, non-prejudiced, accessible, safe and welcoming environment at all stages of the criminal justice process which has the needs and rights of the victim at the core of the process, by:
  - ensuring that victims are kept informed, listened to, and facilitated in participating at all stages as to the progress of their case, with particular clarity being provided with respect to the hate element of the crime;
  - addressing risks of secondary victimization by the police through training on hate crime identification, on sensitive and respectful treatment of hate crime victims, and through committing to a victim-centred approach;
  - ensuring that there is separation between the reporting of hate crime on the one hand, and the enforcement of immigration laws on the other, so that no adverse repercussions will be suffered as a result of reporting hate crime, particularly for irregularly present migrants and persons seeking international protection;
  - providing victims with a range of safe and effective pathways to reporting, including online reporting, anonymous reporting, as well as police call-out services on request;
  - ensuring that specific aid and assistance is put in place to support the needs and rights of victims of hate crime, with particular emphasis on the operation of CM/Rec(2023)2 in this regard.
14. Member States should provide effective, gender-sensitive and trauma-informed victim support services, which specifically include psychological supports, language services, and medical and legal assistance that includes, where appropriate, legal representation and court accompaniment. Where barriers to accessing support exist for victims, for example those with disabilities, reasonable accommodations such as alternative reporting and access measures should be put in place.
15. Member States should facilitate access to targeted supports by way of signposting and referral services, and either provide these supports directly or make them available by appropriately funding victim support entities and civil society organisations in order to address the particular harms of hate and their manifestations. Such supports should be easily accessible and understandable, including in different languages. To ensure effective referrals, police and other criminal justice system actors should be aware of the existing support providers and available services.

16. Victims or their representatives should have the opportunity to be heard and provide testimony in court as to their experiences and have legal representation to support engagement at this level. Where possible, member States are also strongly encouraged to provide for the making of victim impact statements and community impact statements as part of the sentencing process where the defendant has been indicted for a hate crime.

### **Legislative models and range of offences**

17. Member States should address hate crime comprehensively through criminal law. This may be accomplished by (1), a general provision which provides that a hate element constitutes an aggravating circumstance for all criminal offences at sentencing (2), a standalone offence or aggravating circumstance which can attach to any criminal offence at the point of the criminal charge (3), standalone equivalents of base criminal offences which include the hate element as a constituent part or (4), a combination thereof.

To supplement this approach, member States should also address criminalised hate speech in accordance with the list of offences contained in para 11 of CM/Rec(2022)16.

18. Member states should incorporate the “hate element” of a crime in their national criminal law, which may consist of (i) hate motivation for the offence or hate being demonstrated through the commission of the offence; (ii) by the discriminatory selection of the person(s) or object(s) targeted; or (iii) hate being a constituent part of the offence; or a combination thereof.
19. The criminal law should address crimes directed at persons, groups of persons, or property, and may also include spaces, artifacts, facilities or events associated with persons and groups at particular risk of being targeted by hate crime as referred to in paragraph [XX] above, having regard to the need to respect, as relevant, the provisions of Art 7, Art 10, and Art 14 of the Convention.
20. Member States should frame legislation in a manner which complies with the principle of minimal criminalisation, consider deprivation of liberty as a measure of last resort, and be guided by the principles of Recommendation CM/Rec(2018)8 on restorative justice where relevant. Where applicable, the extent to which the sentence for a hate crime should be enhanced or aggravated should be proportionate to the maximum sentence imposed for the original offence. Payment of compensation to victims in appropriate cases should be provided for in legislation.

### **Criminal justice system**

21. Member States should ensure that the criminal justice system as a whole, as well as the institutions and individuals operating within it, makes certain that the hate element of hate crime is detected, unmasked, acknowledged and addressed throughout the criminal justice process, in order to ensure that relevant positive obligations are met.

