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Handbook on monitoring and reporting homophobic and transphobic incidents



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Front cover: victims of homophobic attack after Budapest Pride 2007,
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Layout: Silja Pogule
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Printer: Corelio Printing
www.corelioprinting.be

ISBN: 9789079823017

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This handbook is supported by the Directorate-General for Employment, social affairs and equal opportunities of the European Commission. Its funding is provided for under the European Community Programme for Employment and Social Solidarity PROGRESS (2007-2013).

For more information see: http://ec.europa.eu/employment_social/progress/index_en.html
The information contained in this publication does not necessarily reflect the position or opinion of the European Commission.

Acknowledgements

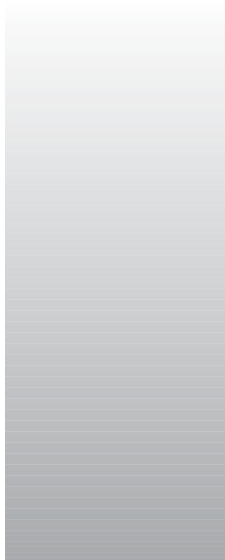
The report was compiled by several people who provided their expertise and time in a very constructive manner. We are extremely grateful to **Allan Clinch, Anneli Svensson, Dennis Van Der Veur, Jacques Lizé** and **Nigel Warner** for providing feedback, comments, information and good practices for this publication. It was also important to get feedback and information from people working directly with victims.

We are appreciative of the time and great help provided by Patricia Prendiville in editing and commenting on different drafts of the project.

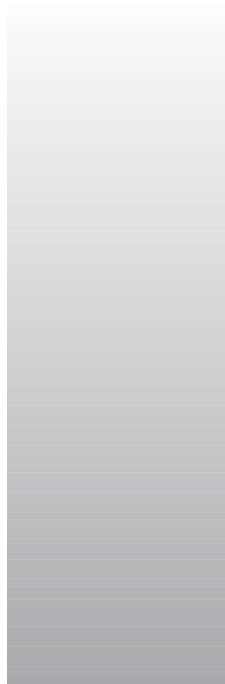
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Molotov cocktail thrown at participants during Budapest Pride 2007, Hungary



Protesters against London Pride 2007, UK



Terminology

The term **hate crime** is often used to talk about aggression and violence targeting people because of their (supposed) belonging to a discriminated group. The use of this term supposes two elements:

- The existence of legislation recognising a crime and
- The consideration that the hatred element is determinant in either the qualification of the crime (i.e. a hate crime with specific sentencing of the perpetrator) or in the sentencing of the crime (i.e. aggravated sentence for the perpetrator).

Definitions of hate crime tend to vary a great deal from one state to another and the term hate crime does not necessarily include all violent acts based on homophobia or transphobia. This is why we are encouraging individuals to use more specific terminology to refer to violence targeting LGBT people:

Homophobic incidents include all acts motivated by hatred towards individuals or groups because of their real or perceived sexual orientation. The violence can take a multitude of forms including physical, sexual or psychological violence, attacks towards individuals or groups or their belongings. The **threat of violence** can also be reported, especially when it is repetitive and creates fear in the victim.

The term **lesbophobia** is used also to talk about incidents targeting specifically lesbian and bisexual women on account of both their gender and sexual orientation.

Transphobic incidents refer to acts motivated by hatred towards individuals or groups because of gender identity or gender expression.

Homophobia and transphobia also manifest themselves through:

- homophobic bullying in settings like schools, which often goes unnoticed, and includes a wide spectrum of negative experiences from name calling and verbal abuse, to ostracism and physical attacks. Bullies can be both fellow pupils and students or teachers.
- hate speech by political or religious leaders and organised groups (e.g. neo-Nazi groups). New means to convey violence have developed through the Internet and constitute cyber-crime. One illustration is the creation of websites which incite to hatred and violence and provide details about people's sexual orientation, gender identity or expression and their places of residence or work.

In order to include all violence, we recommend referring to **homophobic and transphobic violence** or **homophobic and transphobic incidents**.



Stonewall's
billboard
advertisement
tackling
homophobic
bullying, UK



Vandalised poster
advertising LGBT
exhibition in Paris,
France, 2005

Introduction

1. Importance of recording incidents and violence motivated by hatred against lesbian, gay, bisexual and transgender (LGBT) people

Incidents and violence motivated by hatred against lesbian, gay, bisexual and transgender (LGBT) people take different forms: physical violence, hate speech, threats of violence, verbal abuse, etc. Incidents and violence targeting LGBT people also take place in different places, including public areas, schools, the workplace, or in the privacy of the home. In other words, homophobic and transphobic incidents range from homophobic attacks during a Pride, lesbophobic violence in a public space to homophobic bullying in schools.

Examples of homophobic and transphobic incidents

At the 2007 Zagreb Pride, more than 20 marchers were the target of homophobic attacks; around 10 people were hurt, with two needing medical treatment. The police arrested 13 people on the day of the Pride; five of them were carrying Molotov cocktails. Only one person was charged. On 25 February 2008, a court judgement was issued; the ruling is the first ever for a hate crime based on sexual orientation in Croatia (See report by Zagreb Pride Committee).

According to the French organisation SOS Homophobie, the number of reports of lesbophobic threats and violence in public areas is on the increase.¹ A report on lesbophobia was published in May 2008.²

The 2006 ILGA-Europe and IGLYO survey³ among over 750 respondents from 37 European countries found that 53% of young LGBT people in Europe had experienced bullying in school.

¹ SOS Homophobie, Rapport sur l'homophobie. 2007, p. 72. (see www.sos-homophobie.org/)

² See www.sos-homophobie.org/documents/enquete_lesbophobie.pdf

³ Judit Takacs, Social exclusion of young lesbian, gay, bisexual and transgender people (LGBT) in Europe (April 2006), ILGA-Europe and IGLYO www.ilga-europe.org/europe/publications/non_periodical



**Explosive bottle
prepared for
Zagreb Pride**



The incidents motivated by hatred against LGBT people cited here have been reported by human rights and LGBT organisations. Unfortunately, many similar cases are not reported and thus remain unknown to national or international authorities. This violence is not reported for many different reasons which include fear of negative reaction by the police, fear about being outed and having to come out in public, the absence of a mechanism that would recognise the discriminatory motive of an incident, etc.

The consequence of under-reporting homophobic and transphobic incidents is that the issue of violence targeting LGBT people remains invisible. It remains invisible in data on hate crimes and therefore invisible among law enforcement officials, law-makers and public officials. The lack of data on cases of violence against LGBT people limits the ability to highlight the extent of this type of violence, while lack of information about where and when incidents tend to take place restricts the possibility of preventing occurrences of homophobic and transphobic violence.

In addition, lack of documented facts on the occurrence of homophobic and transphobic violence constitutes an important barrier to taking a case against an aggressor and to advocating for legislation on combating hate crime against LGBT people. Without information on the incidence of violence motivated by hatred against LGBT people, it is difficult to raise awareness among policy-makers about the need to adopt laws to protect from this violence. Ultimately, the absence of legislation specifically prohibiting violence motivated by homophobia contributes to legitimising homophobia and transphobia and to creating an environment of impunity for perpetrators of violence against LGBT people. This is the reason why recording and reporting homophobic and transphobic incidents is critical to giving visibility to the issue of homophobic and transphobic violence, to empowering the LGBT community and to supporting advocacy for protection for LGBT people against violence.

The aim of this publication is therefore to contribute to increased and better reporting of homophobic and transphobic incidents by providing tools and a methodology to document and report violence motivated by hatred against LGBT people in a systematic and factual manner. This publication is designed for LGBT and human rights organisations who intend to monitor the occurrence of homophobic or transphobic incidents and violence, in order to advocate for legislative changes to increase legal protections from violence motivated by homophobia, lesbophobia and transphobia at national, European and international levels. The methodology and tools proposed to document how states and state actors protect or fail to protect the rights of the victims of hate crime or violence are those of human rights monitoring, which is detailed below.

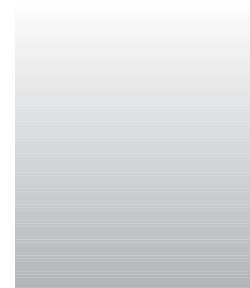
2. Using the principles of human rights monitoring to document homophobic and transphobic incidents

There is more than one approach to documenting or collecting information on homophobic and transphobic incidents. One of the most effective approaches is human rights monitoring, which is a process whereby information is gathered to address human rights problems and is analysed in the light of human rights standards. The strength of human rights monitoring is that it frames a situation in relation to human rights commitments taken by states and ultimately allows individuals and organisations to invoke a state's obligations to promote and protect everyone's human rights.

Human rights monitoring is a mechanism used to see, in a systematic and factual manner, whether human rights standards recognised internationally or regionally are fully respected by states. Human rights monitoring can take different forms: the observation of events such as Pride marches, the gathering of information about incidents, visiting sites such as places of detention, interviews of victims or perpetrators of human rights abuses, etc.⁴ It can focus on a specific case (e.g. legal process undergone by a case) or on a situation (e.g. drafting and passing of legislation; implementation of laws and policies; establishment and progress of human rights institutions, etc.).

Human rights monitoring is usually conducted by a third party who is not the victim of the human rights abuse, is not acting for the state and is not the human rights abuser. This third party can be an individual, an NGO or an international organisation. It is usually conducted over a period of time so that a pattern or an evolution in the human rights protection can be uncovered. In relation to homophobic or transphobic incidents, this implies the organisation of human rights monitoring, by recording these incidents over several years and reporting them to relevant institutions.

