



STORIES BEHIND THE NUMBERS: HOW TO FOCUS ON VICTIMS IN DATA COLLECTION ON DISCRIMINATION, HATE SPEECH AND HATE CRIMES?

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ACCEPT ROMANIA: WHO WE ARE? WHAT DO WE DO?

- ACCEPT, established in 1996, at a time when homosexuality was incriminated in Romania, is a human rights organization and the first Romanian non-governmental organization that defends and promotes the rights of LGBT persons at national level. The Association's mission is to improve the situation of LGBT people in the Romanian society, to decrease the level of discrimination and stigmatization for this group and, at the same time, to advocate for equal rights for all Romanian citizens. Our main objectives is defending, by all legal means, the persons whose fundamental rights and liberties, as guaranteed by the Romanian Constitution and the international treaties ratified by Romania, were infringed due to their SO or GI. In this regard, we conduct strategic litigation and advocacy work which in the past lead to the adoption and subsequent amendments of the Romanian Anti-discrimination legislation, of the relevant provisions of the Criminal Code, we provide trainings for professional groups which can act as agents for change (police, judges, magistracy, social workers, teachers etc.).
- ACCEPT also focuses on organizing social and cultural events (since 2005, the annual Bucharest PRIDE and, since 2012, LGBT history month). ACCEPT is also ensuring the secretarial work being the conveyor of the Romanian Anti-Discrimination Coalition, working together with other NGOs and institutions for social inclusion of LGBTI individuals, as well as of other minorities.
- ACCEPT also undertakes action towards enhancing the LGBTI associational movement, by providing training and assistance in organizational management and community development to informal LGBT groups. Our association is also a provider of some social activities and direct services: legal counselling for victims of discrimination and hate crimes, psychological counselling, organizing meetings and debates on issues relevant to the LGBT community, cultural and social activities designed to strengthen self-confidence and a sense of belonging among the LGBT persons.

ACCEPT ROMANIA: WHO WE ARE? WHAT DO WE DO?

- • ACCEPT v. CNCD, C-81/12, the first Court of Justice of the European Union's case on non-discrimination on the ground of sexual orientation regarding recruitment in employment. The ruling stated that anti-discrimination sanctions need to be effective, dissuasive, and proportional, in order to prevent further discrimination. CJUE decisions are directly and generally applicable on the territory of all EU member states and represent a legal precedent. In response to this case the Romanian legislation was amended in 2013 significantly increasing the quantum of the fines for cases of discrimination..
- • M.C. & A.C. v Romania (Application no. 12060/12) before the European Court of Human Rights, which found that Romania failed to conduct an effective investigation of hate-crime in the case of 6 youth severely beaten up after attending Bucharest PRIDE 2006, finding a breach of Article 3 corroborated with Article 14 of the ECHR. The implementation should result in a significant reform on how Romania tackles hate crime and homophobic and transphobic bias in law enforcement including through clear secondary norms and specific training of relevant actors, as well as on the way relevant data on hate crimes is collected by the authorities. ACCEPT is now part of a working group designing and promoting such changes.

ACCEPT ROMANIA: WHO WE ARE? WHAT DO WE DO?

- • Coman and Others v. IGI, MAI and CNCD, C-673/17 – The reference for a preliminary ruling was requested by the Romanian Constitutional Court following the motion files by ACCEPT and heard by the Grand Chamber of the CJUE during November 2017. The CJUE decision states same-sex spouses should have their marriage recognized while exercising their freedom of movement, for the purpose of obtaining residency in any EU Member State. The decision is a legal precedent and will have a major impact in all EU countries that currently do not offer any legal protection to same-sex families (Poland, Lithuania, Latvia, Slovakia and Bulgaria), but also in countries that do not provide for equal marriage, as the CJUE is the first European court to rule that, once married, the status of a couple cannot be lessened to civil partners or family members, regardless of the law of particular member states. On July 18 2018, the Romanian Constitutional Court recognized the right to private and family life for the Coman-Hamilton family, and implicitly for all rainbow families in Romania:
- *"In this light, applying the CJEU decision, which interpreted the European law, the [Romanian] Constitutional Court finds that the relationship of a same-sex couple is part of "private life" and also "family life," similar to the relationship of a heterosexual couple, which brings the protection of the fundamental right to private and family life, guaranteed by Art. 7 of the Charter of Fundamental Rights of the EU, art. 8 of the European Convention on HR, and art. 26 of the Romanian Constitution. Enjoying the right to private and family life, same-sex couples, who form stable couples, have the right to express their personality within these relationships and to enjoy, in time and by the means provided for by law, legal and judicial recognition of the corresponding rights and duties." (Decision 534 of July 18, 2018. Romanian Constitutional Court)*