22. Member States should put in place policies and targeted operational guidelines to ensure that hate elements are adequately unmasked, recorded, and consistently recognised by all actors as the case moves through the criminal justice process.
23. Criminal justice systems as a whole should provide for appropriate, adequate and effective remedies and support and protecting the rights of persons from groups targeted by hate crime. This should be addressed through the development of a system-wide strategy to protect and support the victims and by reducing the potential for re-victimisation and re-traumatisation. Victims who wish to go before the courts as applicants or plaintiffs should be provided with free legal aid where the interests of justice so require. In particular, member States should ensure that persons reporting hate crime or making a complaint are protected against any adverse treatment or consequences as a result thereof.
24. Member States should identify and respond to any biased or prejudiced behaviour on the part of law enforcement and other criminal justice practitioners, at both an individual and institutional level through preventative and educational policies, and disciplinary measures. In order to increase the trust in the criminal justice process by those targeted by hate crime, evidence-informed measures should be introduced, including the training and the sensitisation of members of law enforcement agencies, prosecutors, victim support services personnel, legal aid practitioners, and judges.
25. Where appropriate, the principles of Recommendation CM/Rec(2018)8 concerning the participation of those harmed by crime, and victims and offenders to participate actively in the resolution of matters arising from the offence should be adapted to apply specifically to suspected hate crime offenders at all stages in the criminal justice process, including post-conviction, where appropriate, with volunteerism on the part of victims being core to that participation.
26. In order to address the particular impacts of hate crime on children and young people across all groups targeted by hate crime, the principles of Recommendation CM/Rec(2009)10 of the Committee of Ministers to member States on integrated national strategies for the protection of children from violence with respect to supporting children and young people who are victims of crime, should be adapted and applied to hate crime. In particular, with reference to chapter [6] on child-friendly services and mechanisms, a mechanism for reporting hate crime should be embedded as part of a comprehensive system that also includes referral and support services. Specialised support services that cater to the individual needs of child and youth victims of hate crime across all targeted groups should be introduced. Such services should provide child-friendly information (adapted to the child's age, language and maturity) on the reporting system.
27. In order to ensure that youth offenders are supported appropriately, the principles of Recommendation CM/Rec(2008)11 of the Committee of Ministers to member States on the European Rules for juvenile offenders subject to sanctions or measures, should be applied with respect to hate crime offenders with particular reference to para [15]

which recommends that member States follow a multi-disciplinary and multi-agency approach, and para [23.2] which emphasises the importance of sanctions and measures which have an educational impact as well as those which constitute a restorative response to the offences committed by juveniles.

### **Enhancing the effectiveness of the criminal justice system**

28. Policies should be introduced across the criminal process to ensure that hate crimes are unmasked, recorded, investigated, prosecuted and sentenced appropriately.
29. Bespoke, interdisciplinary training should be provided to all relevant specialists, particularly those involved in the investigation or prosecution of hate crime.
30. In order to reduce instances of underreporting of hate crime or situations where the hate element is not consistently recognised across the criminal justice system, member States should emphasise the importance of understanding any perceived barriers to reporting, seek means to address those barriers, and develop processes to ensure that criminal offences are recorded as hate crimes where appropriate. Further policies should be developed and implemented to encourage victims and witnesses to report hate crime.
31. All protocols, guidelines, and policies related to the processing of hate crime cases should be made publicly available, monitored, and regularly reviewed to ensure practices are functioning and appropriate. Law enforcement and other criminal justice agencies should be encouraged to co-operate and co-ordinate between themselves and with civil society organisations on issues relating to hate crime to increase reporting, provide a trauma-informed response to victims, ensure that the hate element of a crime is unmasked and communicated across the criminal process, as well as ensuring that tangible legal consequences attach to the commission of a hate crime.

#### ***Police***

32. Police should develop a common approach for the recognition, unmasking and official recording of hate crime, as well as ensuring that non-crime hate incidents are appropriately recognised as per the guidance provided by ECRI GPR No. 11. Clear guidance should also be provided on the circumstances, if any, in which a crime should be re-recorded as a non-hate-based offence on the criminal record of a suspect. Police databases and recording processes should be updated to allow for the accommodation of the recording of hate crimes disaggregated by targeted groups and crime type in accordance with existing European human rights and data-protection standards.
33. Compulsory modules on hate crime should be included in the curriculum of police training academies. Regular awareness training on hate crime for the purposes of improving first responses should be provided to all police officers. Compulsory, continuous and targeted training should be provided to police officers, and in particular those specialised in investigating hate crime, including, for example, on how to unmask the hate element, including the need to search for and secure evidence regarding the hate element through the identification and recording of bias indicators as per the case

law of the Court and the guidance provided by ECRI GPR No.11. Training should also be provided on biases, and respectful and non-discriminatory treatment of victims of hate crime.