The three main components of human rights monitoring can be summarised as follows:



Police dealing
with the explosive
bottle, Zagreb Pride
2007

⁴ Adapted from: Training Manual on Human Rights Monitoring, Professional Training Series No. 7. (2001). New York and Geneva: United Nations.

Poster by Italian
ultra nationalist
organisation 'New
Force' – 'Italy needs
children, not
homosexuals. Stop
to Gay Pride!'



1. The starting point is the **existence of international human rights standards, including standards that are relevant to homophobic and transphobic incidents, and the obligations of states and state actors to protect these rights.** These obligations are both negative (i.e. not interfering with the exercise of a right) and positive (i.e. providing the conditions for the exercise of a right).

2. The second essential element is the **collection of facts** to evaluate if human rights standards, which states have a duty to implement, are being protected or if they have been violated.

3. Finally, **monitoring is done to serve a purpose, which is to provide a basis for action in the face of a certain situation or case.** It is therefore necessary that the information collected is reported to authorities and institutions which can take action.

The purpose of human rights monitoring is therefore to document a human rights violation, such as violence motivated by hatred against LGBT people, and draw the attention of public authorities or international organisations to a pattern of violations of a human rights standard recognised internationally or regionally.

Useful references

UN Training Manual on Human Rights Monitoring
Chapter 5 – Basic principles of monitoring
www.unhchr.ch/pdf/train7_a.pdf

Compilation of human rights documentation tools on ILGA-Europe's website
www.ilga-europe.org/europe/funding_capacity_building/funding_opportunities/ilga_europe_human_rights_violations_documentation_funds

3. Structure of the handbook


This handbook is structured around the three main components of human rights monitoring. The first chapter looks at the relevant human rights instruments and obligations which can be invoked in relation to incidents and violence motivated by hatred towards people because of their real or perceived sexual orientation, gender identity and gender expression. This chapter presents the human rights standards which are to be used as our benchmarks or point of reference in assessing whether or not states or state actors are fulfilling their human rights obligations when it comes to protecting people from homophobic and transphobic violence.

The following chapters propose a methodology to document and record occurrences of homophobic and transphobic violence. Chapter 2 reviews the basic principles of documentation of human rights violations, presented here as a tool to collect, organise and present information on incidents targeting LGBT people. Chapter 3 considers the specific role of the police in recording homophobic and transphobic incidents and gives some practical advice and tools, based on existing good practices, for reporting to and interacting with the police.

Finally, Chapters 4 and 5 consider how to report to national, European and international institutions. Chapter 4 explains how to report homophobic or transphobic hate crime and human rights abuses generally at the international and European level. It looks at the different international institutions and human rights bodies that monitor implementation of human rights standards and gives advice on how to approach them. Finally, Chapter 5 discusses how to work with allies at national level to support documentation, recording and reporting of violence targeting LGBT people.



Orthodox Jew
protesting against
Tel Aviv Pride



**I. HOW TO
MONITOR AND
DOCUMENT
HOMOPHOBIC AND
TRANSPHOBIC
INCIDENTS**

**SHE'S GAY
AND WE'RE
COOL WITH THAT**



Anti-bullying posters by
the Irish Equality
Authority

**HOMOPHOBIC B
IS NOT ACCEPTAB
IN OUR SCHOOL**



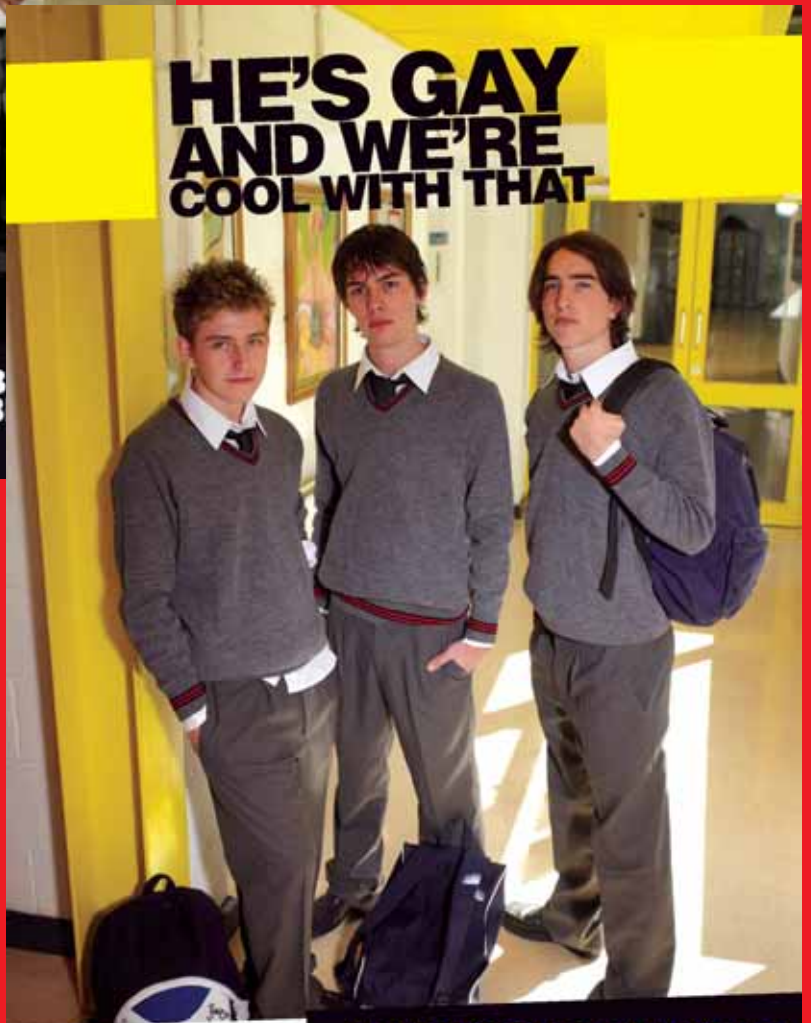
www.belongto.org



THE EQUALITY AUTHORITY
An Equality Commission

www.equality.ie

**HE'S GAY
AND WE'RE
COOL WITH THAT**



**HOMOPHOBIC BULLYING
IS NOT ACCEPTABLE
IN OUR SCHOOL**



www.belongto.org



THE EQUALITY AUTHORITY
An Equality Commission

www.equality.ie



Commemoration of Gisberta, victim of transphobic murder, at Oporto LGBT Pride in 2006, Portugal

1. Using international standards relevant to crime motivated by discriminatory motives

The issue of homophobic and transphobic violence and incidents has not been given much visibility at international level. As a result, most human rights legal instruments that deal with violence motivated by hatred focus on racism and xenophobia. The lack of consideration of the issue of homophobic and transphobic hate crime is due partly to the lack of data regarding the extent of this type of violence, but also to a failure to frame the issue in human rights terms. Using the human rights framework, especially existing international standards relevant to crimes motivated by hatred, is not only one of the most effective arguments in calling for action to be taken. It is also an essential step in advocating for more explicit recognition of protection against violence based on hatred against LGBT people. It is about showing how human rights standards apply to homophobic and transphobic incidents.

While international and European human rights instruments do not explicitly recognise violence motivated by homophobia and transphobia, they do recognise a number of rights which can be referred to in cases of crimes against LGBT people. Among the rights recognised are the right to life, the right to be free from torture and other forms of degrading treatment, the right to be free from discrimination – rights which should guarantee that individuals are protected from violence, including violence motivated by hatred. In addition, the principles developed for crimes motivated by racism can be transposed to hate crime or violence on grounds such as sexual orientation, gender identity or expression.

This chapter looks at existing human rights standards in relation to (racist) hate crime, the protection of the right to life, to the security of person and the right to be protected from discrimination which are covered in treaties, resolutions and declarations of the United Nations, the Council of Europe, the Organization on Security and Cooperation in Europe (OSCE) and the European Union (EU). Most of these institutions have reporting mechanisms and bodies that are responsible for monitoring implementation of international instruments, as well as for the interpretation of international standards. As is discussed in detail in Chapter 4 “Reporting to international and European institutions”, it is important to send information to these bodies to advocate for the need for more explicit protection against violence motivated by homophobia and transphobia.

Gisberta Salce Júnior, victim of transphobic murder





1.1. Different types of human rights obligations

Before looking at the human rights standards recognised by international and regional human rights instruments and to discuss how they apply to homophobic and transphobic incidents, it is important to first review the different types of obligations that states have to implement these norms. States, which have signed and ratified international instruments that protect human rights, have obligations that are derived from their commitments. Some international treaties or covenants are **legally binding** on signatory states. By ratifying a legally binding treaty, a state agrees to ensure that every individual will be able to enjoy the rights covered by the instruments, and agrees for these rights to be invoked in a national or international court. Examples of legally binding instruments include the European Convention on Human Rights, ratified by all the Member States of the Council of Europe, and the International Covenant on Civil and Political Rights which has been ratified by 156 states around the world.⁵

Some declarations and agreements have a political value, which means that they are **politically binding** on the states. Although they are not legally binding on states and therefore cannot be invoked before a court, they can be invoked in lobbying activities. This is the value for instance of the Universal Declaration on Human Rights, European Parliament resolutions⁶ or OSCE conference declarations.⁷

Human rights violations occur when states transgress (or fail to protect) rights enshrined in national, regional and international human rights law. The term “states” includes all actors when they are in the course of exercising a public function such as administrations, public services, national courts and tribunals, the police and the army. With regard to recognised human rights standards, states usually have a **double obligation**:

● **A negative obligation.** This means that law, policies and practices should not interfere with the exercise of the right. For instance, state authorities, including the police, should not harass or commit acts of violence towards LGBT people.