LGBTI RIGHTS IN ROMANIA

ANTIDISCRIMINATION, PROTECTION FROM HATE CRIME, FAMILY EQUALITY, LEGAL GENDER
RECOGNITION, COMBATting HATE SPEECH



ANTIDISCRIMINATION AND PROTECTION FROM HATE CRIMES

- The Romanian Constitution guarantees equal treatment of all citizens in Article 4(2), providing for citizenship without any discrimination on account of race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property or social origin. Article 16 provides for equality of all citizens before the law and public authorities, without any privilege or discrimination. Article 30(7) prohibits 'any instigation ... to national, racial, class or religious hatred, any incitement to discrimination'
- Romania has signed and ratified all major European and international human rights instruments except the Additional Protocol to the European Social Charter. The Constitution asserts that constitutional provisions concerning the rights of citizens must be interpreted and enforced in conformity with the Universal Declaration on Human Rights, the covenants and other treaties to which Romania is a party. Furthermore, Article 20 of the Constitution also provides for the primacy of international regulations where any inconsistencies exist between treaties on fundamental human rights and the national laws, unless the national laws are more favorable.
- Anti-discrimination Law (GO 137/2000) introduces a broad, comprehensive definition of direct discrimination, going beyond the substance and coverage of Directives 43/2000/EC and 78/2000/EC. The law was adopted in 2001, in the context of accession negotiations of Romania to the EU. The law covers 14 grounds protected from discrimination + a catch all phrase – any other criterion. The law also protects citizens from indirect discrimination, victimization, multiple discrimination, in fields beyond those listed by the directives: employment, access to goods and services, health care, education, housing and human dignity. The law also establishes the NCCD – the National Council for Combating Discrimination, a parajudicial body that can issue fines and provides input in civil court cases.

ANTIDISCRIMINATION AND PROTECTION FROM HATE CRIMES

- In addition to the specific Anti-discrimination Law (GO 137/2000), the Civil Code allows for torts claims for damages (including damages generated by discrimination) and the Criminal Code includes provisions on aggravating circumstances when criminal intention is triggered by any of the grounds protected by anti-discrimination legislation.
- The ECRIS database (the national application aggregating statistical data introduced by all courts), does not record the number of complaints or decisions on discrimination filed in application of the Anti-discrimination Law. Consequently, it is impossible to assess the use or the enforcement of these provisions.
- The Criminal Code, which entered into force in February 2014, includes protection against incitement to discriminate, hate crimes and abuse with a discriminatory intent in the exercise of an official function. These are, however, norms with limited applicability, as proved by the statistics provided by the Prosecutor General.
- The Labour Code, as amended in 2011, includes general prohibitions of discrimination in employment. The Law on equal opportunities between women and men (the Equal Opportunities Law) replicates some of the provisions of the Anti-discrimination Law on discrimination in employment but lacks effective remedies and adequate implementation mechanisms. In 2008 and 2009, the Anti-discrimination Law was reviewed by the Romanian Constitutional Court in a series of cases and its application was partially limited, while the NCCD's role as a quasi-judicial body was confirmed.
- Legal framework cited directly from *Country report Non-discrimination Transposition and implementation at national level (Romania) of Council Directives 2000/43 and 2000/78* by Romanița Iordache, <https://www.equalitylaw.eu/downloads/5229-romania-country-report-non-discrimination-2020-1-56-mb>, pages 5 - 8

LGBTI SPECIFIC ISSUES

- Decriminalization occurred only in 2001 – Art. 200 of the Penal Code criminalized same sex consensual relations causing a public scandal, and any discussion / education / information on LGBTI issues – a ban on the so-called homosexual propaganda
- Family protection is completely lacking – Defacto families are not recognized, and same-sex couples do not benefit from any form of legal protection. Coman case CJUE and RCC decisions provide for judicial protections.
- Pre-infringement procedures: The lack of implementation of EU provisions in freedom of movement following the Coman Judgment, as proven by an ACCEPT complaint in an identical case, triggered a pre-infringement procedure
- Hate crimes occur often and are severely under-reported and under-recorded. Huge distrust in police at societal level, even worse in LGBTI community. In the whole history of ACCEPT not one hate crime case has been successfully addressed.
- Legal gender recognition is a judicial procedure, requiring medical evidence, ignoring self determination. Few persons undergo LGR because of the costs, lack of healthcare access and burdensome evidence load.
- Hate speech: a decrease following the 2016-2018 Family referendum campaign. Politicians remain an importance source of hate speech, and so does the Romanian Orthodox Church and other religious organizations.



