



TOLERANCE IMPLEMENTATION MEETING

“ADDRESSING THE HATE CRIMES DATA DEFICIT”

FINAL REPORT

Vienna, 9-10 November 2006

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Executive Summary

Objective of the Meeting

The main aim of the *Tolerance Implementation Meeting: Addressing the Hate Crime Data Deficit* was to provide a forum for experts and practitioners from OSCE participating States to exchange experiences and practices related to their hate crime data collection methodologies and to discuss ways to further strengthen approaches to data collection. The Meeting was attended by experts from OSCE participating States, representatives of inter-governmental organizations and civil society.

The Meeting consisted of thematic sessions, where presentations of expert speakers from different OSCE States on their experiences and practices in dealing with specific aspects of the data collection process were used as the basis for interactive discussions between participants of the Meeting. The thematic Sessions included the following subject areas:

- The importance of data collection
- Data collection and police-community relations
- Data analysis and reporting
- Hate crime data: follow-up and policy implications

Recommendations

When exchanging good practices from different participating States and looking at different models of data collection, the experts made several recommendations.

To participating States:

- To clearly differentiate the ‘hate crime’ concept from ‘discrimination’.
- To create awareness on how data on hate crimes can serve to inform policy.
- To publish statistics on hate crimes in order to increase public awareness of these issues.
- Participating States should make collecting data on hate crimes a priority.
- Participating States should collect more comprehensive quantitative and qualitative data on hate crime.
- Participating States should strive for greater harmonisation in their approaches to data collection.
- Participating States should make sure that the existing legislation on data collection is enacted and put in practice.
- Participating States should improve the existing legislation so as to ensure that there is a legal basis for prosecuting racist crime in every participating State.
- Participating States should acknowledge and seek to measure the social impact of individual hate-motivated incidents.
- Participating States should create the legal, policy and criminal justice framework for a culture of recording and reporting to come into existence.
- Participating States should improve their procedures so that prosecutions can take place even in the absence of a complaint by the victim.

Acknowledging the key role played by law enforcement officers, prosecutors and civil society, the following recommendations were made:

- Not only the criminal justice system, but also other actors, such as Ministries and specialised bodies, should become involved in the process of data collection.
- Training programmes and related initiatives should pay more attention to the role of prosecutors.
- There should be more NGO-state cooperation in monitoring, recording and responding to hate crime.
- Government bodies should be set up that are responsible for collecting and coordinating the efforts of civil society and state institutions in the field of data collection.
- There should be incentives and rewards for law enforcement officers to collect data on hate crimes.
- Partnerships between the police and communities should be encouraged.
- Training and educational programmes involving police, schools and NGOs should be regarded a preventive measure.
- Victims should be encouraged to report to the police, through mechanisms such as online complaint bureaus, 3rd party reporting etc.
- Governments should support civil society organizations in their efforts to empower victims of hate crime.
- The police should try to recruit more people with a minority background.

1 Introduction

This report provides a synthesis of discussions during the Tolerance Implementation Meeting on Addressing the Hate Crimes Data Deficit that took place in Vienna on 9-10 November 2006.

As the short agenda in the beginning of the report gives a general overview of the topics and the speakers, the rest of the report is organized by session. The structure of these session reports is as follows: a note on the substantial aim of the session (from the annotated agenda), a summary of the discussions (based on the note-takers' reports) and finally a list of the recommendations made during that session.

In addition to providing a useful guide to the discussions of the meeting, the report also aims to provide assistance to the OSCE participating States engaged in collecting data on hate-motivated incidents.

The ODIHR would like to thank all experts and participants for their active involvement that has made this report possible. The ODIHR would also like to announce the launch of a special corner on data collection in the Tolerance and Non-Discrimination Information System at <http://tandis.odihr.pl>.

2 Agenda and List of Speakers

9 November 2006

15:00-16:00 Session 1: Opening Session

Opening Remarks

- Ambassador Bertrand de Crombrughe, Chair of the Permanent Council
- Ms. Jo-Anne Bishop, Head of the ODIHR Tolerance and Non-Discrimination Programme on behalf of Ambassador Christian Strohal, Director of the Office for Democratic Institutions and Human Rights

Presentation of Civil Society Organizations' Recommendations

Mr. Michael Whine, Director of Communications, Community Security Trust, UK

Keynote Address

Dr. Jack Levin, Brudnick Center on Violence and Conflict, Northeastern University, USA

16:00-18:00 Session 2: The Importance of Data Collection

Moderator: Ms. Jo-Anne Bishop, Head of the ODIHR Tolerance and Non-Discrimination Programme

The Need for Data on Hate Crime

Dr. Joanna Goodey, European Monitoring Centre on Racism and Xenophobia

The Impact of Under-reported and Unrecorded Hate Crime Data

Mr. Michael McClintock, Human Rights First, USA

Standardized Police Training and Data Collection on Hate-Motivated Crime

Mr. Warren Silver, Canadian Centre for Justice Statistics, Canada

10 November 2006

9:30-11:00 Session 3: Data Collection and Police-Community Relations

Moderator: Ms. Daniela Petković, Police Academy, Ministry of Interior, Croatia

The Role of Police in Data Collection: Practical Implications

Assistant Chief Constable Drew Harris, Police Service of Northern Ireland, UK

Bridging the Information Deficit in Bias Crime Reporting

Dr. James Nolan, West Virginia University, USA

11:00-12:30 Session 4: Data Analysis and Reporting

Moderator: Dr. James Nolan, West Virginia University, USA

Processing Hate Crime Statistics

Mr. Ulrich Kinitz, Detective Superintendent, Head of State Security Division, Police Headquarters, Münster, Germany

Reporting Data on Hate Crimes

Dr. Ladislava Tejchmanova, Security Policy Department, Ministry of Interior, Czech Republic

Publishing Statistics on Hate Crime

Dr. Christine Magill, Research, Development and Statistics Directorate, Officer for Criminal Justice Reform, Home Office, UK

12:30-14:00 Lunch

14:00-15:30 Session 5: Hate Crime Data: Follow-Up and Policy Implications

Moderator: Dr. Jack Levin, Brudnick Center on Violence and Conflict, Northeastern University

Data Collection as an Effective Tool for Improving Policy Responses Aimed at Combating Hate Crime

Ms. Heike Klempa, Secretariat of the European Commission against Racism and Intolerance

Ensuring Continuity and Further Action

Ms. Astrid Mattijssen, Ministry of Justice, the Netherlands

15:30-17:00 Session 6: Conclusions and Practical Recommendations

Moderator: Ms. Jo-Anne Bishop, Head of ODIHR Tolerance and Non-Discrimination Programme

Presentations by Session Moderators

Closing Remarks

Ambassador Christian Strohal, Director of the Office for Democratic Institutions and Human Rights

3 Opening Session

3.1 General context and aim of the meeting

Under the 2003-2005 Ministerial Council Decisions, OSCE participating States made commitments to collect and keep reliable information and statistics on hate crimes, including on forms of violent manifestations of racism, xenophobia, discrimination, and anti-Semitism.