● **A positive obligation.** This implies that states have to provide the conditions for the exercise of the right to the best of their capacity. For instance, the refusal to offer protection to the LGBT people who are threatened or to properly investigate attacks on LGBT people, constitute a breach of such an obligation.

⁵ A list of States having signed and ratified the Covenant is available on this website www.ohchr.org/english/countries/ratification/4.htm

⁶ EP Resolution on Homophobia in Europe, P6_TA(2006)0018, 18 January 2006; EP Resolution on Increase in racist and homophobic violence in Europe P6_TA(2006)0273 15 June 2006; EP Resolution on Homophobia in Europe, P6_TA(2007)0167, 25 April 2007.

⁷ Cordoba Declaration, CIO.GAL/76/05/Rev.2, 9 June 2005 www.osce.org/documents/cio/2005/06/15109_en.pdf

Additionally, states may be subjected to obligations of a more programmatic type for economic, social and cultural rights. In this case, states have obligations to take positive steps to implement the rights through policies and programmes. However, the rights considered in this handbook are of a civil and political nature and are therefore subject to the double obligation solely.

1.2. United Nations

Over the past decades, the United Nations has adopted several legal instruments to protect and promote human rights, instruments that have been signed and ratified by a majority of states around the world. The UN human rights treaties are at the core of the international system for the promotion and protection of human rights. These international human rights instruments inscribe in law such rights as the right to life, the right to protection of the security of person, and the right to be free from discrimination. As described in this section, the International Covenant on Civil and Political Rights and the Convention against Torture are among the most relevant instruments in relation to violence motivated by hatred, along with the prohibition of violence based on discriminatory motives enshrined in other UN human rights conventions.

The UN human rights treaties and conventions impose legal obligations on states which sign up to them.⁸ The implementation of these obligations by states is monitored by international committees of independent experts called “treaty bodies”. Chapter 4 provides more information on how to report to these treaty bodies.

1.2.1. International Covenant on Civil and Political Rights (ICCPR)

The International Covenant on Civil and Political Rights provides that everyone has the right to security (Article 9.1) and to life (Article 6.1) without discrimination (article 2 ICCPR).

The relevant articles from the ICCPR are:

Article 2 – Prohibition of discrimination

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Flowers and candles
at Gisberta's 'home'



⁸ To check whether your state has signed up to the Covenant see www.ohchr.org/english/countries/ratification/4.htm



Russian nationalists
at Moscow Pride,
slogan on t-shirt
reads 'Russian
national unity' and
tattoo 'Slav'

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

Article 6 – Right to life

1. Every human being has the inherent right to life. This right shall be protected by law. No-one shall be arbitrarily deprived of his life.

Article 9 – Right to liberty and security of a person

1. Everyone has the right to liberty and security of a person. No-one shall be subjected to arbitrary arrest or detention. No-one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

With regard to article 2 on non-discrimination, it is important to note that although sexual orientation, gender identity and gender expression are not expressly mentioned, the Human Rights Committee – which monitors implementation of the ICCPR – has interpreted “other status” as including these grounds. (A similar interpretation has been made by the European Court of Human Rights.)

1.2.2. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

This Convention, which entered into force in 1987, has been ratified by a majority of states.⁹ The right to be free from torture has the particularity of being one of the recognised non-derogable rights, even in times of war.

In a General Comment issued in 2007, the Committee Against Torture (CAT) – which monitors implementation of the Convention – clearly indicated that states need to take legal measures to address violence and ill-treatment towards marginalised and traditionally discriminated groups, including LGBT people. In the same comment, the Committee also emphasises the importance of disaggregated data on the evolution of the situation in relation to the mentioned groups, as a crucial component of effective measures, and requests that such data be provided by states (paragraph 23).

To see the list of countries
which have ratified the
Convention go to
www2.ohchr.org/english/bodies/ratification/9.htm

General Comment no. 2 of the Committee Against Torture Implementation of article 2 by State Parties¹⁰

“The protection of certain minority or marginalised individuals or populations especially at risk of torture is a part of the obligation to prevent torture or ill-treatment. State Parties must ensure that, insofar as the obligations arising under the Convention are concerned, their laws are in practice applied to all persons, regardless of race, colour, ethnicity, age, religious belief or affiliation, political or other opinion, national or social origin, gender, sexual orientation, transgender identity, mental or other disability, health status, economic or indigenous status, reason for which the person is detained, including persons accused of political offences or terrorist acts, asylum seekers, refugees or others under international protection, or any other status or adverse distinction. State Parties should, therefore, ensure the protection of members of groups especially at risk of being tortured, by fully prosecuting and punishing all acts of violence and abuse against these individuals and ensuring implementation of other positive measures of prevention and protection, including but not limited to those outlined above.” (Par.21 – emphasis added).



Kurt Krickler,

former board
member of ILGA-
Europe, after being
attacked at Moscow
Pride 2006

1.2.3. Violence based on discriminatory motives

Violence based on discriminatory motives is prohibited by many UN human rights instruments. This is the case in relation to discrimination based on gender, race, age and disability in accordance with the following conventions: the Convention on the Elimination of all forms of Discrimination against Women (CEDAW)¹¹, the Convention on the Elimination of all forms of Racial Discrimination (CERD)¹², the Convention on the Rights of the Child (CRC)¹³ and the Convention on the Rights of Person with Disabilities.¹⁴

References to existing definitions of violence based on discriminatory motives can be used to argue for recognition of the rights of individuals who experience violence or threat of violence because of their sexual orientation. These should be used in conjunction with the interpretation given by UN treaty body committees to the words “other status” in lists of grounds of discrimination which are understood to encompass sexual orientation and gender identity.

In relation to gender-based violence, the **Committee on the Elimination of Discrimination Against Women** has stated in its General Recommendation no. 19 on violence against women¹⁵:

¹⁰ CAT/C/GC/2/CRP.1/Rev.4
www2.ohchr.org/english/bodies/cat/docs/CAT.C.G.C.2.CRP.1.Rev.4_en.pdf

¹¹ www.un.org/womenwatch/daw/cedaw/text/econvention.htm

¹² www.ohchr.org/english/law/cerd.htm

¹³ www2.ohchr.org/english/law/crc.htm

¹⁴ www.un.org/disabilities/documents/convention/convoptprot-e.pdf

¹⁵ CEDAW General Recommendation No. 19 United Nations Committee on the Elimination of discrimination against women (Eleventh session, 1992) contained in document A/47/38.



Radicals trying to
get into the office of
Moldovan LGBT
organisation
Gender-DocM,
Chisinau, Moldova

Convention on the Elimination of Discrimination Against Women – Article 6

The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.” (Paragraph 6)

The Recommendation also specifies that the breach is not limited to instances when violence is perpetuated by the state or state actors, but also where there is a failure to protect against violence.

Convention on the Elimination of Discrimination Against Women – Article 9

States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.”

Similar protection exists in relation to violence motivated by racial discrimination. In the case *L.K. v. the Netherlands*¹⁶ that was brought in front of the **Committee on the Elimination of Racial Discrimination**, the Committee held that states have an obligation to investigate threats of violence with due diligence and expedition. This confirms the positive obligation of the state to protect people and to investigate not only violence but also threats of violence.

Concerning children’s rights, **the Convention on the Rights of the Child** specifies that states have a duty to protect children against violence (Art. 19). This article is particularly relevant to address homophobic or transphobic bullying and violence in particular when read in conjunction with Article 2 of the Convention which bans discrimination. It is important to highlight that Article 2 also covers discrimination linked to the child or the parent’s belonging to a traditionally discriminated group.

Convention on the Rights of the Child – Article 19

1. State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

¹⁶ Communication No. 4 /1991, CERD/C/D/4/1991.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Convention on the Rights of the Child – Article 2

1. State Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. State Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

The Convention on the Rights of Persons with Disabilities, the most recent human rights instrument which entered into force on 3rd May 2008, gives a quite prominent place to the protection from violence. The Convention also puts positive duty on states to protect people with disabilities from violence.

Convention on the Rights of Persons with Disabilities Article 16 – Freedom from exploitation, violence and abuse

1. State Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.

2. State Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognise and report instances of exploitation, violence and abuse. State Parties shall ensure that protection services are age-, gender- and disability-sensitive.

3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, State Parties shall ensure that all facilities and programmes designed to

Poster by Italian ultra nationalist organisation 'New Force' – 'PACS [registered partnerships] in Italy – never!'





Police arrests
protester at
Budapest Pride
2007, Hungary

serve persons with disabilities are effectively monitored by independent authorities.

4. State Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.

5. State Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

Article 17 – Protecting the integrity of the person

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

1.2.4. Yogyakarta Principles

Launched on 26 March 2007, the Yogyakarta Principles give an interpretation of international law in relation to sexual orientation and gender identity.¹⁷ Unlike other discriminated groups (such as women, children, people with disability, minorities and indigenous people), there is no convention spelling out rights as they apply to the particular situation faced by LGBT people. This is why the principles were deemed necessary to provide some guidance on how existing international human rights standards apply to issues of sexual orientation and gender identity.

The Yogyakarta Principles were prepared by a group of human rights lawyers and experts. States are not bound by them like they are by international human rights instruments. However, many renowned human rights lawyers, by UN special procedures, as well as some states, like the Netherlands, have signed up to the Yogyakarta Principles, and therefore expressed an agreement to be bound by these principles. Therefore, it is relevant to make reference to the Principles when sending report to UN human rights bodies, like the treaty body committees and the Special Rapporteurs (see section 4.1.2.).