DATA COLLECTION

THE INSTITUTIONAL PERSPECTIVE



INSTITUTIONAL DATA COLLECTION

- Very scant information at the level of authorities. ECRIS database does not collect information on civil cases / criminal cases by criterion.
- Following implementation efforts of MC and AC, the General Prosecutors Office modified the MCV monitoring system (internal) to include issues pertaining to hate crime.
- The NCCD publishes an annual activity report determining the number of cases heard by the institution, but also the number of interventions in a court of law in civil cases.
- The NCCD also conducts an annual study on public perceptions regarding discrimination.
- EU studies conducted by various institutions also provides important data:
 - FRA LGBTI Survey II – captures the perspective of the victims
 - Special LGBTI Eurobarometer – captures the perceptions of the general public
 - Special Eurobarometer on Discrimination – captures the perceptions of the general public

SITUAȚIA STATISTICĂ PE ANUL 2018

PRIVIND INFRAȚIUNILE MOTIVATE DE URĂ [la care s-a aplicat circumstanța agravantă prevăzută de art. 77 lit. h) din Codul penal

sau la care elementul de ură face parte din conținutul constitutiv al infracțiunii- art. 369 C.p., art. 297 alin.2 C.p., etc.]

Parchetul	INFRAȚIUNE A LA CARE S-A APLICAT ART. 77 LIT. H C.P. SAU LA CARE ELEMENTUL DE URĂ FACE PARTE DIN CONȚINUTUL CONSTITUTIV AL INFRAȚIUNII	NUMĂR CAUZE							NUMĂR INCULPAȚI PERSOANE FIZICE ȘI JURIDICE TRIMIȘI ÎN JUDECATĂ (PRIN RECHIZITORII ȘI ACORDURI DE RECUNOAȘTERE A VINOVĂȚIEI)	NUMĂR VICTIME LA CARE SE REFERĂ MOTIVUL DE DISCRIMINARE	INDICAREA MOTIVULUI DE DISCRIMINARE	NUMĂR SUSPECTI/INCULPAȚI PERSOANE FIZICE ȘI JURIDICE FAȚĂ DE CARE S-A DISPUS RENUNȚAREA LA URMĂRIREA PENALĂ	NUMĂR VICTIME LA CARE SE REFERĂ MOTIVUL DE DISCRIMINARE	INDICAREA MOTIVULUI DE DISCRIMINARE	NUMĂR SUSPECTI/INCULPAȚI PERSOANE FIZICE ȘI JURIDICE FAȚĂ DE CARE S-A DISPUS CLASAREA	NUMĂR VICTIME LA CARE SE REFERĂ MOTIVUL DE DISCRIMINARE	INDICAREA MOTIVULUI DE DISCRIMINARE	NUMĂR CAUZE RĂMASE NESOLUȚIONATE LA SFÂRȘITUL PERIOADEI (INCLUSIV CAUZE CU A.N.)
		EXISTENTE LA ÎNCEPUTUL PERIOADEI	INTRATE ÎN CURSUL PERIOADEI	DE SOLUȚIONAT , DIN CARE:	SOLUȚIONATE , DIN CARE:	PRIN TRIMITERE ÎN JUDECATĂ (RECHIZITORII ȘI ACORDURI DE RECUNOAȘTERE A VINOVĂȚIEI)	PRIN RENUNȚARE LA URMĂRIREA PENALĂ	PRIN CLASARE										
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
PCA Bucuresti	Art.369	20	15	35	7	0	0	6	0	0	-	0	0	-	0	1	-	28
	Art.371	0	1	1	1	1	0	0	1	1	Dizabilitati	0	0	-	0	0	-	0
TOTAL		20	16	36	8	1	0	6	1	1		0	0	0	1		28	
PCA Alba Iulia	Art.297 al.2 C.p.	0	3	3	1	0	0	1	0	0	-	0	0	-	0	0	-	2
	Art.369 C.p	4	4	8	5	0	0	5	0	0	-	0	0	-	0	0	-	3
TOTAL		4	7	11	6	0	0	6	0	0		0	0	0	0	0		5
PCA Bacau	-	0	0	0	0	0	0	0	0	0	-	0	0	-	0	0	-	0
TOTAL		0	0	0	0	0	0	0	0	0		0	0	0	0	0		0
PCA Brasov	Art.369 N.C.p.	3	3	6	1	0	0	1	0	0	-	0	0	-	0	0	-	4
TOTAL		3	3	6	1	0	0	1	0	0		0	0	0	0	0		4
Pca Cluj	Art. 369 C.p	1	1	2	1	0	0	1	0	0	-	0	0	-	2	1	A proferat cuvinte denigratoare si incitatoare la adresa administratorului	1