Most recently, the 2005 Ljubljana Ministerial Council Decision committed participating States to:

- strengthen efforts to collect and maintain reliable information and statistics on hate crimes and legislation within their territories, to report such information periodically to the ODIHR
- make this information available to the public
- consider drawing on ODIHR assistance in this field
- nominate national points of contact on hate crimes to the ODIHR.

The same Decisions tasked the ODIHR to serve as a collection point for information and statistics collected by participating States and to regularly report on the collected information.

Under the Decisions the ODIHR was also tasked to assist participating State upon their request in developing appropriate methodologies and capacities for collecting and maintaining reliable information and statistics about hate crimes and violent manifestations of intolerance and discrimination, with a view to helping them to collect comparable data and statistics.

In response to its tasks under the Maastricht Ministerial Council Decision, the ODIHR sent out various Note Verbales in 2004, requesting that States provide the following information:

- All pertinent and reliable information, including statistics where available, on hate crimes, including violent manifestations of racism, xenophobia, anti-Semitism, and other forms of intolerance and discrimination;
- Information concerning existing relevant criminal legislation – in particular which type of racist acts are defined as criminal offences;
- Information on national initiatives and best practices to combat racist, xenophobic, and anti-Semitic violence and crimes;
- The name of a designated authority responsible for the collection and provision of information to the ODIHR.

Throughout 2004, the ODIHR Director provided updates to the Permanent Council on information, statistics, and legislation submitted by participating States and reminded all States to submit their data by the end of 2004 in order to enable the ODIHR to undertake a preliminary analysis of the information collected.

In June 2005, the ODIHR published the report “Combating Hate Crimes in the OSCE Region: An Overview of Statistics, Legislation, and National Initiatives” which provides a preliminary overview of the types of information submitted by participating States, including an assessment of where information was deficient or inconsistent. The report also offers a working definition of hate crime and a police reporting form to support States in their efforts to strengthen data collection related to hate crime. In the report, it was concluded that a hate crime data deficit exists in many OSCE participates and several recommendations to States on how to further strengthen the quality and quantity of data were included within the report. Following this report, in October 2006 the ODIHR issued a second report on *Challenges and Responses to Hate-Motivated Incidents in the OSCE Region (January-June 2006)*, which included updated statistics, legislation and other information submitted by OSCE participating States.

The need for effective data collection systems on hate crime has also been highlighted by a number of international organizations, including the European Commission against Racism and Intolerance of the Council of Europe (ECRI), the European Monitoring Centre on Racism and Xenophobia (EUMC), and the United Nations’ Office of the High Commissioner on Human Rights (OHCHR), in recent reports published as well as in policy recommendations and commitments adopted by each of these organisations.

3.2 Summary of Statements

Ambassador Bertrand de Crombrughe, speaking on behalf of the OSCE Chairmanship, welcomed the fact that the Tolerance Implementation Meeting was preceded by an NGO roundtable and expressed the wish that such preparatory meetings should be institutionalised. He acknowledged that hate crimes pose a serious security threat to society requiring a whole set of responses, one of which is data collection. The primary role of data collection should be to obtain reliable information that can inform policies by identifying trends and target groups. He called on participating States to nominate national points of contact on hate crime and encouraged participating States to continue cooperating with the ODIHR, using the tools provided by the ODIHR.

Ms. Jo-Anne Bishop welcomed the participants and the experts on behalf of Ambassador Christian Strohal and thanked the OSCE Chairmanship for making it possible to have a third Tolerance Implementation Meeting. She thanked participating States for sending their national points of contact on hate crime and the International Organizations present for their valuable suggestions received at a preparatory inter-agency meeting. Ms. Bishop noted that while persons and property become the victims of hate crimes, the impact of these crimes is always broader, causing fear in and among communities. Hate crimes have a tendency to grow, become more violent and more sophisticated. After referring to the OSCE commitments on collecting data on hate crimes, Ms. Bishop explained the ODIHR’s mandate to serve as a collection point for information and statistics and referred to two ODIHR publications on hate crime. Both reports identified the need to strengthen data collection efforts. She concluded by stating that the ODIHR regards this Meeting as a concrete “how to” Meeting primarily aimed at practitioners and data experts.

Mr. Michael Whine presented the NGO recommendations. He welcomed the opportunity for civil society to present the conclusions of the preparatory roundtable and recommended the institutionalisation of this practice. The recommendations are included in the Annex of this report.

Dr. Jack Levin's keynote address underlined that there is a pressing need for quantitative and qualitative data on hate crime – a phenomenon affecting almost every country. Past and ongoing political transformations, unemployment and feelings of widespread uncertainty were identified as main causes. Another factor identified is the tendency to blame entire communities for developments in international politics. In addition to that, racism continues to spread, often targeting Roma or black people in places hitherto known for their tolerance. Dr. Levin presented the argument that much of the Governments' inertia in the area of hate crimes can be attributed to a set of myths worth being reviewed. Contrary to widespread assumptions, spending money on the research of hate crime is no waste of time, because of the general impact a single hate-motivated incident has for communities and society at large. In addition to that, the number of hate crimes is not as small as it seems to be, as police officers often fail to identify a hate crime and victims prefer not to inform the police. The speaker also challenged the view that the impact of hate crimes is small. They are crimes against society that rather than coming from the margins are increasingly being mainstreamed.