¹⁷www.yogyakartaprinciples.org/index.php?item=1

The Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity

PRINCIPLE 4. The Right to life

Everyone has the right to life. No-one shall be arbitrarily deprived of life, including by reference to considerations of sexual orientation or gender identity. The death penalty shall not be imposed on any person on the basis of consensual sexual activity among persons who are over the age of consent or on the basis of sexual orientation or gender identity.

States shall:

- a) Repeal all forms of crime that have the purpose or effect of prohibiting consensual sexual activity among persons of the same sex who are over the age of consent and, until such provisions are repealed, never impose the death penalty on any person convicted under them;
- b) Remit sentences of death and release all those currently awaiting execution for crimes relating to consensual sexual activity among persons who are over the age of consent;
- c) Cease any state-sponsored or state-condoned attacks on the lives of persons based on sexual orientation or gender identity, and ensure that all such attacks, whether by government officials or by any individual or group, are vigorously investigated, and that, where appropriate evidence is found, those responsible are prosecuted, tried and duly punished.

PRINCIPLE 5. The Right to security of the person

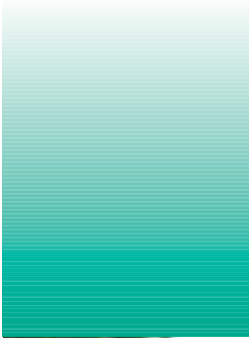
Everyone, regardless of sexual orientation or gender identity, has the right to security of the person and to protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual or group.

States shall:

- a) Take all necessary policing and other measures to prevent and provide protection from all forms of violence and harassment related to sexual orientation and gender identity;
- b) Take all necessary legislative measures to impose appropriate criminal penalties for violence, threats of violence, incitement to violence and related harassment, based on the sexual orientation or gender identity of any person or group of persons, in all spheres of life, including the family;
- c) Take all necessary legislative, administrative and other measures to ensure



Protester at Belfast
Pride, Northern
Ireland



Ultra-nationalist
protester at Riga
Pride 2008, Latvia

that the sexual orientation or gender identity of the victim may not be advanced to justify, excuse or mitigate such violence;

d) Ensure that perpetration of such violence is vigorously investigated, and that, where appropriate evidence is found, those responsible are prosecuted, tried and duly punished, and that victims are provided with appropriate remedies and redress, including compensation;

e) Undertake campaigns of awareness-raising, directed to the general public as well as to actual and potential perpetrators of violence, in order to combat the prejudices that underlie violence related to sexual orientation and gender identity.

PRINCIPLE 10. The Right to Freedom from Torture and Cruel, Inhuman or Degrading Treatment or Punishment

Everyone has the right to be free from torture and from cruel, inhuman or degrading treatment or punishment, including for reasons relating to sexual orientation or gender identity.

States shall:

a) Take all necessary legislative, administrative and other measures to prevent and provide protection from torture and cruel, inhuman or degrading treatment or punishment, perpetrated for reasons relating to the sexual orientation or gender identity of the victim, as well as the incitement of such acts;

b) Take all reasonable steps to identify victims of torture and cruel, inhuman or degrading treatment or punishment, perpetrated for reasons relating to sexual orientation or gender identity, and offer appropriate remedies including redress and reparation and, where appropriate, medical and psychological support;

c) Undertake programmes of training and awareness-raising for police, prison personnel and all other officials in the public and private sector who are in a position to perpetrate or to prevent such acts.

1.3. Council of Europe

Founded in 1949, the Council of Europe is the continent's oldest political organisation. The heart of the institution is formed by the European Convention on Human Rights and the European Court of Human Rights through which the convention is enforced.

1.3.1. European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)

The European Convention on Human Rights recognises many of the same rights inscribed in international human rights instruments, which can all be invoked to increase protection against homophobic and transphobic incidents.

When violence exercised against LGBT people can amount to a threat of or actual death of the victim, **Article 2 of the ECHR on the right to life** of all people living on the territory of State Parties should be invoked.

Article 2 – Right to life

1 Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.



"The European Union believes in abortion, euthanasia and same-sex marriage", poster by Labour Party Centre displayed briefly during the EU referendum campaign in March 2004, Naxxar, Malta

It is important to note that the right to life as defined in this Article 2 includes a positive obligation on states to protect life. So if a person is threatened with death, the police have a duty to protect the victim and to investigate the crime committed. This was clearly affirmed by the European Court of Human Rights in the following two cases:

*Osman v UK*¹⁸ – Duty to protect the victim

In this case, the Court ruled that the State failed to protect a person who was threatened with violence and who was ultimately killed. Under Article 2, states have a positive duty to protect life. Once a threat has been presented to the police it has an obligation to protect the person.

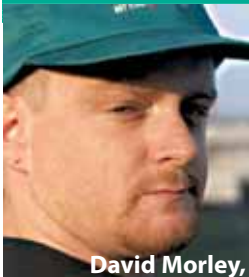
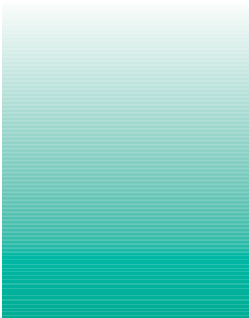
*Finucane v UK*¹⁹ – Obligation to investigate crime

In this case, the ECHR found that the UK had violated Article 2. After the death of Pat Finucane, there had been a failure to provide a prompt and effective investigation into the allegations of collusion by security personnel.

Although the *Finucane v UK* case refers to Article 2 of the ECHR, the ruling would also apply in cases where there is no death but violence which would fall under Article 3 of the ECHR.

¹⁹ No .29178/95.

¹⁸ No .23452/94, 28/10/1998.



David Morley,

a gay man who died
in 2004 after being
attacked by a
homophobic gang in
London, UK

Article 3 Prohibition of Torture, Inhuman or Degrading Treatment

No-one shall be subjected to torture or to inhuman or degrading treatment or punishment.

All rights in the ECHR should be recognised and accessible without discrimination as stated in Article 14 of the Convention. Although Article 14 does not explicitly mention sexual orientation and gender identity in the list of forbidden grounds, the case law of the ECHR has included those grounds in Article 14 under “other status”.²⁰

Article 14 – Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

As of 2008, no case looking at the issues of homophobic or transphobic violence has been brought to the European Court of Human Rights. However, the case law of the Court regarding **violence based on discriminatory motives** has been established in the case *Nachova and others v Bulgaria*²¹ where the Court condemned Bulgaria for not investigating the discriminatory element in a case of killing targeting Roma people. In this case, the Grand Chamber found that Article 14 implies a duty to investigate the existence of a possible link between racist attitudes and an act of violence. Furthermore, the excessive use of force required investigation and these matters were not investigated. Thus, there was a violation of Article 14.

In a more recent case, the Court reaffirmed the positive obligation of states to investigate cases properly which are motivated by hatred. Here is the text of the ruling:

Case of *Šečić v Croatia*²²

1. The Court reiterates that when investigating violent incidents, state authorities have the additional duty to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in the events. Admittedly, proving racial motivation will often be extremely difficult in practice. The respondent State's obligation to investigate possible racist overtones to a violent act is an obligation to use best endeavours and is not absolute; the authorities must do what is reasonable in the circumstances of the case (see *Nachova and others*, cited above, § 160, ECHR 2005 ...).

²⁰ *Salgueiro da Silva Mouta v Portugal*, 1999; *Karner v Austria*, 2003; *L. and V. v Austria*, 2003; *S.L. v Austria*, 2003.

²¹ Application nos. 43577/98 and 43579/98. <http://cmiskp.echr.coe.int/tkp197/viewhbk.asp?action=open&table=F69A27FD8FB86142BF01C1166DEA398649&key=62555&sessionId=10395231&skin=hudoc-en&attachment=true>

²² Application no. 40116/02 <http://cmiskp.echr.coe.int/tkp197/viewhbk.asp?action=open&table=F69A27FD8FB86142BF01C1166DEA398649&key=62555&sessionId=10395231&skin=hudoc-en&attachment=true>

2. The Court considers the foregoing necessarily true also in cases where the treatment contrary to Article 3 of the Convention is inflicted by private individuals. Treating racially induced violence and brutality on an equal footing with cases that have no racist overtones would be turning a blind eye to the specific nature of acts that are particularly destructive of fundamental rights. A failure to make a distinction in the way in which situations that are essentially different are handled may constitute unjustified treatment irreconcilable with Article 14 of the Convention (see *Nachova and others*, cited above, with further references).

[...]

3. The Court considers it unacceptable that, being aware that the event at issue was most probably induced by ethnic hatred, the police allowed the investigation to last for more than seven years without taking any serious action with a view to identifying or prosecuting the perpetrators (see paragraphs 58-60 above).

4. Consequently, the Court considers that there has been a violation of Article 14 taken in conjunction with the procedural aspect of Article 3 of the Convention.



**Romanian police
protecting
participants at
Bucharest Pride
2008**

Using this case law, it can be argued that Articles 2 and 3, read with the non-discrimination clause of Article 14, place a positive obligation on states to protect the physical security of all within its borders without discrimination on the grounds of gender identity and sexual orientation and to properly investigate any violence and hate crime. This includes taking on board the discriminatory element which exists in some incidents and violence motivated by hatred against people belonging to a particular group.

1.3.2. Recommendation on Hate Speech

The issue of hate speech has been tackled by some of the Council of Europe's institutions through the adoption of "soft law" measures such as recommendations and declarations. In 1997, the Committee of Ministers – the Council's decision-making body – adopted a Recommendation on hate speech²³ which addresses the relationship between freedom of expression, respect for human dignity and equality. Committee recommendations are not legally binding on states but have political weight.

²³ Recommendation R (97) 20 of the Committee of Ministers to Member States on "hate speech", Committee of Ministers, Council of Europe, 30 October 1997.