34. The identification and recognition of so-called “bias indicators” are essential to identifying the hate element of a crime, and should be developed for all groups targeted by or at risk of hate crime victimisation and should be used to ensure that hate crimes are properly recorded, investigated and included in the relevant criminal file.
35. The role of specialist hate crime investigators should be developed within police organisations with expertise on hate crime, tasked with investigating hate crime and supporting victims of hate crime in partnership with victim support services. Bespoke training should be provided to all specialist hate crime investigators, with police officers trained to provide for individual needs and risk assessments, and to refer victims to relevant support services.
36. Bespoke reporting mechanisms for victims of hate crime should be developed including online reporting facilities, including an option to report anonymously to the police online. Upon reporting, the risks and needs of a hate crime victim should be assessed, with a view to formulating appropriate protection measures, and referral to support services.

### **Prosecutors**

37. A common approach for prosecutors should be developed for recognising and prosecuting hate crime, as well as ensuring that hate crimes are appropriately recorded in databases. Guidelines and protocols should be developed for the prosecution, recognition and recording of hate crime at the prosecutorial stage.
38. Targeted and continuous training should be provided to prosecutors responsible for investigating or prosecuting hate crime, including on how to unmask and present the hate element in court.
39. The role of specialist hate crime prosecutor should be developed, tasked with ensuring that hate crimes are appropriately prosecuted and that victims of hate crime are treated in a respectful and non-discriminatory manner.
40. Guidelines should be developed regarding the circumstances in which decisions as to why a crime was not prosecuted as a hate crime can be communicated to the victim, and what detail is to be provided in such communications.

### **Judges**

41. Without prejudice to the independence of the judiciary, the judicial branch is encouraged to develop guidelines or policies to advise judges on the sentencing of hate crime. Such guidance could, *inter alia*, provide particular guidance on how the obligation on courts to give reasons for decisions under Article 6 of the Convention should be interpreted and applied in the context of hate crime.

42. Guidelines and protocols should be developed for the recording of hate crime at the sentencing stage.

43. Without prejudice to the independence of the judiciary, targeted training should be provided to judges regarding hate crime.

***Post-conviction services and measures***

44. Guidelines, policies, protocols and standard operating procedures should be developed for hate crime offenders at the post-conviction stage.

45. Member States should ensure that offenders are given, during imprisonment and while on probation, the opportunity to engage in rehabilitative practices for the purposes of reintegration.

46. Member States should develop interventions within the prison system to address hate crime offending, as well as interventions which prevent prison being a place in which hate can be fostered rather than addressed.

47. Member States should ensure that the criminal record of the offender reflects their conviction under relevant hate crime legislation, where appropriate. Clear protocols should be established as to what detail is provided in criminal conviction disclosure, vetting, barring, or clearance when an individual is reasonably suspected but not convicted of a hate crime. This is particularly relevant where such vetting or clearance is sought by individuals seeking to work with groups targeted by hate crime.

**Third Party Reporting**

48. Member States should provide practical means and measures to ensure that victims have an effective remedy to exercise their rights, and to this end, support all available means to report hate crime across a variety of platforms to the authorities, set out above in para [XX], but also by providing appropriate supports to civil society organisations for alternative reporting mechanisms. Such alternative reporting mechanisms could include complaints hotlines, alternative reporting through public services, accompaniment services, and online monitoring systems. Reporting mechanisms should also provide options for victims to contact or be referred to victim support service. These should offer a means by which the victims can also report anonymously if that is what they wish.

49. Member States should take an evidence-based approach to understanding and addressing reasons for the underreporting of hate crime among people at risk of hate victimisation. This approach should comprise surveys including victimisation surveys, assessments of trust in criminal justice institutions, and measuring prejudice within criminal justice institutions. The success of interventions designed to improve the reporting of hate crime should be measured regularly, comparing official and unofficial reporting rates to prevalence of hate crime as measured in victimisation surveys.