4 Session 2: The Importance of Data Collection

4.1 Aim of the Session

The lack of accurate and comprehensive official data is the first impediment to the effective combat of hate crimes. Data deficits not only hamper the ability of Governments to assess and analyse the nature and extent of hate crime, but, more significantly, it also obstructs the development of effective measures and strategies to prevent and respond to hate-motivated incidents. Without reliable hate crime data, the relevant authorities, notably the law enforcement agents and the judiciary, remain unaware of the trends in hate-motivated crimes and are therefore unable to suggest adequate policies and/or sufficient protection to vulnerable groups.

This session focussed on the important role data plays in defining the scope and nature of hate crime within a State and the impact that published data and statistics can have in demonstrating a State's ability to recognize, report on and respond to hate crime. Challenges that governments face in classifying and collecting hate crime were discussed.

4.2 Summary of Discussions

After introducing the speakers, Ms. Jo-Anne Bishop drew the attention of the participants to the ODIHR's working definition on hate crime.

Dr. Joanna Goodey presented the work of the European Monitoring Center on Racism and Xenophobia (EUMC), which provides Member States with objective, reliable and comparable data at the European level on phenomena of racism, xenophobia and anti-Semitism. The Center set up its own mechanism of data collection – the Raxen Network. By also drawing on unofficial sources, the EUMC also provides the EU Member States with information on data gaps in their criminal justice systems. Producing comparable data was identified as one of the main challenges, as there are great variations not only in legislation, but in the application of this legislation in the various Member States. When looking at the official criminal justice data, it becomes evident that people are not reporting crime due to a lack of trust in police. She also noted that racist violence and crime appears to be a low priority for criminal justice agencies. The EUMC recommends that legislation be improved and put in practice. It calls for the political will to focus on these issues; to encourage recording and to make data collection a priority. Dr. Goodey finally underlined that Member States have to provide for the adequate legal, policy and criminal justice framework for a culture of recording and reporting to come into existence.

Mr. Michael McClintock argued that hate crimes are particularly serious crimes, because they affect whole sectors of a population and lead to a progressive alienation. In his view, there is not only a need for data on hate-motivated incidents, but also on the larger impact of those crimes. He underlined the importance of clear definitions, as hate crimes should be distinguished from discrimination and be taken note of in their various manifestations (act and speech). He pointed to the fact that data is collected by different agents of the criminal justice system with the emphasis being on the primary end-use for which each distinct agency gears its information management. Awareness for the policy-informing function of data should be created within the criminal justice system by also involving other actors. In order to overcome the problems of under-reporting and under-recording, McClintock suggested to establish special police units and prosecutors dealing with hate crime in each district, and to promote law enforcement officer training programmes that provide police officers not only with practical tools such as templates, but that also facilitate the creation of a new culture. He noted that the OSCE/ODIHR could be of assistance in this respect, with the commitment of institutional leaders being a decisive variable.

Looking at the Canadian example, Mr. Warren Silver proposed that police training is a practical way of addressing the data gap. In Canada, a pilot study on complementing police and victimisation surveys is being developed. Mr. Silver argued that this project has revealed that it is possible to collect standardised data. For this to happen, it was necessary to have a standard definition and a standard training. The Canadian Center for Justice Statistics focuses on awareness-raising among the police for national reporting standards, it enhances police service preparedness to report, develops standardised police approved definitions, offers training programmes, verifies the data and assists the police. Reports are published, once the data has been verified. Before concluding, Mr. Silver also informed about some of the results of the Police Report Pilot Survey of Hate Crime, which involved 12 main police services across Canada. He explained that the category most targeted was race/ethnicity, that

Jewish persons and institutions, Black and Muslims are the prime targets, that crimes against homo-, bi- or transsexual people are usually the most violent crimes and that, as an effect of September 11th and other developments in international politics, there has been a rise in the number of attacks against Muslims and Jews.

In the discussion, the question was posed as to what governments do with the collected data, especially at the local level. Dr. Goodey replied that it is very difficult to answer this question with respect to the local level. Mr. Silver pointed to the Canadian Action Plan against Racism and explained that the agencies in charge of that plan use the data and enact policy based on it. Mr. McClintock added that in countries where there are no hate crime statistics, the first hate crime statistics will be approved by civil society, which, according to him, creates some pressure for the State to react. He also pointed to the example of the US where incident reports and statistics have provided an index of needs, which led directly to state legislation acknowledging hate crime as a crime. Dr. Nolan stressed that there is a lot that can be done with a set of data and explained that his research has just revealed that most hate crimes committed in schools tend to take place during the lunch break, which is information that can be acted upon.

The representative of the Anti-Defamation League (ADL) asked Dr. Goodey whether there is also data on prosecutions. Dr. Goodey replied that the EUMC is also very interested in tracking what happens to actual crime reports, but that there is very little information. This was interpreted as reflecting the absence of sophisticated data collection systems.

The European Roma Rights Center referred to an incident taking place in Budapest where police officers dismissed the claim of a woman whose car had been vandalised. It was argued that certain categories allow for too much latitude, while an adequate recording of the hate crime could be secured if the victim's perception of the situation were taken into account. It should be assessed what effects training programmes actually have on the ground. Dr. Goodey replied by encouraging participants to look at a historical perspective and argued that the situation in Britain, Canada, the US and in other countries with good practices has changed to an enormous extent over the past 20 years. While not trying to legitimate inaction or bad policing, she stressed that it does take time to develop and implement a new culture among law enforcement officers.

Dr. Levin added to the discussion that having a voluntary reporting system, such as in the US, also creates a problem of underreporting. This biases the victim groups and the groups of perpetrators that have been reported. He noted with concern the underrepresentation of hate crimes committed by whites against black people and the overrepresentation of hate crimes committed by blacks. Mr. Silver added that every police force has to report in Canada and said that auditing ensures adequate reporting. He reiterated that every incident is verified by his institution.

Mr. Ulrich Kinitz inquired with Mr. Silver about the resources available in Canada for such programmes to be implemented. Mr. Silver explained that the Canadian Prime Minister first ascribed great importance to this issue, when a Jewish school was bombed. He made clear that support on all levels of Government and of the criminal justice system is necessary for such a training programme to work out.