Richard Fairbrass,
lead singer of a pop
group 'Right Said
Fred', after being
attacked at Moscow
Pride 2007

Recommendation no. R (97)20 of the Committee of Ministers to Member States on "hate speech"

Definition of the scope – “For the purposes of the application of these principles, the term "hate speech" shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.”

Other important documents in this respect are the *Declaration on the Use of Racist, Anti-Semitic and Xenophobic Elements in Political Discourse* adopted by the European Commission against Racism and Intolerance (ECRI) and the *Charter of European Parties for a Non-racist Society*, adopted at the joint meeting between the Parliamentary Assembly of the Council of Europe and the European Parliament on 25 September 2003.

1.4. Organization for Security and Co-operation in Europe

The Organization for Security and Co-operation in Europe (OSCE) is a political organisation comprising 56 participating states. One of the aims of this organisation is to ensure co-operation and security in Europe through respect for human rights, tolerance and non discrimination programmes. The Office for Democratic Institutions and Human Rights (ODIHR) has been created to assist participating states in implementing their commitments on human rights and tolerance and non-discrimination, including in relation to combating hate crimes.

The documents adopted by the OSCE have a political value which means that they cannot be invoked in front of courts. However by agreeing to these, states engage their political responsibility in front of the other OSCE participating states.

Although the OSCE has not explicitly affirmed its commitment to end discrimination on the basis of sexual orientation, discrimination on the basis of sexual orientation is understood by many participating states and OSCE institutions as falling under “other forms of intolerance”. In addition, some OSCE declarations have made specific to sexual orientation, such as the 1995 Ottawa Declaration of the OSCE Parliamentary Assembly which called upon participating states to:

“ensure that all persons belonging to different segments of their populations be accorded equal respect and consideration in their constitutions, legislation and administration and that there be no subordination, explicit or implied, on the basis of ethnicity, race, colour, language, religion, sex, sexual orientation, national or social origin or belonging to a minority...”²⁴

In the past years, the Ministerial Council of the OSCE, which brings together Heads of State to set priorities for the organisation, had made repeated **commitments in relation to hate crimes**, which also include hate speech and cyber crime. The approach adopted by the OSCE has been to consider hate crime, a part of the tolerance and non-discrimination commitments. The commitments have been dealing with the issue of hate crimes in a quite holistic manner. They include calls for:

- adoption and proper implementation of legislation;
- training of the police and law enforcement officials;
- collection and recording of data on hate crimes;
- building partnership with civil society and the media;
- education and prevention of hate crimes and collection of good practices.

The extracts below present in more details the commitments taken by Ministerial Council Decision²⁵.

Under the 2003 Maastricht Ministerial Council Decision, the Ministerial Council: encouraged all participating States to:

- **collect and keep records on reliable information and statistics on hate crimes, including on forms of violent manifestations of racism, xenophobia, discrimination, and anti-Semitism**
- **inform the ODIHR about existing legislation regarding crimes fuelled by intolerance and discrimination, and, where appropriate, seek the ODIHR’s assistance in the drafting and review of such legislation;**
- **seek the assistance of the ODIHR and its Panel of Experts on Freedom of Religion or Belief.**

Under the 2004 Sofia Ministerial Council Decision, the Ministerial Council: committed the participating states to undertake the following actions in the various thematic areas:

Legislation

- **Consider enacting or strengthening, where appropriate, legislation that**

Harriet/Harry Wiersinga, victim of transphobia killed in the Hague, the Netherlands



²⁴ See www.osce.org/document/s/pa/1995/07/171_en.pdf

²⁵ Many other documents refer to hate crime, hate speech and internet. A compilation of all these documents can be found on the ODIHR website at: <http://tandis.odihhr.pl/content/documents/fulltext/03581.pdf>

Anti-gay
demonstration in
Vilnius, Lithuania,
2005



prohibits discrimination based on, or incitement to hate crimes motivated by, race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

- Strive to ensure that their legal systems foster a safe environment free from anti-Semitic harassment, violence or discrimination in all fields of life;
 - Study the effectiveness of laws and other measures regulating Internet content, specifically with regard to their effect on the rate of racist, xenophobic and anti-Semitic crimes;
 - Examine the possibility of establishing within countries appropriate bodies to promote tolerance and to combat racism, xenophobia, discrimination or related intolerance, including against Muslims, and anti-Semitism;
- [...]

Law Enforcement

- Collect and maintain reliable information and statistics about crimes motivated by racism, xenophobia, anti-Semitism and related discrimination and intolerance, committed within their territory, report such information periodically to the ODIHR and make this information available to the public;
- Encourage development of informal exchanges among experts in appropriate fora on best practices and experiences in law enforcement and education;
- Consider establishing training programmes for law enforcement and judicial officials on legislation and enforcement of legislation relating to hate crimes;
- Train law enforcement agents and prosecutors on how to address crimes motivated by racist, xenophobic, anti-Semitic or other related bias on the Internet and should share information on successful training programmes as part of the exchange of best practices;

Under the 2005 Ljubljana Ministerial Council Decision, the Ministerial Council:

decided that the participating states will commit to:

[...]

Strengthen efforts to provide public officials, and in particular law enforcement officers, with appropriate training on responding to and preventing hate crimes, and in this regard, to consider setting up programmes that provide such training, and to consider drawing on ODIHR expertise in this field and to share best practices;

[...]

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, and to make this information available to the public and to consider drawing on ODIHR assistance in this field, and in this regard, to consider nominating national points of contact on hate crimes to the ODIHR;

Romanian police
protecting
participants at
Bucharest Pride
2008

Under the 2006 Brussels Ministerial Council Decision, the Ministerial Council:

[...]

Decides to promote capacity-building of law enforcement authorities through training and the development of guidelines on the most effective and appropriate way to respond to bias-motivated crime, to increase a positive interaction between police and victims and to encourage reporting by victims of hate crime, i.e., training for front-line officers, implementation of outreach programmes to improve relations between police and the public and training in providing referrals for victim assistance and protection;

[...]

Encourages the participating states to step up their efforts in implementing their commitments to collect and maintain reliable data and statistics on hate crimes which are essential for effective policy formulation and appropriate resource allocation in countering hate-motivated incidents and, in this context, also invites the participating states to facilitate the capacity development of civil society to contribute in monitoring and reporting hate motivated incidents and to assist victims of hate crimes.

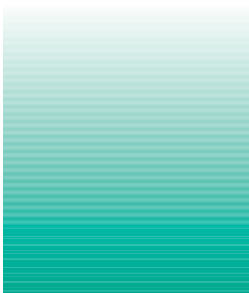


Following the 2003 Maastricht Ministerial Council Decision, the ODIHR has established a working definition of hate crime. The ODIHR is currently developing some legal guidelines on dealing with hate crime.²⁶

A) Any criminal offence, including offences against persons or property, where the victim, premises or target of the offence are selected because of their real or perceived connection, attachment, support or membership with a group as defined in part B.

B) A group may be based upon their real or perceived race, national or ethnic origin, language, colour, religion, sex age, mental or physical disability, **sexual orientation or other similar factor. (*Emphasis added*)**

For more information on the work of the ODIHR please refer to section 4.3.1. of this report.



Volker Beck,
member of German
Bundestag, attacked
at Moscow Pride

1.5. European Union

Although the European Union does not have a legal framework to deal with homophobic and transphobic incidents, there have been attempts by the European Parliament to put pressure on Member States and EU institutions to deal with the increase in homophobic violence. Furthermore, in the past years, the EU institutions have discussed the adoption of a framework decision on combating racism and xenophobia. However, this instrument does not cover homophobic or transphobic violence.

1.5.1. European Parliament

In 2006, the European Parliament adopted two resolutions which highlighted concerns for the rise in homophobia in the EU and called on Member States and EU institutions to take actions to prevent it.

European Parliament resolution on homophobia in Europe²⁷
2. Calls on Member States to ensure that LGBT people are protected from homophobic hate speech and violence and ensure that same-sex partners enjoy the same respect, dignity and protection as the rest of society;

²⁶www.osce.org/item/30631.html

²⁷ European Parliament resolution on homophobia in Europe (P6_TA(2006)0018)
www.europarl.europa.eu/sides/getDoc.do?sessionId=9E2D89A4F03946CF360CD7F1DB6FA4FB.node2?pubRef=-//EP//TEXT+TA+P6-TA-2006-0018+0+DOC+XML+V0//EN

European Parliament resolution on the increase in racist and homophobic violence in Europe²⁸

2. Calls on Member States to ensure that LGBT people are protected from homophobic hate speech and violence and ensure that same-sex partners enjoy the same respect, dignity and protection as the rest of society;

[...]

10. Calls on all Member States to take any other action they deem appropriate in the fight against homophobia and discrimination on grounds of sexual orientation and to promote and implement the principle of equality in their societies and legal systems;



Peter Tatchell,

UK human rights activist after being attacked at Moscow Pride, Russia

In 2007, the European Parliament reiterated its overall commitments to fighting discrimination on the grounds of sexual orientation and gender identity in another resolution on homophobia in Europe, that mentions discriminatory speech which fuels violence.

European Parliament resolution on homophobia in Europe²⁹

7. Condemns the discriminatory remarks by political and religious leaders targeting homosexuals, since they fuel hate and violence even if later withdrawn, and asks the respective organisations' hierarchies to condemn them;

The European Parliament has also requested the Fundamental Rights Agency to conduct research on homophobia in the 27 EU Member States. This research covers the issue of homophobic violence as mentioned in the resolutions of the European Parliament. More information on this project can be found in section 4.4.3.