NCCD 2018

RECEIVED COMPLAINTS: Cross tabulation between criteria protected

From discrimination and year

CRITERII	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Boală cronică necontagioasă	0	0	6	2	3	2	4	2	0	1	6	9	9	5	8	10	6
Orientare sexuală	1	5	6	9	6	7	6	6	4	8	3	13	9	3	8	17	13
Infectare HIV	0	1	15	10	5	3	7	1	3	1	5	4	3	4	4	8	4
Limbă	0	2	1	2	2	7	11	13	16	10	43	38	27	27	25	12	17
Convingeri	4	12	23	19	8	10	14	13	4	2	15	14	13	4	20	6	22
Religie	2	9	9	11	8	12	15	6	6	5	5	11	18	14	7	12	11
Categorie defavorizată	2	0	10	6	4	26	22	9	7	14	10	13	25	26	5	2	9
Vârstă	6	11	14	17	10	10	24	10	9	16	5	18	21	22	31	31	29
Gen	3	14	13	9	11	22	32	9	18	15	21	31	46	28	29	19	43
Naționalitate	1	12	21	39	20	39	54	28	42	33	49	61	49	36	30	64	56
Dizabilitate	3	31	18	21	20	70	55	49	38	42	45	42	57	56	83	74	81
Etnie	34	66	45	85	69	82	62	62	54	62	61	66	42	61	81	53	52
Altele	52	184	108	61	132	32	159	96	83	81	69	121	127	147	194	114	177
Rasă	0	0	1	1	2	0	0	2	1	0	0	3	2	1	3	2	0
Categorie socială	26	126	63	90	132	514	372	222	193	175	211	414	328	318	314	258	302
TOTAL	134	473	353	382	432	836	837	528	478	465	548	858	776	752	842	682	822

NCCD 2018

Sanctions: Cross tabulation between criteria protected from discrimination and

Types of sanctions

Criteriul / Constatări total 2018	Amendă	Recomandare	Avertisment	Monitorizare	Publicare rezumat hotărâre
Boală cronică necontagioasă	1			1	
Orientare sexuală			1		
Limba *	3	2	3		1
Convingeri		1	1		
Vârstă	1	2	2		
Categorie defavorizată		2	2		
Religie	1	2	1		1
Gen	10	3	3		3
Naționalitate	13	5	5		2
Handicap	39	11	16	4	34
Etnie	4	1	7		
Altele **	7	6	7	1	4
Categorie socială	6	6	8	1	1
Infectarea HIV ***	1				
Rasă					
Total	86	41	56	7	46

NOTABLE OBSERVATIONS

- Severe underreporting of discrimination cases
- Severe underreporting of hate crime issues
- Severe lack of social trust in public institutions, especially law enforcement
- Limited knowledge – data collected in Romania focuses on cases recorded by institutions, without focus on the perspective of victims of discrimination / hate crime / hate speech
- No institutional effort to collect quality and comprehensive equality data
- Even when studies focus on the perspective of victims, quite often the most at risk have no access to report incidents: the FRA LGBTI survey is only accessible via computer / tablet / smartphone, making it less accessible to fill out by poor persons, the homeless, people living in rural area, Roma LGBTI individuals – the most vulnerable members of our community.

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- What are the challenges in your particular countries to collect data on discrimination, hate crimes and hate speech?
 - Why do authorities have such a hard time collecting data?

REFLECTION EXERCISE

Please share with the group following 5 minutes of reflection

NGO DATA COLLECTION

- Impossible to collect statistical data – money, time, lack of resources, capacity, technical knowledge and access to communities
- NGOs conduct small scale surveys, often qualitative studies, looking to explore general observable trends
- Victims of discrimination and hate crime that direct complaints to NGOs have an expectation of support: psychological counseling, legal aid, legal representation, compensation, enduring safety
- NGO data on discrimination and hate crime is substantive because comes from a relationship established on trust between the organization and the victim. Overcoming shame, fear and humiliation is very difficult, and reporting an incident is an act of tremendous human dignity and courage.