4.3 List of Recommendations

- Participating States should strive for greater harmonisation in their approaches to data collection.
- The ‘hate crimes’ concept should be clearly differentiated from ‘discrimination’.
- Participating States should make sure that the existing legislation on data collection is enacted and put in practice.
- Participating States should make collecting data on hate crimes a priority.
- Participating States should acknowledge the social impact of individual hate-motivated incidents and seek to measure that as well.
- Participating States should create the legal, policy and criminal justice framework for a culture of recording and reporting to come into existence.
- Awareness has to be created on how data on hate crimes can serve to inform policy and that this can be the primary end-use of the data.
- Not only the criminal justice system, but also other actors, such as Ministries and specialised bodies, should become involved in the process of data collection.
- Law Enforcement Officer Training Programmes should not only provide practical tools, but also address questions of culture.

5 Session 3: Data Collection and Police-Community Relations

5.1 Aim of the Session

As the first respondents to hate crime, law enforcement officers, play a key role in recognizing and reacting to hate crimes and incidents and in collecting and recording information about such cases. Proper training for the police is therefore crucial for efficient data collection. The accuracy and comprehensiveness of collected data also depends on the ability of law enforcement officers to work closely with community-based and other civil society organizations which can be instrumental in contributing to comprehensiveness and accuracy of collected data.

This session examined the specific role of law enforcement officers in collecting and recording hate crime data. The session focussed on two aspects, namely methodology, as well as specific tools and procedures in data collection. Technical aspects of data collection by police – such as bias motivation, type of offence, and follow-up to recorded and reported incidents – were also considered in this session. The session further examined the main causes that obstruct effective data collection – such as underreporting, under-recording and other institutional gaps – and looked at possible solutions.

5.2 Summary of Discussions

By way of introduction, Ms. Daniela Petković underlined the crucial role played by law enforcement officers in identifying and reacting to hate crimes, as well as in collecting and recording such cases. She stressed that defined guidelines about the most effective and appropriate way of responding to such crimes could improve the interactions between police and victims and encourage more reporting. State-NGO collaboration in monitoring, recording and responding to hate crime incidents should be enhanced. National focal points on hate crime may provide officials from throughout the region with an opportunity to develop methods for improving the collection of statistics on hate crime. She welcomed Croatia's efforts in this field and noted the signing of the Memorandum of Agreement between the Croatian Ministry of the Interior and the ODIHR on 23 October 2006, as well as the fact that Croatia was the first country in the region to become involved in the ODIHR's Law Enforcement Officer Programme.

Looking at the example of Northern Ireland, Assistant Chief Constable Drew Harris emphasized that hate crime is not a stand-alone issue, but that it needs to be mainstreamed in other aspects of policing functions. Northern Irish Statistics for the period between October 2005 and October 2006 reveal that 49% of those incidents were sectarian and 36% racist in motivation. He also noted a growth in reporting hate crimes to the police service. The Northern Irish Police implemented one of the recommendations of the Lawrence enquiry and uses a definition of hate crime, for which the perception of the victim is vital. As a result, the Police does not only record a variety of hate biases (such as homophobic, disability, sectarian etc.), but also different types of incidents (ranging from minor intimidations to murder and terrorism). He explained that the National Intelligence Model is used when responding to the data, involving problem-solving partnerships and strategies of policing with the communities. These partnerships are crucial when it comes to qualitative data, because collected statistics may not always reflect the actual experience of a victim. The importance of changing mindsets through education was also underlined. The major challenges identified by Mr. Harris were turning national policies into local practice, building and maintaining trust with the communities and recruiting minority groups into policing.

Dr. James Nolan commended the ODIHR and the Tolerance and Non-Discrimination Programme for their leadership in this field. In his presentation, he described the national hate crime data collection program in the US, where the 1990 Hate Crime Statistics Act (HCSA) mandated the FBI to develop a methodology for collecting hate crime data at the state and local level and added it as an adjunct to the Uniform Crime Reporting Program. Dr. Nolan presented a conceptual framework for viewing police records as a valid way to measure hate crime, thereby refuting the claim that police data is inaccurate. Once the reporting process becomes institutionalized, error estimates can be calculated at various locations in the process so that a measure of accuracy in the hate crime statistics can be determined. He identified and explained some of the organizational and interpersonal forces that affect police participation in hate crime reporting programmes. Research shows that good data collection practices tend to be linked to a chief and an administration fully committed to it, which also includes recognizing officers for their work. With respect to individual factors, lack of

training rather than personal biases was identified as the crucial factor. Law enforcement should therefore be improved by teaching officers to see hate crimes. The author highlighted some of the reasons why he believes police reports are the best means for bridging the information deficit in bias crime reporting and emphasized the changes that have taken place in the last decade, which has seen police officers becoming major players and supporters in the effort to identify, investigate and report hate crimes.

The discussion underlined the importance of schools for the creation of awareness for the need to combat hate crimes by collecting data. Mr. Harris explained that the Northern Ireland Police deliver lessons on citizenship, including on respect for others. He also mentioned police efforts to bring schools together, which are currently segregated on religious grounds in order to build bridges. In this context, Dr. Levin pointed to the school massacres that took place in the US and drew attention to the fact that most of the students, who committed these massacres, had previously been bullied in school. He recommended intervening preventively at a very early stage and stressed that having the police go into schools is only the first step. A representative of the Anti-Defamation League added that NGOs could play a key role in this respect.

The Holy See asked for clarification as regards the ODIHR's hate crime definition. Mr. Harris responded that the classifications in the UK have been built upon the UK experience of hate crime and on an analysis of where the problems have been. He underlined that it is important to note that a member of the 'majority community' could also become the victim of an attack. Dr. Nolan noted that the ODIHR working definition of hate crime is inclusive, because it stresses that in order to be categorised a hate crime, the victim must have been "selected because of" a particular characteristic. Ms. Bishop claimed that the ODIHR's working definition takes into account national differences in terms of legislation, resources, approach and needs and allows each participating State to amend the working definition as it sees fit.

A delegate of the OHCHR asked for more information on the exact criteria of identifying a hate crime. Dr. Nolan replied that the FBI has a list of criteria, for example victim and offender groups. He explained that the FBI definition refers to crimes that are caused in whole or in part by bias, which tends to create confusion.