Conclusion

In short, international human rights standards impose different obligations which are binding on States:

- an obligation to protect individuals against crime and violence, in particular those motivated by hatred and discrimination;
- an obligation to properly investigate any crime or violence without discrimination;
- an obligation to collect data on the occurrence of and the bias underlying violence or incidents.

²⁸ Increase in racist and homophobic violence in Europe (P6_TA(2006)0273) www.europarl.europa.eu/sides/getDoc.do?language=EN&pubRef=-//EP//TEXT+TA+P6-TA-2006-0273+0+DOC+XML+V0//EN

²⁹ European Parliament resolution on homophobia in Europe (P6_TA(2007)0167) www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0167+0+DOC+XML+V0//EN



Participant at
Riga Pride 2006
being harassed
and spat on by
protesters, Latvia

2. Documenting the occurrence of homophobic and transphobic incidents

Documenting human rights violations is an intrinsic step in the work to promote and protect human rights. It is the action of identifying violations and establishing and recording the facts around these violations. Documenting human rights violations can serve many purposes: to provide direct assistance to victims, to support prosecution of those who have committed human rights violations, to educate and raise awareness about existing violations, among other aims. Documented cases of human rights violations, such as occurrence of homophobic and transphobic violence, are also essential tools in arguing for the need for action by governments and other public authorities, law enforcement officials, and regional and international human rights institutions.

As previously mentioned, homophobic and transphobic incidents remain largely unaddressed by national, European and international institutions, in part because of the lack of data on violence motivated by hatred against LGBT people. Documenting the occurrence of homophobic and transphobic incidents is therefore a crucial step in advocating for better legal protection from such crimes and violence.

Data collection can be done by different actors: public (the judiciary system, the police, human rights institutions) or private (LGBT NGOs, human rights NGOs, etc.). In the case of hate crime and violence, it is important to bear in mind that the states are first and foremost responsible for data collection. However, in the absence of accurate recording by state bodies, it falls on civil society to collect data on human rights violations and to report this information to public authorities.

2.1. Basic principles on documenting human rights violations

The term *documentation* can have different meanings, depending on the geographical context or the field in which it is employed. It is important to stress that documenting is a process that includes different steps, which can vary depending on the goal of the documentation. But generally, documentation consists of:

- Collecting the data: determining what information is needed and establishing means for acquiring it. Monitoring is a key means of collecting information in the case of events such as Pride marches. Other methods (interviews, questionnaires, etc.) may be more appropriate to collect data about an individual incident, such as an attack on the street or a bullying incident at school. Where and when possible, it is a good idea to collect information through both monitoring and fact-finding activities. This allows for a more complete picture to be drawn and to cross-check the information.
- Organising and analysing the data to make them more accessible. This step could mean elaborating statistics, charts and graphs to make findings more visible.
- Reporting and disseminating the information to actors (government authorities, European/international institutions, human rights institutions, etc.) who can take action. In order to be effective and successful, it helps to have a dissemination strategy, i.e. to think about who we want to send the information to at an early stage.

Iris Robinson,
member of the
Northern Ireland
Assembly:
“Homosexuality, like
all sin, is an

abomination.”



Finally, a key principle of documenting is to collect information in a way which is as close to the facts as possible, detailed and non-emotional. Documentation is a process of **gathering factual, reliable and credible information** about a violation. This is essential to ensure that the documented information is considered seriously by public institutions.



Police

appeal after
homophobic robbery
in London, UK

Useful publications on documenting human rights violations

A Tool to Documenting Human Rights Violations by HURIDOCS
<http://www.huridocs.org/tools/violations>

Human Rights Monitoring and Advocacy by EQUITAS
<http://www.equitas.org/english/ed-manuals/downloads/CHRF-Manual-MonitAdv2003.pdf>

OHCHR manual on human rights monitoring
<http://www.unhcr.ch/html/menu6/2/training.htm>

2.2. Key issues in documenting homophobic and transphobic incidents

Documenting violence against LGBT people is an activity that needs to take place at several stages. Indeed, while the act of violence is the first human right violation, other human rights can be violated following up the incidents.

Therefore, documentation needs to take place at the following moments:

- when the violence takes place;
- at the time of reporting to the police;
- when the tribunal is prosecuting on the case.

Gathering information about a **homophobic or transphobic incident** is thus the first stage and there are a few issues to keep in mind.

Timing

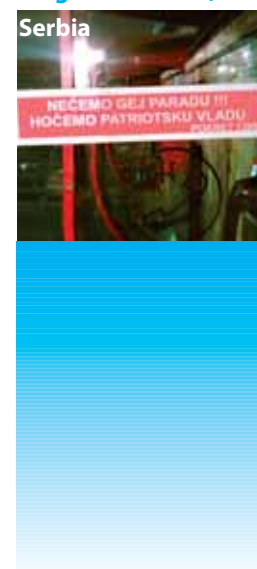
Part of human rights monitoring consists of foreseeing the potential occurrence of homophobic violence. In cases when the occurrence of homophobic and transphobic incidents can be forecast, it can be a good idea to place human rights monitors to oversee the situation and write a report about the event. It is also important that LGBT organisations communicate information on the situation to the police.

It is important to bear in mind that hate crimes are sometimes concurrent with the exercise of rights by LGBT people. For instance, violence and hate speech have taken place during Pride marches in countries such as Latvia and Estonia in recent years. Hate speech has also been used by political and religious leaders when issues affecting LGBT people were discussed in parliament. This has been the case in countries like Latvia, Spain and Slovenia when same-sex marriage and partnership were discussed in parliament.

Location

Certain places can be identified as areas where homophobic and transphobic incidents are more likely to occur, such as the surroundings of a gay bar or disco, a cruising area or park. It is important to keep in mind that the police often harass people going to a cruising area instead of protecting them against violence. As a result, many victims do not report because of the stigma attached to going to such places.

“We don’t want a gay parade, we want a patriotic government”, a sticker displayed in Belgrade in 2008,



Concerning the phase of **reporting an incident to the police**, it is important to record information about the response by the police, in particular the following issues.

Did the police take any action?

If not, what were the reasons for inaction?

Did the police actively contribute to the human rights violation? (This would be the case of the police harass the victim verbally or physically.)

Finally, the **response by the judiciary system** should also be included in the documenting process, keeping in mind questions such as:

Is the case being prosecuted?

Is the case considered as a hate crime?

Is the case treated with impartiality and objectivity by the court and the judge?

Does the sentence given by the court take into consideration the discriminatory/ hatred element of the violence/crime?

Good practice

The Crown Prosecution Service (CPS) in the UK has issued a policy to guide prosecutors on how to deal with cases involving homophobic or transphobic hate crime:

http://www.cps.gov.uk/publications/docs/htc_policy.pdf

2.3. What information is needed

The data needed about a homophobic or transphobic incident will depend on the type of incident. For instance, documenting the occurrence of violence at a Pride march may not call for exactly the same information as documenting homophobic harassment in a school or hate speech by a public official will. This being said, there are elements that will be needed in all circumstances:

- information about the victim or victims;
- information about the incident: facts, circumstances, motives, etc.;
- information about follow-up to the incident, including reporting to the police.

In addition, information gathered must meet some fundamental criteria. It must be **factual, objective, clear, consistent and reliable**.

Below is a model questionnaire that presents the information needed in order to establish and describe the situation in an independent and as factual a manner as possible. It is a template which was designed to be used in a variety of settings (online questionnaire, interview, etc. as discussed in section 2.4). Individuals and organisations should consider carefully their own objectives and the specific needs in their own country, and make adaptations as necessary.

Press advertisement of the Polish Campaign Against Homophobia



Questionnaire on incidents motivated by hatred towards LGBT people

Thank you very much for filling in this form which aims at understanding better the phenomenon of incidents and violence against LGBT people. Completing this questionnaire will take on average 15 minutes. Your support in mapping the situation is very much appreciated.

Date when questionnaire filed:

Details of the victim:

- Name:
- Sex/gender identity: How do you define yourself?
 - ◆ male
 - ◆ female
 - ◆ other, specify: _____
- Sexual orientation:
 - ◆ gay,
 - ◆ lesbian,
 - ◆ bisexual,
 - ◆ queer,
 - ◆ heterosexual,
 - ◆ not sure,
 - ◆ other, specify: _____
- Age:
- Place of residence:
- Live in city/countryside
- Connection with the LGBT community:
 - ◆ very involved
 - ◆ participate at some events
 - ◆ participate in Pride
 - ◆ not involved
- Extent of "being out":
 - ◆ out to all my family
 - ◆ out to my brother/sister
 - ◆ out to my mother

- ◆ out to my father
- ◆ out to my friends
- ◆ out in my workplace
- ◆ publicly known
- ◆ often in the media

Incident:

- Date of occurrence of incident (if several incidents took place please state several times):
- Time:
- Place:
- Specify if it happens in these places:
 - ◆ home
 - ◆ near home
 - ◆ school
 - ◆ work
 - ◆ near LGBT venue
 - ◆ LGBT organisation buildings
 - ◆ police station
 - ◆ cruising area
 - ◆ other, specify: _____
- Type of incident:
 - ◆ insults
 - ◆ threat of violence
 - ◆ property destroyed/ damaged
 - ◆ property tagged
 - ◆ physical violence (hitting, kicking etc.)
 - ◆ wounded using a weapon
 - ◆ sexually assaulted
 - ◆ chased
 - ◆ other, specify: _____

Details:

- Occurrence of incident (how many times?)
- Numbers of perpetrators:
- Identity of perpetrators:
 - ◆ public officials, specify:
 - ◆ police
 - ◆ army personnel
 - ◆ private individuals:
 - ◆ known to you, please specify:
 - ◆ unknown to you
- Did they have any identifiers (clothes, hair-cut)?
 - ◆ If yes, specify: _____
- Age of perpetrators:
- Witnesses: Were there any? Specify: _____
- Do you think that the attack is linked with your (several answers possible):
 - ◆ sexual orientation
 - ◆ gender identity
 - ◆ gender expression
 - ◆ sex
 - ◆ race/ethnicity
 - ◆ religion
 - ◆ age
 - ◆ disability
 - ◆ nationality
 - ◆ other reasons, specify: _____
- Why do you think the attack is linked to one of the criteria mentioned above?
 - ◆ language and words used (specify)
 - ◆ place where the incident took place (e.g. LGBT venue)
 - ◆ the victim's sexual orientation is publicly known
 - ◆ previous threats made or other incidents...
- Consequences of incidents:



Impact:

- ◆ on mental health
- ◆ on physical health
- ◆ on personal life
- ◆ on living
- ◆ on job conditions

Details:

Follow up actions:

- Medical care:
 - ◆ Did you need medical care?
 - ◆ How were you treated by medical staff?