CASE STUDIES

MC AND AC V. ROMANIA



AP



00:00



02:21



FACTS OF THE CASE

- Homosexuality was decriminalized in 2001 in Romania. The first Bucharest PRIDE was organized in 2005. The second march, in 2006, was the most violent in Bucharest PRIDE history.
- 6 young people attended the 2006 Bucharest PRIDE. After the end of the March, they removed all visible LGBTI symbols, and they took the subway to go home. Ages between 16 and 26.
- On the train, they were attacked by a group of 6 people – hooded men, with special fighting boots. They were subjected to homophobic verbal abuse, as well as being punched and kicked. The attack was witnessed and photographed by someone on the train.

FACTS OF THE CASE

- Following a medical legal expertize, the 6 friends with the support of ACCEPT lawyers, went to the Police to file a complain. We followed the case for 5 years at the level of the Romanian, which included identifying one aggressor with full ID details.
- The police failed to conduct a proper investigation – did not request subway surveillance footage, failed to interview witnesses in a timely fashion and followed false leads. Authorities closed the case, saying it could not identify the perpetrators.
- We appealed this decision in a national court of law – and lost.







ECtHR JUDGEMENT

- The ECtHR found that the Romanian authorities' failure to properly investigate a hate crime incident, relating to physical and verbal attacks which followed a gay rights march, and its potential discriminatory motive, breached Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention.
- The Court found that the criminal investigation conducted was far from satisfactory, in terms of the identification and punishment of the perpetrators and use of the available evidence.
- The Court noted that the LGBTI community in Romania were in a precarious situation, given they are subject to very negative attitudes (since 2006 sexual orientation has been added as a hate crime in Romania). This meant that it was “indispensable” for State authorities in Romania to consider whether the attack was motivated by discrimination. Without such a rigorous approach, there was a real danger that prejudice-motivated crimes would inevitably be treated by law-enforcement authorities on an equal footing with cases involving no such overtones.
- This resultant “indifference” would be tantamount to official acquiescence to, or even connivance with, hate.

CASE OF M.C. AND A.C. V. ROMANIA (APPLICATION NO. 12060/12)

- 124. More importantly on this point, the Court considers that the authorities did not take reasonable steps with the aim of examining the role played by possible homophobic motives behind the attack. The necessity of conducting a meaningful inquiry into the possibility of discrimination motivating the attack was indispensable given the hostility against the LGBTI community in the respondent State (see paragraph 46 above) and in the light of the applicants' submissions that hate speech, that was clearly homophobic, had been uttered by the assailants during the incident. The authorities should have done so – despite the fact that incitement to hate speech was not punishable at the time when the incidents occurred (see paragraph 40 above) – as the crimes could have been assigned a legal classification that would have allowed the proper administration of justice. The Court considers that without such a rigorous approach from the law-enforcement authorities, prejudice-motivated crimes would inevitably be treated on an equal footing with cases involving no such overtones, and the resultant indifference would be tantamount to official acquiescence to, or even connivance with, hate crimes (see *Identoba and Others*, cited above, § 77; and, *mutatis mutandis*, *Ciorcan and others*, cited above, § 167). Moreover, without a meaningful investigation, it would be difficult for the respondent State to implement measures aimed at improving the policing of similar peaceful demonstrations in the future, thus undermining public confidence in the State's anti-discrimination policy (see *Identoba and Others*, cited above, § 80 *in fine*).

THE IMPLEMENTATION OF M.C.AND A.C.V. ROMANIA

- Individual measures: damages to M.C. and A.C. – 7000 euros each.
- Ideal general measures:
 - Data collection and monitoring hate crime – three levels of intervention
 - Initial and continuous training for police officers and the judicial regarding SOGI, hate crime and discrimination / bias
 - Hate crime investigation methodology for police and prosecutors
 - Proactive measures to build trust between the LGBTI community and police