Ms. Floriane Hohenberg, ODIHR Advisor on Civil Society Relations, asked how many hate crimes are reported by a third party. Mr. Harris replied that third party reporting can go, for example, through the internet, but that this has so far not proven to be as successful as hoped: out of 5000 incidents, only approximately 250 were reported through the internet.

The Anti-Defamation League delegate stressed that law enforcement officers need to have an incentive and be rewarded for their work, which should be a very important part of any approach.

The Anti-Defamation League also asked Mr. Harris about Northern Ireland's stance towards the difference between hate incidents and hate crimes. Mr. Harris referred to the guidelines that define what gets counted and informed that if police officers or victims identify something as a hate incident, it will be recorded. Once flagged, this label cannot be removed. Actual crimes only account for half of the statistics, with the

other half consisting of incidents. Mr. Harris underlined the importance of counting incidents as the people who repeat incidents often go on to commit hate crimes.

The Sova Center delegate expressed his regret about the fact that such a system does not exist in the Russian Federation and wondered what can be done to remedy the situation. A government body should be mandated to monitor and collect hate crime data. Such a body should be accountable and could also coordinate government and NGO bodies.

The delegate from Kazakhstan expressed some thoughts about whether or not the term 'hate crime' should be replaced with 'denial of rights', because the violation of someone's rights falls within the provisions of the administrative code. She explained that her Government is currently trying to establish something like this, especially with respect to collecting and reporting data to the ODIHR. She expressed her interest in learning more about the experiences and practices of other countries.

The delegate from the Netherlands inquired whether there are statistics of how many cases are successfully brought to court. Adding to that, Memorial wondered about the role of investigators, legislators and prosecutors in having hate crimes sentenced as such. She underlined the need for transparency and also emphasized that prosecutors can change whether or not a hate crime is prosecuted or not. She noted a sense of frustration in the Russian society and informed about the problems victims and their families are faced with, feeling a lack of support. She stressed the need to focus on the way that information is handled by prosecutors and investigators.

The delegate of the US Department of Justice informed participants that it is tasked with the internal review of the FBI hate crime data collection program, which entails a review of the data collection process, of efforts in the area of information exchange and of the training modules in place, noting that those training modules are also available online.

Mr. James Brown briefly introduced to the ODIHR's Law Enforcement Officers Training Programme, noted the involvement of Croatia, Spain and Hungary. He announced the forthcoming needs assessment with Poland and a LEOP training-of-trainers seminar to take place in Paris on 9-10 December 2006.

Ms. Jo-Anne Bishop described the role of the ODIHR in supporting participating States in their efforts to combat hate crime. Apart from the LEOP-Programme, the incident reporting template published in the first hate crime report is one of the tools provided. The ODIHR was mandated to serve as a collection point for information, statistics, best practices, including on data collection, and to disseminate them publicly, notably through the Tolerance and Non-Discrimination Information System.

Dr. Nolan concluded the session by stressing the importance of recognizing incidents and the impact they have on victims as well as criminal offences. He noted that an exact number of hate crimes committed is not necessarily required to acknowledge that there is a problem.

5.3 List of Recommendations

- There should be more NGO-state cooperation in monitoring, recording and responding to hate crime.
- Government bodies should be set up that are responsible for collecting and coordinating the efforts of civil society and state institutions in the field of data collection.
- Partnerships between the police and communities should be encouraged.
- Training and educational programmes involving police, schools and NGOs should be regarded a preventive measure.
- Law Enforcement Officer Training Programmes should enable the trainees to “see” hate crimes.
- Law Enforcement Officers should have incentives and receive rewards for collecting data on hate crimes.
- Third party reporting, for example through the internet, should be encouraged.
- The fact that data may be inaccurate should not be over-interpreted, because error estimates can be calculated and even if numbers are not exact, they may still point to serious problems.
- Training programmes and related initiatives should pay more attention to the role of prosecutors.

6 Session 4: Data Analysis and Reporting

6.1 Aim of the Session

In order to enable government authorities to adequately respond to the social realities revealed by collected data on hate crimes and incidents, the figures and statistics have to be processed, analysed and reported. This process involves the collection and compilation of information from the police, courts and numerous other officials within the judicial system and other bodies. It also calls for the input of statisticians as well as criminologists, sociologists, researchers and other relevant experts.

This session was designed to look at the different actors involved in process of statistics development and publication. By looking at examples, it sought to reconstruct the route a set of data takes through the institutions of different countries. This session also explored issues such as: How is data transferred into quantitative information? How is it analyzed and reported? How to set up and build the capacity of national institutions responsible for data collection and analysis? How to bridge the organizational/institutional gaps between those agencies that collect and report data, and those that receive, analyze and publicize data?

6.2 Summary of Discussions

Detective Superintendent Ulrich Kinitz informed about how data on hate crimes is being processed in Germany. The federal structure of the German police system consists of 16 independent police forces. Apart from those, two other institutional levels are involved in dealing with internal security matters: the local and the federal level. The importance of prosecutors and the Federal Office for the Protection of the Constitution was also noted. In Germany, hate crime is regarded a part of politically

motivated crime. Data on hate crimes is initially recorded by the frontline police officer who registers an incident and makes a preliminary assessment before passing it on to the local state security division, which in turn communicates it to the other actors involved. The State Office of Criminal Investigation collects and makes an internal evaluation of the data for the particular *Land*. Upon request, this data can be accessed by researchers. Twice a year, the state office informs the Office for the Protection of the Constitution about recent trends. Only the Ministry of the Interior is allowed to publish the data for the entire Republic. Quoting from recent reports, he stated that there has been a rise in the number of recorded hate crimes between 2004 and 2005, with 11% of the reported hate crimes involving violence. He argued that statistics not only point to problems, but also indicate in what areas solutions have to be found. In Germany, most offenders tend to be either between 18 and 20 or over 30 years old, every fourth of them claims to have consumed alcohol or drugs and in most of the cases, hate crimes were prompted by xenophobia and anti-Semitism. Mr. Kinitz concluded by noting the importance of the allocation of resources to combat politically motivated crimes.