## Monitoring

50. Member States should ensure that their policies, legislation, strategies and action plans against hate crime are based on evidence and duly reflect an age- and gender-sensitive approach. To this end, member States should identify, record, monitor and analyse trends and the different manifestations of and grounds for hate crime and intersectional hate crime, including hate crime online, in compliance with existing European human rights and data-protection standards. In this connection, member States should, as appropriate, collaborate with relevant key stakeholders.
51. Member States should put in place effective means to measure the prevalence of how hate crime manifests across society by regularly conducting surveys, including victimisation surveys, in order to assess progress in addressing hate crime. These surveys should take into account the needs and rights of all groups targeted by hate crime.
52. Member States should ensure that anonymised and disaggregated data is collected and analysed by criminal justice authorities across the lifecycle of a hate crime, from the point of reporting and recording to prosecution, sentence and post-conviction and diversionary supports. Disaggregated data should be collected and analysed which allows for the assessment of where the hate element of the crime may not have been consistently recognised and recorded throughout the process.
53. Statistics, and, where appropriate, data and metadata, collected in compliance with existing European human rights and data-protection standards, should be made publicly available in raw and analysed format, with caveats if required, with disaggregated data produced at a minimum by crime type and personal characteristic. In particular, statistics and data for criminal hate speech and other types of hate crime should be distinguished.
54. Member States should use this data and its analysis to regularly assess and improve their hate crime strategies and to design and implement, as needed, additional measures. In this context, openness and transparency should be guiding principles with independent, annual scrutiny of the policing and criminal justice functions with respect to hate crime regarding the independent analysis of data, training materials, and protocols.

## Prevention

55. Member States should prepare and implement effective strategies and conduct relevant research to explore and address the root causes and drivers of hate crime, in particular regarding the stigmatisation and social marginalisation of groups and individuals, as well as hate ideologies at all levels of society. Building on paragraphs 44-54 of Recommendation (2022)16 on combating hate speech and sections 1.A and 1.B of Recommendation CM/Rec(2019)1 on combating sexism, preventive measures should be developed on a multi-sectoral approach with the aim of fostering normative

barriers, such as those to address the drivers of hate speech, which include disinformation, negative stereotyping and stigmatisation of individuals and groups.

56. Member States should take appropriate steps to improve awareness-raising, education, training and the use of counter-speech or alternative discourse measures, in line with Recommendation CM/Rec(2022)16 on combating hate speech, in order to improve the ability of relevant actors and institutions, including public officials, to proactively identify factors and conduct which could lead to hate crime. Particular attention should be given to the proliferation of hate speech in online platforms.
57. Civil society organisations should be encouraged and supported in their diverse roles as a means to promote social inclusion, democratic participation and tolerance.
58. Member States should ensure that all behaviours and activities on the continuum of hate are robustly responded to, but equally recognise that acts of violent extremism or terrorism involving one or more hate elements require particular vigilance in the context of investigation, prevention and disruption. Member States should be guided by the legislative, operational and policy strategies contained in Recommendation CM/Rec (2017)6 on “special investigative techniques” in relation to serious crimes including acts of terrorism, having regard also to the case law of the Court with respect to matters such as privacy (Article 8 of the Convention), freedom of expression (Article 10) and freedom of association (Article 11).
59. Member States should protect spaces, facilities, and events associated with groups targeted by hate crime in collaboration with those targeted groups. This should include measures that can reduce opportunities to commit hate crime and increase the safety of those groups. The role of community policing should be emphasised in protecting groups at risk of being targeted.

### **Recommendations addressed to key actors**

60. Member States should develop training in consultation with civil society organisations and a range of stakeholders including victim support services, healthcare providers, educational institutions, legal aid providers and frontline responders, for the purposes of ensuring that victims are enabled to seek, and be provided with, the supports that they need, including any referrals required. This training should map onto that provided to criminal justice professionals set out in para [XX] above and constitute a core part of the strategy for preventing and combating hate crime. The range of measures addressed to key actors in paras. 29 to 43 of CM/Rec(2022)16 should be seen as broadly applying to hate crime.