THE IMPLEMENTATION OF M.C.AND A.C.V. ROMANIA

- The Benefits in implementing a ECtHR judgment:
 - Having all authorities at the same table, with a mandate for change
 - The possibility to establish a relationship with professionals/ bureaucrats, who are willing to implement a significant change in practice without political pressure
 - Access to information and documents that are not public or which are difficult to obtain as an NGO – educational plans, etc.
- Barriers of implementing a judgment:
 - The entrenched view that, in Romania, hate crime does not exist, based on faulty data collection
 - Professional egos in hierarchical institutions – state authorities know best, despite lacking the extremely important link with the affected community
 - The difficulty to overhaul an entire system at a time when different agendas compete for diminishing budgets

HATE CRIME IN ROMANIA

SELECT YEAR > 2015

Official country information

Year	Hate crimes recorded by police	Prosecuted	Sentenced	About these data
2015	15	24	59	ⓘ
2014	25	20	Not available	ⓘ
2013	Not available	4	Not available	ⓘ
2012	Not available	Not available	Not available	ⓘ
2011	Not available	Not available	Not available	ⓘ



Sursa: OSCE Office for Democratic Institutions and Human Rights (ODIHR)

HATE CRIME IN THE NETHERLANDS (17 MIL)

SELECT YEAR > 2015

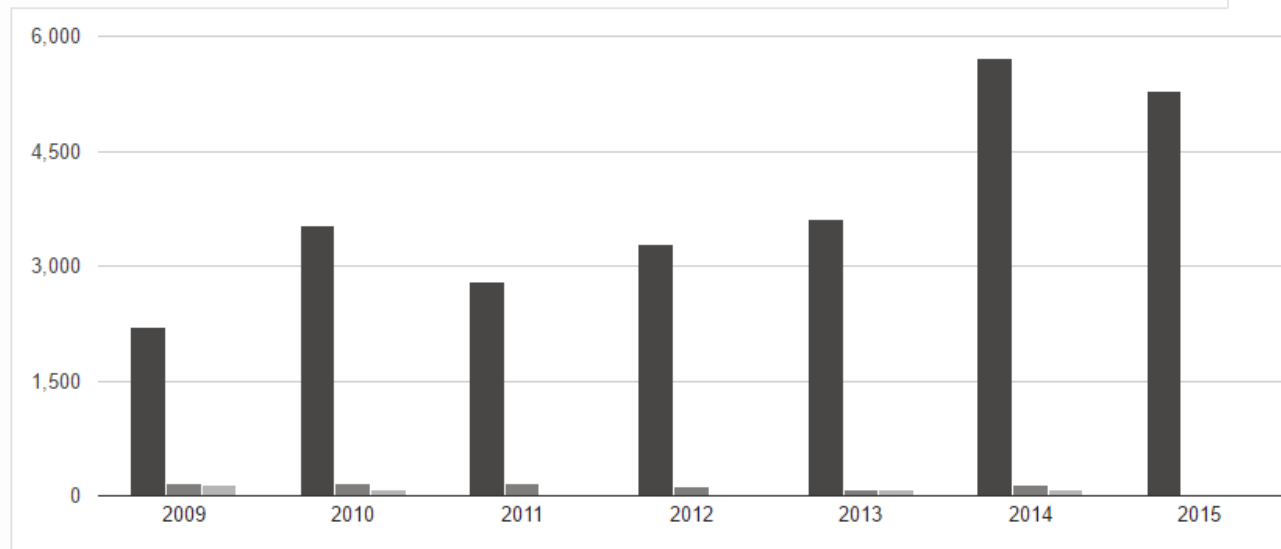
Official country information

Year	Hate crimes recorded by police	P
2015	5288	No
2014	5721	
2013	3614	
2012	3292	
2011	2802	

SELECT YEAR > 2015

Official country information

TABLE CHART



Sursa: OSCE Office for Democratic Institutions and Human Rights (ODIHR)

HATE CRIME IN BULGARIA (7.2 MIL)