Dr. Ladislava Tejchmanova focused on publishing data in the Czech Republic, where three main data sources are consulted: Police, Prosecutor and Court statistics. Police presidium criminality statistics are a key source of information, as they refer to the types of hate crimes ascertained, cleared up, prosecuted or investigated by the Czech Police. Dr. Tejchmanova noted that the Czech Republic has responded to international developments and commitments by making intolerance against Muslims and anti-Semitism a variable in its statistics as of 2005. Police experts annually prepare an overview of cases comprising the suspicion of criminal offences or misdemeanors of an extremist context, including cases motivated by racial or national intolerance or committed by supporters of extremist groups regardless of their final criminal classification. These numbers provide detailed information on hate-motivated incidents. The Ministry of the Interior quarterly and annually releases such documents. Due to the importance ascribed to awareness-raising, the Government publishes a publicly accessible document about extremism and has done so since 1998. The Czech Republic's response to right wing extremism, problems experienced by the Muslim and the Jewish communities, the integration of minorities, hooliganism and spectator violence were also presented. In this regard, priorities include the appointment of liaison officers to all regional police offices and law enforcement officer training. Dr. Tejchmanova made clear that the Czech Republic would welcome to learn about good practices on how to respond to the misuse of the internet for disseminating neo-Nazi propaganda,

In her presentation, Dr. Christine Magill focused on the publication of race hate crime statistics in the UK. In the UK, a race hate crime is defined as "any incident, which is perceived to be racist by the victim or any other person". This is a wide definition, which also includes threats or incitement to hate. The main data sources on race hate crime in the UK are police recorded racist incidents and self-reported racially motivated crime as reported in the nationally representative British Crime Survey (BCS). The police have recorded racist incidents ever since the 1980s and the data is published by the Home Office on an annual basis. Looking at the figures that have been collected by the police in the last decade, Dr. Magill concluded that there were nearly 50.000 incidents in 1999/2000. It was shown that all of these figures rose steadily in the course of the last five years, amounting to around 58.000 racist

incidents in 2004/2005. The BCS data, a victimization survey, includes those incidents that are not registered by the police and are thus an alternative source of data. The BCS findings show a decrease of the figures between 2002 and 2005. It was thus noted that the police have recorded more racist incidents whereas the number of self-reported incidents has decreased. Dr. Magill's conclusion was that there is an improved recording by the police and a better reporting by victims. According to the BCS, less than 1% of the victims belong to the white population.

In response to Human Rights First, Dr. Tejchmanova explained that hate crimes committed against Roma have always been included in the statistics and made clear that she only referred to "new" groups in her presentation. It was acknowledged that Roma remain the main target of hate crime in the Czech Republic and that the government has set up trainings on Roma and policing with the aim of increasing the number of police men and women from the Roma community. Not all attacks against Roma are committed by xenophobic hate groups, but that they also involve 'normal citizens'.

Opferperspektive wondered whether 'politically motivated crime' was not a misleading term. Mr. Kinitz replied that this is the term currently in use and that he does not think that the German police are ready for a reform. He stated that if a tighter or different definition is introduced, one might risk to lose sight of trends and overviews.

In response to Inspector Timothy Parsons, one of the experts of the ODIHR's Law Enforcement Officer Programme, Dr. Magill explained that 7000 convictions have taken place in the courts. She explained that there is a huge gap between the recorded 58.000 racist incidents and the 7000 convictions, as many cases are dropped or pre-bargained.

6.3 List of recommendations

- Statistics on hate crimes should be published in order to increase public awareness of these issues.
- Hate crime definitions should be clear enough so as to inform police and policy strategies.
- Responses to hate on the internet should be developed, taking into account the cross-border nature of such cases and the need for regional cooperation and information-sharing.

7 Session 5: Hate Crime Data: Follow-up and Policy Implications

7.1 Aim of the Session

Data is collected for a specific reason, namely to assess the magnitude of the problem, to determine the causes and consequences, to identify impact of hate crime on affected communities and to suggest policy implications and the need for follow-up actions. There is an increasing need for qualitative data and analysis on how hate crime legislation is applied and enacted in order to bridge the information disconnect between the initial reporting of a hate crime and the outcome.

This session focussed on the need for information and statistics on the outcome of reported cases of hate crime, such as the numbers of recorded convictions and sentences handed down and the number of acquittals or discontinued cases. It looked into effective policy responses and measures that can result from data collection processes and examined the steps that need to be taken once the data is collected, analyzed and reported.

7.2 Summary of Discussions

Ms. Heike Klempa underlined that the European Commission against Racism and Intolerance (ECRI) has been advocating for the establishment of monitoring mechanisms for many years. The importance of developing and maintaining systems of recording data was emphasized, although recording is only a first step. Member States should actively review their implementation. This review should involve quantitative and qualitative data. With respect to the quantitative data, the following information should be collected: number of complaints, details of the investigation carried out, details of the prosecutions initiated and the outcomes of such complaints. With respect to qualitative data, ECRI recommends that states should investigate in more depth the clarity and adequacy of legal provisions in place, possible procedural impediments, who are the victims of racist crime and what is their trust in the criminal justice system. The need to learn more about perpetrators was also identified. Ms. Klempa proposed two sets of measures: measures to be taken within the criminal justice system (improving the law in order to ensure a legal basis for prosecuting racist crime, improving the procedure so that prosecution can take place even in absence of a complaint by the victim, providing training for all actors involved in the criminal justice system, the establishment of support structures such as specialised bodies within the criminal justice system and an increased awareness for the issue) and measures evolving around victims. Victims should be encouraged to make complaints. The important role of national specialised bodies was noted, as those can provide information and facilitate the contact between victims and public authorities. Increased recruitment of members with minority background to the police forces was recommended.