#### ***Public officials, elected bodies and political parties***

61. Politicians, public officials, civil servants, local authorities and other groups, community, and societal leaders should publicly promote a culture of inclusiveness and human rights and condemn hate crime generally.

#### ***Educational systems***

62. Member States should ensure that educational institutions and teachers contribute to developing a culture of inclusiveness which values diversity and human rights. To this end, the following measures should be introduced and properly resourced by member States across educational systems:
- a. comprehensive research-informed teacher education;
  - b. comprehensive research-informed educational resources for use in education and classrooms;
  - c. diversity, gender equality, and inclusion to be embedded in educational policy.

All curricula should be reviewed for the purposes of fostering an inclusive ethos that promotes mutual respect and equality and that it is free from discriminatory content. Such curricula should be 'living' and evolving, co-constructed in meaningful ways with children and young people.

63. Member States should introduce distinct reporting systems for hate crime across educational systems. A trauma-informed and gender-sensitive approach to managing and addressing offending within the educational systems should be introduced, with trained and specialised liaison officers being introduced to provide such supports.

#### ***Civil society organisations***

64. Member States should provide civil society organisations with appropriate funding and resources to, where appropriate, provide local, targeted and specialised supports to victims of hate crime, as well as act as a bridge between state institutions and members of groups targeted by hate crime, and inform local and national policy with respect to combating hate crime.
65. Such organisations should in particular be funded to provide support to victims outlined in para [XX] and capture third party data regarding prevalence of hate crime outlined in para [XX].

#### ***Internet intermediaries***

66. Building on Recommendation CM/Rec (2022)16, and within their duty to comply with all applicable laws and to respect human rights, internet intermediaries should identify hate crime that is committed on or disseminated through their systems and act upon them in the framework of their legal and corporate responsibility in line with Recommendation CM/Rec(2016)3 on human rights and business and Recommendation CM/Rec(2018)2 on the roles and responsibilities of internet intermediaries.
67. Internet intermediaries should apply the recommendations in §§ 30-37 of CM/Rec(2022)16 regarding content moderation policies, as well as the human moderation of hate crime online, cooperate with civil society organisations, and develop internal processes to identify and remove hate crime.

#### ***Media and journalists***

68. Building on Recommendation CM/Rec(2022)16, and within their duty to comply with all applicable laws and to respect human rights, the media, journalists and other actors should enjoy the freedom to report on hatred and intolerance and to choose their

reporting techniques, styles and mediums, subject to the proviso that they strive to provide the public with accurate and reliable information, in particular where reporting on hate crime judgments.

### **National cooperation and coordination**

69. Member States should engage in regular, inclusive consultation with all relevant stakeholders, and co-operation and dialogue with groups affected by hate crime through, for example, the establishment and regular meetings of a working group. Such consultation should result in the development and review of national strategies and action plans against hate crime, in association with state and non-state stakeholders as defined above in paras [XX] and [XX], including the development and regular revision of national prevention policies, as well as a review of institutional strategies across the criminal justice process. Recognising the national, regional, and local variations in experiences, authorities across these levels should work in consultation, ensuring equality of access to justice and supports, as well as protection for all.
70. Member States should co-operate with relevant authorities, civil society organisations, equality bodies, and national human rights institutions, at a cross-cutting multi-sectoral level for the development of guidelines, policies, protocols and standard operating procedures, for the prevention of hate crime, as well as for the development, implementation and review of national action plans or strategies for combating hate crime.

### **International cooperation and coordination**

71. Member States should co-operate with each other with a view to providing a consistent and common response to victims and promoting consistency in legal standards and approaches to preventing and combating hate crime, in accordance with the provisions of this Recommendation. They should furthermore adhere to and effectively implement relevant European and international instruments, and engage with intergovernmental organisations.
72. Dissuasive and deterrence measures to counter violent extremism and hate groups, which may operate in the territory of a member State or across the borders of several member States, should be introduced, particularly with respect to people at risk of supporting the commission of, or carrying out, hate crime, and especially in relation to children and young people.
73. In implementing this Recommendation, member States should participate in multilateral engagement, coordination and cooperation, through exchanging information and best practices. They should also ensure that similar instruments and data collection standards are adopted across Council of Europe member States for the purposes of data standardisation and comparability.