



Memorandum of Understanding

Civil Society Network

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and effectively

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Memorandum of Understanding

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Within the framework of the EU project V-START – *Victim Support Through Awareness-Raising and networking*, we, representatives of civil society organisations and initiatives, active in the field of anti-discrimination, victim protection and human rights, had the possibility to come together and to form a influential lobby for those affected by *hate crime*.

The network applies the practice-oriented *hate crime* definition, formulated by the OSCE Office for Democratic Institutions and Human Rights (ODIHR), which states:

„Hate crimes are criminal acts motivated by bias or prejudice towards particular groups of people. “

The network critically examined further formulations of the ODIHR definition and agrees, in accordance with Austrian legislation, to recognize *hate crime* as a criminal offense with a bias motive against one of the groups of persons or targeting members of such groups - actual or attributed – due to their specific belonging to this group referred to in Section 283 of the Criminal Code (CC)). In the understanding of the network, so-called *hate crimes* are therefore criminal offenses,

„against a church or religious denomination or any other group of persons defined by criteria of ¹race¹, colour of skin, language, religion or ideology, nationality, descent of national or ethnic origin, sex, a disability, age or sexual orientation or a member of such a group, explicitly on account of his/her belonging to such a group”.

This network recognizes hate speech, insofar as it is a criminal offense under Austrian law, as part of the *hate crime* phenomenon. In addition, the network recognizes connections and interfaces between the two differentiated phenomena. *Hate speech* is additionally considered a potential trigger for *hate crime*.

The network intends to keep an eye on *hate crime*-related research as well as other definitional projects, but not to be hampered by a lack of detail-focused consensus on a concrete hate crime definition of collaborative, effective and purposeful collaboration. Thus, the focus of this document is on formulating goals that the network wants to achieve together.

We would like to ...

- ... improve support measures for *hate crime* victims,
- ... ensure that more measures are taken to effectively counter bias-motivated crimes (increasing visibility, naming the phenomenon, allowing monitoring etc.);

¹ The term „race“ is used here, because it is still anchored in Austrian as well as international legal texts. However, the network would like to point out that this term is obsolete and should be reconsidered and replaced in legislative texts on the long run.

- ... enhance the development and expand the cooperation and exchange between key stakeholders (judiciary, police, political decision-makers, civil society representatives and health system experts),
- ... guarantee that preventative measures – such as training and awareness-raising campaigns – are taken.

The undersigned affirm their commitment to ...

- ... contribute to the visibility of the *hate crime* phenomenon,
- ... undertake further networking activities,
- ... actively promote the dissemination and enforcement of the recommendations set out in the annex
- ... focus on the problem of ‘underreporting’ and the lack of intersectoral exchange.

List of Signees:

Organisations / Initiatives / Projects



Annex: Problem analysis and recommendations

Problem analysis

- The network members share the view that *hate crime* in the Austrian context is currently receiving limited attention, but nevertheless is part of our reality. These are mainly bias-motivated insults, dangerous threats, incitement, but also physical assaults as well as property damage and arson attacks.
- From practical experience, experts in the fields of anti-discrimination, human rights, victim protection and advocacy know that secondary victimization is a serious problem. Reducing, discriminating and/or victimizing a person on the grounds of an actual or attributed characteristic can lead to an intensification of direct victimization.
- The most important legal regulation in the Austrian context regarding the *hate crime* phenomenon is Section 33 of the Criminal Code (CC) – the special aggravating factors. However, Section 33 CC is hardly recognized or applied within the current judicial cultural values. The convictions with the application of Section 33 CC are rare.
- *Hate crime* as a phenomenon is hardly put into a social context. The belief that the extent and quality of *hate crime* has a signal effect and thus functions as a warning is flawed.

The network activities have resulted in recommendations that are listed below:

General recommendations

- Active “outreach” rather than “approach”-structures should be developed and implemented. This requires financial resources, awareness and an understanding of the *hate crime* phenomenon.
- Training for civil society representatives in the field of advocacy, anti-discrimination, human rights, health, education and youth should be provided.
- Specific training to document *hate crime* cases and to provide appropriate legal and psychosocial support to those who have been victimized on the grounds of bias should be provided for assigned victim protection services.
- The civil courage of possible witnesses and/or bystanders should be promoted. Training for employees of e.g. the public transport companies in Austria should be designed and carried out in collaboration with (civil society) experts.
- To ensure that those victimized are properly supported in the event of a *hate crime* and that they are able to easily find victim protection programs or other counselling centres, cooperation between law enforcement officers/agencies and civil society representatives, in particular victim protection counselling institutions, should be improved and further developed.