Ms. Astrid Mattijssen stressed that hate crime is a serious problem and made clear that society at large as well as Governments play an important role in this regard. Insulting and incitement to hatred is a criminal offence in the Netherlands, when

based on race, sexual orientation, belief etc. However, the issue of hate crimes is not mentioned in the Dutch criminal code. At the same time, cases with a discriminatory background can prompt the Public Prosecutor to increase the charge by 25%. A specific mechanism of collecting data on hate crimes is not yet in place, although the National Expertise Centre Against Discrimination, which belongs to the prosecutors, collects and regularly publishes figures on cases of discrimination, incitement to hatred, and on the publication of these expressions. Recent developments in the Netherlands include the “Program of the Public Prosecutor: Perspectief 2010”, the contract between the Minister of Justice and the Minister of Internal Affairs with the police (called ‘Landelijk Kader Nederlandse Politie 2007’) and a national network of antidiscrimination bureaus to be created. With respect to this project, the Government views it as important that citizens have the opportunity to report cases in their local surroundings. As a result, 25 regional bureaus will be created and there will also be new legislation to bring a specific responsibility to the local government. A new computer system was recently introduced which makes it possible to file complaints online. The speaker expressed some hope that the Netherlands will be able to submit information to the ODIHR next year.

In the discussion on how to use data, Dr. Levin made a comment about using data and pointed to a recent study which has revealed that the hate crime prevalence rises and falls with the prevalence of other crimes. It therefore might be possible to reduce hate crimes by generally looking at what gets young people into criminality. The majority of prosecutions of serious hate crimes lead to a conviction, a conviction on the hate crime charge.

In response to the delegate of the Expertise Centre on LGBT Policy Issues, the mandate ECRI has received was reiterated. The only way to enlarge the mandate would be to lobby the governments before the next summit of the Council of Europe.

The delegate of the Expertise Centre on LGBT Policy Issues asked Ms. Mattijssen how to ensure that local government complies. Ms. Mattijssen replied that the Dutch Government is trying very hard to bring people such as representatives of local government, prosecutors, the police and anti-discrimination bureaus together at conferences.

In addition, the representative of the Expertise Centre stressed that victims have to be empowered and posed the question to both speakers how governments could do that. In response to that, Ms. Klempa made two points and argued that National Specialised Bodies are crucial. She also emphasized the role played by civil society and called on governments to financially support civil society.

The delegate of the Danish Director of Public Prosecution made an intervention and informed that her office focuses on convictions and penalties. She announced that in the course of 2007, her office is going to look into convictions trying to see in what cases the court has actually emphasised the hate motivation. Referring to the Netherlands, Ms. Mattijssen said that she does not yet have any figures with respect to aggravating circumstances. She expressed some hope that the new computer system will make it easier to respond to such questions and informed that the scientific bureau of the Ministry has just embarked on research specifically dealing with penalties. According to the speaker, that research will be published next June.

7.3 List of Recommendations

- Participating States should collect more comprehensive quantitative and qualitative data on hate crime.
- Existing legislation should be improved so as to ensure that there is a legal basis for prosecuting racist crime in each participating State.
- All actors of the criminal justice system, particularly prosecutors, have to be trained.
- Participating States should improve their procedures so that prosecutions can take place even in the absence of a complaint by the victim.
- Victims should be encouraged to report to the police, through mechanisms such as online complaint bureaus, 3rd party reporting etc.
- The police should try to recruit more people with a minority background.
- Governments should support civil society organizations in their efforts to empower victims of hate crime.

8 Session 6: Conclusions and Practical Recommendations

8.1 Aim of the Session

The closing Session considered the recommendations made during previous discussions and looked into future priorities and joint actions pertaining to effective data collection. The identified recommendations and suggestions were addressed to participating States, OSCE Institutions, as well as other inter-governmental and non-governmental organisations. This Session also marked an opportunity to follow-up on recommendations made in previous events and publications and to discuss areas for concrete support to States in strengthening their efforts to improve their data collection methodologies.

8.2 Summary of Discussions

During the closing session, Moderators gave a summary of the examples presented and the ensuing discussions of the working sessions. Ms. Jo-Anne Bishop then invited the experts and participants to make some final comments.

The Anti-Defamation League posed the question of what are the next steps and pointed to training for prosecutors. The delegate encouraged participants to create a group of experts in charge of developing a template. Overlaps of the different approaches of States should be identified and prosecutors included, as a lack of prosecution sends a message to police and victims. Ms. Bishop responded that a template has already been developed and that it can be found in the first hate crime report published by the ODIHR. She reiterated that the ODIHR's mandate is to serve as a collection point for information and that the ODIHR is not aiming at achieving a comparative state-by-state analysis. The ODIHR would be willing to assist with the development of a template, but cannot impose that upon participating States. She also noted that the ODIHR is considering trainings for prosecutors in the context of the

LEOP-Programme. Leading prosecutors should be identified. Mr. Silver explained that the Canadian Department of Justice is currently adapting available training modules to people working with victims of crime. He noted with regret that no representative with more policy power was present at the meeting and proposed that such a person be invited to future meetings. It was also proposed to consider trainings for community groups. Ms. Bishop pointed to the fact that the ODIHR is developing a training programme together with NGOs to support their efforts to monitor and report on hate crime. Inspector Timothy Parsons made clear that the final step of training should be the judiciary. He argued that the sentencing should reflect the trauma and distress that hate crime can impose on affected communities.

The delegate of the Anti-Defamation League alluded to the 'No Place for Hate' Programme, for which entire cities have signed up. The Anti-Defamation League has set up some events in order to educate entire communities on the issue of hate crime.

Mr. McClintock underlined that some participating States have very good sets of data and he said that it should be considered to recommend those States to be more transparent when processing and publishing this data. Data on hate crimes should be no less public than data on other crimes.

The FBI thanked the ODIHR for preparing this event and offered its services to States that currently go through what the FBI have gone through years ago.

Opferperspektive e.V. stressed that the most important objective should be to support victims and make sure that they can live with the consequences of an attack. This does not necessarily entail that victims report an incident, as there are situations where it is too difficult for the victim to report the crime. Reporting often does not happen for fear of retaliation.

Ms. Astrid Mattijssen underlined the importance of looking at the next steps and called on Governments and participating States to do more on education and training and to establish national focal points. It is up to the participating States to enable the ODIHR to come up with a report on responses that can give an overview of what has been achieved in the meantime.

The delegate from Kazakhstan called on participating States to harmonise the way in which violation of rights are qualified. Participating States should come up with a common basis for the comparison of data.