SELECT YEAR > 2015

Official country information

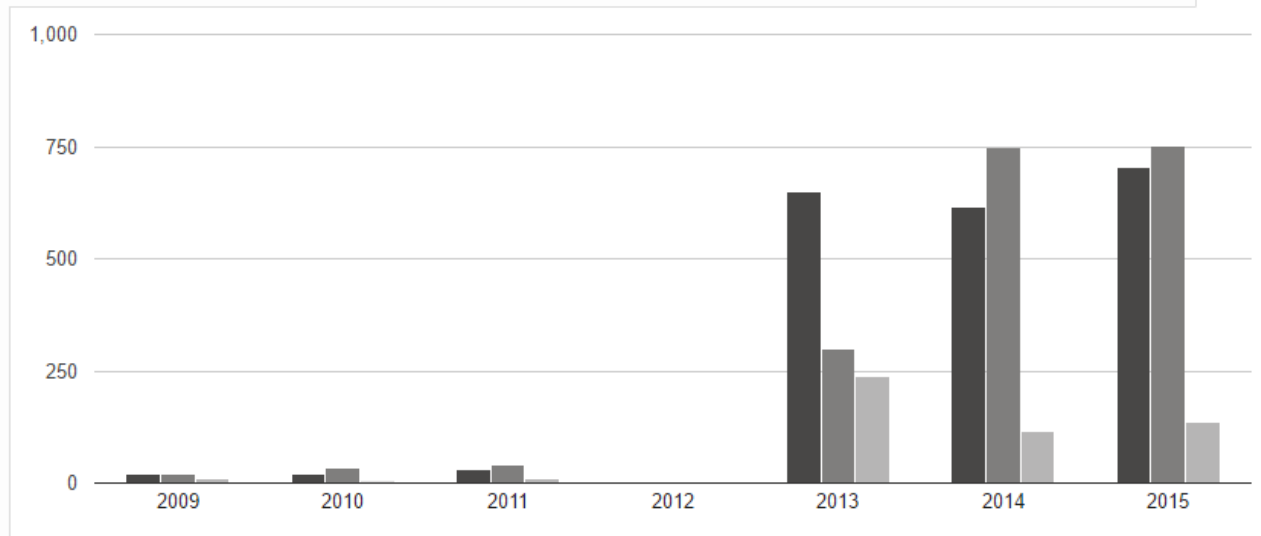
TABLE CHART

Year	Hate crimes recorded by police	Prosecuted
2015	704	75
2014	617	75
2013	651	30
2012	Not available	Not available
2011	29	4

SELECT YEAR > 2015

Official country information

TABLE CHART



Sursa: OSCE Office for Democratic Institutions and Human Rights (ODIHR)

43% of LGBTI people in Romania say they have been harassed in the last year, while 15% have been attacked in the last 5 years.

However, only 4% went to the police to report a hate crime, compared to the EU average of 14%.

But society is changing. A lot more people attend Pride. Even so, every year there is at least a person facing a hate crime following the March. They simply stopped going to the police, or even decided to leave the country after being a hate crime victim.







CASE STUDIES

B.G.V. BUCHAREST POLICE



FACTS OF THE CASE

- In July 2011, B.G., a young man, went to report an incident occurring in a Bucharest night club. Police officers and agents, members of the Bucharest Police (10th Precinct), presumed B.G. was gay, and instead of taking his complaint, started to mock him, physically push him around and break his property inside the courtyard of the institution. The incident was humiliating and plunged the victim into severe depression.
- B.G and ACCEPT filed a criminal complaint, a discrimination petition at NCCD and a civil case for damages.
- The criminal complaint was dismissed, as investigators decided the constituting elements of a crime were not evident.
- The discrimination petition was dismissed by NCCD, under the argument that NCCD was not competent to assess complaints focusing on the behavior of hierarchical institutions, such as the police, that can issue internal sanctions. This decision was supported by the Bucharest Court of Appeals, and invalidated by the Romanian High Court on Cassation and Justice, that ruled that the NCCD is competent to hear complaints against Police and issue fines.
- The civil case resulted in 5000 euros in damages from the victim.

POINTS TO TAKE HOME

- Real-life incidents often do not fit neatly into the patterns provided by law. The victim should not fall through the cracks of the system, but rather obtain adequate redress. Often, cases end with several institutions declaring they are not competent to issue penal or administrative sanctions.
- This situation creates a feeling of impunity for aggressors and fosters criminal and discriminatory behaviors in society, with severe consequences: anguish, distress, high suicide rates.
- When police are the aggressors, the community understands there is no point to come forth with a complaint. LGBTI people fear police, in Romania and in the region. Trust needs to be rebuilt.
- Little to no institutional support for the victims of hate crimes and discrimination. Lack of institutionalized psychological counselling, lack of cooperation with minority NGOs, lack of community involvement. The absence of support is another factor for low reporting rates.