Details:

- What was the psychological impact of the incident?

Details

- Did you get support?

- What kind of support?

- ◆ psychologist
- ◆ victim support group
- ◆ friends
- ◆ family
- ◆ other (specify) _____

● Report to the police:

- ◆ did you report the incident to the police?
- ◆ if not, why not?

Details

◆ If you did report the incident, what was the reaction of the police?

- ◆ supportive
- ◆ dismissive
- ◆ factual
- ◆ mocking
- ◆ insulting
- ◆ violent
- ◆ other: specify _____

● Did the police consider the incident as a hate crime?

● Did you report the incident to:

- ◆ LGBT NGOs
- ◆ Equality bodies
- ◆ Administrative complaint procedure

● Case taken to court: Was a case taken to court?

● If not, why?

● Decision: What was the decision?

Details

Thank you for completing this questionnaire.



Alessandra Mussolini,
grand daughter of
dictator Mussolini,
member of the
European Parliament,
founder and leader
of the national
conservative party
in Italy

2.4. Collecting information

2.4.1. Where to collect information

The first source of information for people is to obtain what is called **“first-hand information”**. This type of information can come from the following people:

- the victim, the perpetrator, the witness involved in a specific case
- human rights observers (e.g. in the case of Pride marches)
- government/public officials: police/law enforcement officials, school employees, etc.
- people who can provide background information (e.g. to help contextualise a case).

In addition, it often helps to use **documentary sources of information** that will provide an explanation of the wider context in which homophobic and transphobic incidents take place. For instance, it can be getting information about homophobic speech by politicians prior to the organisation of a Pride march, or education policies that support the negative representation of homosexuality to help explain violence at Pride or in school. Documentary sources can also refer more specifically to an incident (medical or police report) and that can corroborate the information given by victims.

In short, documentary sources of information can be:

- primary documents: official records, legal document, letters, pictures, police/forensic reports, medical certificates, etc.
- secondary documents: newspaper article, research paper, books (e.g. on general human rights situation in a country)

Gathering information from a range of sources is highly recommended because it allows data to be cross-checked and confirmed. This enables individuals to ensure that considerably increases the likelihood of having information that is reliable and consistent.

2.4.2. How to collect information

Documentation can be done using different techniques. The information can be collected by direct monitoring of the event, by interviewing people or collecting written sources of information.

Questionnaires

The model questionnaire included in the previous section can be used in different settings. It can be used in interviews; it can also be circulated to LGBT organisations and other human rights NGOs or to the police. The context in which a questionnaire is used will depend on what appears to be the most appropriate approach depending on the context in which organisations are working.

Questionnaires can also be placed online as a self-reporting form. Online reporting allows the victims to preserve a high level of anonymity and thus can prove effective for data collection purposes. This approach is adopted by some police institutions, but it could also be used by LGBT organisations to collect data on the occurrence of homophobic or transphobic incidents.

Helpline

Relevant information can be collected via helplines. Calls made to a helpline are often a good place to start to get an idea of the extent of the problem. However, it can be challenging to collect data through helplines; when people phone, they are usually looking for help and not necessarily willing to answer a series of questions.

Interviews

This is the most time-consuming technique, however interviews allow more accurate and detailed information to be collected. Information collected by an online questionnaire is sometimes not complete enough and needs to be substantiated by interviews. In an interview, it is possible to ask questions to an interviewee to clarify certain facts or to understand certain patterns. Organisations like Amnesty International use interview techniques for instance when taking statements of victims of human rights violations.

The following boxes contain a few principles to respect in order to conduct a fruitful interview.

Key principles for interviews

Objectivity

- Remain as factual as possible (avoid basing information on perceptions).
- Choose a neutral place for the interview.

Confidentiality

- Offer to hide names and certain information.
- Ask consent to use information, recording, etc.

Respect for the interviewee (especially for victims)

- Be aware of their trauma.
- Respect their private life, offer confidentiality and the possibility to conceal/change their identity to protect their privacy.
- Offer to take breaks during the interview.

Further advice:

- Be clear about your objectives and clearly state your objectives to interviewee.
- Prepare various types of questions (background questions, open-ended questions, specific questions).
- Allocate sufficient time for the interview.

Alessandra Mussolini told Vladimir Luxuria: 'Meglio fascista che frocio' (Better a fascist than a faggot) on Porta a Porta (Italian TV programme)



Vladimir Luxuria





Michael Causer, 19,
victim of brutal
homophobic murder
in Liverpool, UK

in July 2008



- Create a safe environment for the interviewee – let them know that the interview can be stopped at any time, that they can stop if there is a question that they do not wish to answer.

General observations to make during an interview:

- Observe how the interviewee is behaving:
 - ◆ Signs of nervousness (e.g. tone of voice, eye contact, body language, etc).
 - ◆ Signs of emotions/tears.
 - ◆ Responsiveness to questions (hesitation, difficulty in understanding, etc.).
- Be aware of the setting of the interview: Who is present at the interview? Does the interviewee feel comfortable with everyone present?

Useful tools on conducting interviews

ILGA-Europe's indicative framework for semi-structured interviews with members of the LGBT community/victims of human rights violations incidents³⁰ (see Appendix II)

Facilitator Manual on "Monitoring and Advocacy" by EQUITAS
Tips on preparing for an interview

www.equitas.org/english/edmanuals/downloads/fac_eng_2007/Stream_7_2007_FACENG.pdf

It is important to remember that, whatever the technique used, the victim should be clear about what can be done and what cannot be done.

2.5. Presenting the information

Collecting data is a central phase of the documentation process. But it is equally important to present the information gathered in a way that will make international and national policy-makers, the judicial system and law enforcement officials pay attention and take action.

Presenting the results will be very much driven by the use you will make of the information. Before undertaking to write a report, it is important to identify who the target audience is to be – police, international/European organisations, the media etc. – and to adapt presentation of the information to your audience. Reports are appropriate for specialised audiences, such as human rights institutions, NGOs and data-collecting agencies. Media campaigns might be considered to target a broader audience and disseminate effectively and widely results from the report. Ideally, the methodology suggested here could be used with different audiences.

³⁰ This framework was developed by ILGA-Europe, and used during a fact-finding mission to the Southern Caucasus, conducted in January 2006 by ILGA-Europe / COC Netherlands. The framework is originally elaborated as a tool for the pilot for the ILGA-Europe Human Rights Violations Documentation Fund.

2.5.1. Report drafting

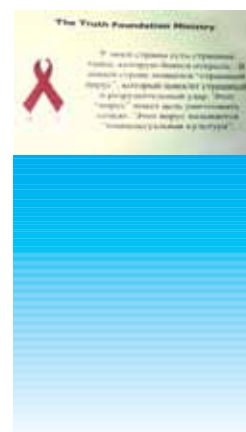
Drafting a report is an important step in getting the information structured and presented to human rights institutions (see chapter 4) or to corroborate evidence presented in court cases.

Ideally, the structure of the report to international institutions could be:

- Introduction of the national context:
 - ◆ International obligations applying to the national context (reference to specific UN Conventions, the European Convention of Human Rights or other any international standards).
 - ◆ Presentation of the relevant national legislation (or absence of it) and its compatibility with international standards.
- Main body of the report:
 - ◆ Presentation of data collected, trends, possible causes, conclusions.
 - ◆ It can be a good idea to compare the situation of LGBT people with regard to other discriminated or marginalised groups (protection under legislation and attitude of public authorities).
- Recommendations to public authorities, international and European institutions, human rights organisations on action to be taken to reduce homophobic incidents and violence and to collect data.
 - ◆ When drafting recommendations, think of using the language found in international and European human rights instruments and of linking recommended actions to existing human rights obligations.

It is very important to present information in an effective and professional manner. If a report is to be used at European or international level, translating it into the working language of an international institution should be earnestly considered.

“My country has a terrible secret which everyone is afraid to reveal. A new ‘horrible virus’ which hits and destroys the country has appeared. The aim of this ‘virus’ is to destroy family. The name of this virus is ‘homosexual culture’. Power Point presentation by religious sect New Generation, Latvia



Examples of reports written on rights of LGBT people: Legal Team of Iskorak and Kontra, Documenting Hate Crimes Against LGBT Persons in the Republic of Croatia, 2007

www.ilga-europe.org/content/download/8510/51016/file/Documenting

Mozaika, Homophobic hate speech in Latvia: monitoring the decision-makers, 2006

www.ilga-europe.org/europe/funding_capacity_building/funding_opportunities/ilga_europe_human_rights_violations_documentation_funds/completed_projects/homophobic_hate_speech_in_latvia_monitoring_the_decision_makers

Several other examples can be found at

www.ilga-europe.org/europe/funding_capacity_building/funding_opportunities/ilga_europe_human_rights_violations_documentation_funds/completed_projects



“Faggots we don't
want you”, pavement
graffiti, Italy

3. Liaising with the police on the recording of homophobic and transphobic incidents

One of the first steps in reporting hate crime should be to liaise with the police if it is possible. After all, it is the duty of the police to collect information, investigate the violence or incident and to consider the discriminatory element as well. As explained on the OSCE's website, "...law enforcement officers are the primary and initial point of contact for many victims of hate crime. It is the police officer that responds to, and interacts with, the victim first." Therefore, in terms of recording hate crimes, it is critical for police officers "to understand how hate-motivated crimes differ from similar crimes that are not motivated by bias and to take such reports seriously", and "to understand how police/victim interaction can influence whether victims report hate crimes or not".