The European Roma Rights Centre recommended to the ODIHR to further contribute to developing the capacity of Roma and Roma-related NGOs in this field, among others by conducting capacity building trainings for NGOs and supporting the mainstreaming of Roma NGOs.

Ms. Jo-Anne Bishop announced that a corner on data collection will be set up in the Tolerance and Non-Discrimination Information system, which will provide special access to the meeting and the materials distributed.

Ambassador Christian Strohal closed the meeting, noting that it was the first meeting to bring together national points of contact on combating hate crime with delegations

and experts. He thanked the OSCE Chairmanship for their support and acknowledged that participating States have started to follow-up on their commitments through their interest in sending experts to the meeting. Exchange on the issue of data collection should not only take place at the level of ministers, but that the declarations have to be translated into reality. He explained that this is exactly what the ODIHR is trying to facilitate: discussions between experts not only within, but also among different countries. He expressed the hope that the Meeting brought closer a network of experts able to identify what is necessary for decisions to be implemented in the 56 OSCE participating States and where additional decisions are necessary. As partners are needed for such networks to function, he welcomed the presence of international and civil society organizations. Participating States should take the recommendations made into account and move forward. Data collection is more than the collection of data, but a prerequisite for a whole package of measures designed to combat hate crime effectively –with education and law enforcement officer training being other measures. Data is necessary to address key issues and to inform the legislative process. Ambassador Strohal finally highlighted the importance of political will and encouraged the experts to stay in touch with each other and the ODIHR, to provide the ODIHR with information and to use the multilateral framework of the OSCE.

Annex 1

NGO Recommendations

The following recommendations were developed at the Preparatory NGO Roundtable for the Tolerance Implementation Meeting.

Introduction

- We are grateful to the Chairmanship and the ODIHR for initiating an NGO roundtable to prepare recommendations for the Tolerance Implementation Meeting;
- We welcome the opportunity for civil society Delegates to give keynote speeches and in particular to present the conclusions and the recommendations of the preparatory roundtable to the Implementation Meeting;
- We recommend that this initiative be institutionalized in future OSCE conferences and meetings;

Areas of concern

- We note the continuing alarming rise of hate crimes in certain parts of the OSCE region;
- We remind participating States that democratic institutions and the rule of law are the absolute prerequisite for the adequate tackling of hate crimes;
- We call on all participating States to recognize hate crimes and to respond according to the commitments they have made;
- We express particular concern about situations in which hate crimes are committed with the collusion or the direct complicity of government agents;
- We express concern that certain governments and officials deny the occurrence of hate crimes;
- We are concerned about the attitude of certain governments that obstruct the work of human rights defenders who confront and combat hate crimes and fail to provide adequate protection from threats and violence;
- We are concerned about the longstanding institutional prejudice that obstructs the recording, investigation and prosecution of hate crimes;
- We commend the vital role an independent media plays in publicizing hate crimes and raising awareness of threats posed by hate groups;
- We are concerned about the misuse of legislation enacted to combat extremist activities to curtail freedom of speech and association;

To the participating States:

- We remind participating States of their obligation to comply with international standards relevant to discrimination and hate motivated violence;
- We remind participating States of their commitment to provide hate crime statistics on a regular basis and to respond to violent manifestations of intolerance;
- We stress the need for data to be publicized in a comprehensive way and on a regular basis

- We recommend that participating States establish specialized bodies, if they have not already done so, or strengthen existing ones to collect statistical data on hate crimes, including tracking of cases through the criminal justice system ;
- We recommend that participating States should use the ODIHR working definition to develop a minimum standard for hate crimes monitoring
- We commend participating States that have introduced a provision in their criminal code qualifying hate motivation as an aggravating factor and encourage other States to adopt similar provisions;
- We recommend that all grounds of discrimination including age, disability, gender, social status, political and religious belief and sexual orientation should be included in data on hate crimes;
- We stress that data on hate crimes should not only be used as a management tool but should be used to formulate effective policies to respond to hate crimes;
- We urge the provision of psychological, medical and legal support to victims by specialized bodies;
- We recommend that victims' surveys be conducted so as to identify patterns of hate crimes;
- We recommend provision for non governmental bodies to act as intermediaries between victims and law enforcement bodies, to forward incident reports and to represent victims in official communications;
- We recommend that law enforcement agencies should take account of victims' perceptions when recording hate crimes and also be sensitized to respond to the needs of victims;
- We recommend that law enforcement officers receive training to recognize the hate motivated elements of crimes in order to accurately record complaints;
- We recommend that law enforcement agencies publicize records on hate crimes in a comprehensive and timely manner;
- We recommend that participating States appoint public prosecutors with a specific competence and mandate and task specific police units to investigate hate crimes;
- We recommend that prosecutors and judges receive training in order to implement existing legislation;
- We encourage the development of guidelines for penalty enhancement for hate crimes;
- We recommend that law enforcement agencies provide NGOs with information on hate crimes;
- We recommend that specialized bodies acknowledge the information and data provided by civil society representatives and establish consultation mechanisms with civil society when reporting;
- We recommend that participating States recognize the added value of the work of community based organizations and support their activities to combat hate crimes
- We recommend that participating States consider next steps after the 2004 Paris Conference on hate on the internet which pointed to the growing relationship between incitement online and violent hate crime;
- In line with the Maastricht Decision 12/03 we urge participating States to support civil society initiatives that monitor and gather data on internet hate speech and incitement;

To civil society

- We stress the importance for civil society to collect quantitative and qualitative consistent data
- We recommend that civil society agree on using the ODIHR working definition of hate crime and decide on a common methodology to monitor hate motivated violence

To the OSCE

- We urge the OSCE to call yet again on States to implement commitments they have made to monitor and combat hate crimes
- We recommend that the OSCE Personal Representatives on discrimination and xenophobia, anti-Semitism, and Discrimination against Muslims must play an active role in raising awareness of the importance of monitoring and reporting hate motivated violence throughout the OSCE region;
- We recommend that the OSCE supports civil society projects aiming at addressing hate crimes, especially when monitoring and reporting and when providing assistance to victims;
- Recognizing the role of networks and coalitions in producing consistent data on hate crimes and hate on the internet, we recommend that the OSCE further strengthen the development of networks and coalitions of NGOs.