- Information about *hate crime* and guidelines for civil society representatives, support organisations, those potentially affected and other stakeholders should be provided in simple language and at a low level (workshops, trainings, brochures, etc.) as well as in many relevant languages.

Recommendations for political decision-makers

- Empowerment and awareness-raising programs should be adequately funded and supported by state institutions in order to actually reach many potentially affected people.
- In order to ensure a clear representation of interests of those (potentially) affected, the independence of support organisations and legal advice or advisory organisations and initiatives must be ensured.
- In addition to action in the analogue world, user-friendly technological tools – such as apps – should be disseminated and possibly (further) developed. Appropriate funding for this should be provided.
- Psychosocial support, provided by civil society experts, should be adequately funded, i.e. to provide support services in various relevant languages and provide them for free.
- Responsible funding agencies should provide adequate support for an Austria-wide survey (according to the example of the study ‘Hate Crime in Styria, commissioned by the Anti-Discrimination Office Styria and carried out by the ETC Graz) on all grounds of discrimination.
- In order to collect *hate crime* data in the future and to be able to provide a realistic assessment on the current situation, a network consisting of civil society organisations active in the fields of anti-discrimination, human rights and documentation and state institutions should be developed and promoted.

Recommendations for civil society representatives

- Civil courage should generally be promoted and strengthened through awareness-raising campaigns and trainings. Individuals should be encouraged by public statements from various stakeholders to stand up and aside those (potentially) victimised.
- Specific ‘confidants’ who act as so-called ‘ambassadors’ in communities, in anti-discrimination organisations and in advocacy groups are to be promoted. The measures are to be implemented in both rural and urban areas.
- Programs to strengthen the networking of different stakeholders and support organisation working in various fields should be further developed.

Recommendations for decision-makers in the educational sector

- Important stakeholders working in the field of education, specifically in schools (such as teachers, trainers, directors, tutors etc.), should be provided with adequate information about *hate crime* and how to react and where to send those victimised.
- Shedding light on bias-motivated crimes should increasingly be applied in the educational sector. Awareness-raising work in order to deconstruct prejudices should become part of the school curriculum. In addition, a focus on bias-motivated crime should be placed at universities and curricula should be expanded with regards to the phenomenon (historically as well as current developments; especially in the fields of law, teaching, psychology, education).

Recommendations for law enforcement officers and justiciaries

- To counteract ‘underreporting’, cooperation between the police and communities, decision-makers from different communities, advocacy and NGOs as well as initiatives should be strengthened as much as possible. Such efforts could drive understanding between those potentially victimised with a bias motive and the police.
- Institutions such as the ‘Graz Ordnungswache’ and the ‘Ordnungsdienst Linz’ should be included in training measures, awareness-raising and networking activities (or otherwise abolished), since they too have to bear responsibility in public spaces.
- Law enforcement officers from different departments should attend ongoing, upbuilding and mandatory training sessions on the *hate crime* phenomenon as well as the according legal framework, especially Section 33 (1) 5 of the Criminal Code (CC) – the “special aggravating circumstances”. These training sessions should be designed to provide information on how to recognise and document *hate crime*.
- Forms intended for filing reports should be complemented with a binding section on possible bias motives for the reported offense. The introduction of such a measure, as well as detailed instructions within report templates, should be supplemented by training exercises.
- In order to be able to avoid secondary victimization in particular, “trusted persons” should be installed within the authorities. These individuals should continuously train other police officers accordingly.
- In order to ensure that people of different nationalities or from different communities have access to police training, accessible and public policies related to recruitment and staffing of police personnel should be promoted.
- In order to ensure that judges and prosecutors, among others, recognise *hate crime* and Section 33 (1) of the Austrian Criminal Code (CC), regular training for the judiciary should be offered.
- A focus group of experts, including civil society representatives with a focus on and expertise in law enforcement, legal counselling, representatives of independent courts and legal services, should develop alternative approaches and concepts to punitive measures and sentencing.

- Section 33 (1) of the Criminal Code (CC) should be applied as applicable law in practice.