CASE STUDIES

COLLECTING DATA AS AN NGO – TRANS IN ROMANIA COMMUNITY STUDY



TRANS IN ROMANIA – STUDY SAMPLE

- The report includes a rich casuistry, but also a statistical perspective. The quantitative research was conducted on a sample of 123 people who are part of the transgender community (trans women, trans men, non-binary people and agender people), aged between 16 and 60 years. These people were contacted by the ACCEPT Association, so the sample is an explorative one, an availability sample. Transgender people included in both qualitative and quantitative research are part of heterogeneous socio-professional and economic categories (artists, psychologists, lawyers, human rights activists, people in academics, freelancers, pupils, students, electronics engineers, translators), live mainly in urban areas (Bucharest, Timișoara, Iași, Cluj, Constanța, and in cities in the diaspora).
- The methods and tools used to collect information for this report were:
 - 123 questionnaires applied online, nationally and in the diaspora, answered by 27 trans women, 74 trans men, 12 gender-fluid people, 5 non-binary people, 3 agender people and 2 people who did not want to define their gender identity;
 - 2 focus groups (in Constanța and Iași), attended by 5 and 3 transgender people, respectively.
 - 9 individual interviews (with respondents from Bucharest and the diaspora), attended by 4 trans women, 4 trans men and a gender-fluid person;
 - 1 group interview (in Cluj), attended by one trans man and one trans woman.

TRANS IN ROMANIA – STUDY SAMPLE

I. Experiences of the trans community

Gender identity and experiences of trans people, Gender indicator and civil status documents, Intersex people, Health care services for trans people, Reproductive health and other medical services, Sexually transmitted infections and HIV, Well-being versus suicide risk, Demographic aspects of the sample

I. Individual experiences of trans persons

Gender identity and the transition process, The relationship of transgender people with their family and close circle, Incidents transgender people endured in the public space, Experiences of transgender people in the workplace, The relationship of transgender people with the authorities and other institutions, The relationship of transgender people with the health system and personnel, The right of transgender people to self-determination

TRANS IN ROMANIA – LEGAL SAMPLE

- The legal research on the court decisions given in the trans field took place in the first part of 2018 and includes the state of jurisprudence for the period 2006-2017. Although in Romania there are legal provisions that consider the possibility of modifying the entry for “sex” in the civil status documents, trans persons requesting this face the absence of clear conditions and procedures and the lack of specific information and training in the trans field of those who should apply these legal provisions - judges, prosecutors, lawyers and doctors. This situation leads to contradictory jurisprudence, interpretations based on prejudices and gender stereotypes, or even abuses.

TRANS IN ROMANIA – TIME FRAME AND CHALLENGES

- Reaching sufficient trans individuals
- Creating access for underprivileged trans individuals
- Financing the study
- Managing the study calendar
- Importance of victim needs assessment

CONCLUSIONS AND RECOMMENDATIONS

- This report presented the experiences of a sample of trans people in Romania, from a plurality of perspectives: personal, family, social, professional, medical and legal. We will summarize the most important aspects, which can be concluded from the three chapters of this paper.
- There is a general lack of education in society about the differences between sex, gender and sexuality;
- A majority of trans people would like to be open ("out") about their gender identity, but the attitudes of those around them and of their family of origin are, in many cases, discriminatory;
- Trans people most often live in fear of social rejection and fear that they may experience hostility and physical or verbal violence from any person;
- In some situations, medical staff confuses the transgender experience with intersex particular aspects, which puts additional pressure on people and does not provide them with adequate solutions to their needs;
- Trans people need specialized health services according to their experience of gender identity (tests and consultations, psychological support, hormone treatment, specific surgery), but the requirements of these people remain unsatisfied for most respondents;
- Limited financial resources and low health insurance coverage are the most important obstacles for trans people accessing trans-specific health services;
- The lack of professionalism of the medical staff and the abuses suffered within the health system are strong reasons why trans people avoid specialized health services, but also general ones, as well;

CONCLUSIONS AND RECOMMENDATIONS

- Procedures for changing civil status documents (change of name and gender indicator) are a major obstacle for most trans people;
- The applicable law for the legal recognition of gender identity, and the change of sex, first name and NIN, respectively, in civil status documents, imposes unfavorable conditions on trans persons and does not regulate the legal procedure;
- Forensic expertise (performed by INML) is not a means of proof in favor of the legal recognition of the gender identity of trans people, and is perceived by them as invasive, degrading and useless;
- The absence of clear procedures and conditions in the process of amending civil status documents leads to the emergence of contradictory jurisprudence of aberrant, abusive court decisions that violate the fundamental rights of individuals;
- Transgender people are a vulnerable social category, due to repeated confrontations with abuse, discrimination and marginalization, which reduce their prospects of a decent life in Romania.

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