Police arresting
participant at
Poznan Pride, Poland

Overview of General Trends and Challenges in the Response of OSCE participating States to Hate-Motivated Crimes and Incidents

In the course of collecting information on hate crimes in the OSCE region in line with its mandate, the ODIHR has noted a large number of such violent incidents directed at persons because of their perceived sexual orientation.

Many participating states include sexual orientation among the prohibited grounds for discrimination in their national legislation. However, because of the specific situation surrounding sexual and gender identity, violent crimes and attacks against individuals are frequently unreported, undocumented and therefore often ultimately unpunished. In the face of this reality, the responsibility of participating states to extend effective protection is further heightened.

3.2 Qualification of the crime by the police

When a legal framework is in place, it is very important that the police open the investigation as a hate crime instead of as an ordinary crime. The **qualification of the crime by the police** determines the further qualification of the crime by the tribunal, as the prosecution is based on the grounds of the investigation. Indeed, it is also important to know how a police officer or a judge will determine the homophobic motive of the incident, to know what is required by the police to qualify an incident or a crime as a "hate crime".

The definition of the Metropolitan Police in the UK is quite broad and includes specific reference to sexual orientation. It also refers to domestic violence, which is rather uncommon.

"A hate crime is any crime committed against a person, a group or the property of a person or group where the motivation for the crime is hatred of, or prejudice against, their sex, sexual orientation, race, religion or disability. The most common forms of hate crime are racial, homophobic or sectarian; however, the Metropolitan Police also include domestic violence in their definition of hate crime."

A to Z Equality and Diversity

www.hull.ac.uk/equalopps/downloads/Equality_Challenge_Unit_A_to_Z.pdf

In the UK for instance, the police have adopted a policy whereby the investigation will be launched as a hate crime if it is perceived as being one by the victim or by any other person. If the victim suspects that the violence or incident is motivated by hatred, the incidents are recorded as hate crimes/incidents.

Definition used by the police in UK (ACPO)

A hate incident is “any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate.”

In this case, it is important to note that it is the point of view of the victim or witnesses which is taken on board to determine the motivation. The perception of the victim is not questioned here. A similar policy exists in Northern Ireland, but unfortunately, these good practices remain an exception. The lack of consideration for the victim’s point of view often constitutes an obstacle for victims to report the incident.

Good practice

Policy Statement of the Police in Northern Ireland:

It must be clearly understood that to report a hate incident, evidence is not needed. Evidence is not the test. Perception on the part of anyone is all that is required. The perceived motivation will be recorded and investigated in addition to any (other) criminal offences, which are being investigated.



**Polish police raids
LGBT club ‘Le Madame’
in 2006, Warsaw**

Good practice

The police have developed a policy on dealing with hate crime:

www.psnipolice.uk/02-06_psnipolicy_procedure_and_guidance.pdf

3.3. Issues with reporting to the police

It is imperative for people wanting to support victims to know what kind of barriers exists in relation to the police. There might be several reasons why people exposed to homophobic or transphobic incidents do not report these incidents to the police, including the following:

- A victim is exposed or afraid to be exposed to homophobia or transphobia by the police.³⁶

³⁶Meeting the challenge of accession – surveys on sexual orientation discrimination in countries joining the European Union”, ILGA-Europe, 2004, www.ilga-europe.org/europe/publications/non_periodical/meeting_the_challenge_of_accession_2004

Reporting to the police can prove to be challenging in many places, and even sometimes dangerous. As such, recognition that heterosexism³¹ and even homophobia or transphobia are ingrained in the policies and practices of the police and the judiciary system is a necessary starting point. Data collection on the occurrence of homophobic and transphobic incidents is nonetheless needed to raise awareness about the phenomenon, and the police have a specific role to play in this regard. Drawing on existing good practices, this chapter gives some advice on reporting hate crimes to, and interacting with, the police. Such practices might need to be adapted to meet the situation in each country and does suppose a certain level of awareness by law enforcement institutions.

3.1. Legal framework

According to the figures collected by the Office for Democratic Institutions and Human Rights of the OSCE, only 10 out of the 56 participating states have reported that they include sexual orientation as bias grounds and/or aggravating circumstances within their national hate crime legislation.³² It is a limited number when compared with countries which legislate to combat hate crime motivated by racism and xenophobia.³³ According to the ODHIR report, “the commission of any crime with an ethnic, racial, religious, or other similar motive constitutes a general aggravating factor for sentencing purposes in the criminal codes of 21 countries.”³⁴ However, in some countries, the criminal law provides for aggravated sentences when the motives of the crime are discriminatory without specifying the grounds of discrimination.

It is also important to bear in mind that a legal framework on dealing with racism and xenophobia is being developed at the EU. The framework decision on combating racism and xenophobia will be adopted to ensure that, in the European Union, racism and xenophobia are punishable by effective, proportionate and dissuasive criminal penalties, which can give rise to extradition or surrender and improve and encourage judicial co-operation. To this date, there are no plans to adopt other instruments to deal with other forms of discrimination and intolerance. It should however be noted that, in a report issued in June 2008, the EU Fundamental Rights Agency recommends the adoption of an EU-wide criminal legislation to combat hate crimes against LGBT people.³⁵

³¹ Heterosexism is understood as the assumption that all people are heterosexual and that heterosexuality is right, correct, and normal. This assumption denies the existence and the validity of sexual orientation different from heterosexuality. It also engrains the invisibility of LGBT people in the action of state authorities.

³² Hate Crime in the OSCE region – incidents and responses, annual report for 2006. Warsaw, 2007, p. 52 see www.osce.org/odihr/item_11_26296.html.

³³ For an overview of the legislation on hate crime in the countries of the OSCE see the Human Rights First Country-by-Country Human Rights Card www.humanrightsfirst.info/pdf/071217-discrimination-report-card-2007.pdf

³⁴ Ibid. p. 81.

³⁵ See http://fra.europa.eu/fra/material/pub/comparativestudy/FRA_hdgso_part1_en.pdf



- Previous experience with the police may have been negative.
- The victim may fear being “outed” or having to come out.
- The victim may fear being arrested for an offence. This might be the case when an act of violence happens in a public place where the person has sex (cruising areas). In these cases, a victim might be afraid of being convicted for sex in a public place.

Poster by Italian ultra nationalist organisation ‘New Force’ – ‘No to gay pride. No to pedo-pornography. Italy needs children, not homosexuals’



Good practice Wiltshire Constabulary Policy and Procedure Public Sex Environment Policy (Sexual Behaviour in Public Places)

It must also be emphasised that men and women who use Public Sex Environments may also be victims and witnesses of crimes, such as assault, harassment, blackmail and robbery. In certain circumstances these offences would be considered to be hate crimes.

However, some victims and witnesses may be unwilling to come forward and report crimes, as they perceive the police as being part of the harassment problem. Indeed there is a concern that they, themselves, will be treated as criminals rather than as victims or witnesses, merely because of their sexual activity, sexual orientation, perceived sexual orientation or lifestyle.

Accordingly, the policing of Public Sex Environments in Wiltshire must be carried out in a sensitive but positive manner to ensure that the policing needs of all sections of the community are catered for. Communication with all parties concerned is an essential element of the Policy.

www.gmhp.demon.co.uk/homophobia/pse.html

3.4. Good practices of working with the police

While it is important to be aware of the problems that victims may face in reporting an incident to the police, it is equally important to know about good practices that have been put in place to overcome some of these barriers. Indeed, it is possible in certain instances to collaborate with the police as illustrated by these examples of good practices. Unfortunately, such examples are not yet common, but it can be a good idea to approach the police and see whether it is possible to have some of these practices adopted by police officials in other countries.

- **Collaboration between police and the LGBT community**

OSCE participating states have signed up to certain commitments, which provide for partnerships between public services (including the police) and civil society.

OSCE Commitments provides for partnership between public services and civil society

12. Decides that the participating States should engage more actively in encouraging civil society's activities through effective partnerships and strengthened dialogue and co-operation between civil society and state authorities in the sphere of promoting mutual respect and understanding, equal opportunities and inclusion of all within society and combating intolerance, including by establishing local, regional or national consultation mechanisms where appropriate;³⁷

Good Practice

A/ The Wyre Community Safety Partnership Hate Crime project working with Lancashire Police (UK)

The Hate Crime project officer is employed by the local council working with the police, but independently of them. This means that victims of hate crimes or incidents can report to the project officer without police involvement. The project officer acts as a two-way bridge between the police and LGBT communities by being a critical colleague of the police and by fostering a better relationship between the police and communities of victims of hate crime. This is particularly important for the members of LGBT communities who have historically had a relationship of mistrust with the police.

The project hosts regular 'Crime and Discrimination Panel' meetings attended by statutory and voluntary agencies and the police. This multi-agency partnership works together by sharing ideas and local intelligence on hate crime. The project officer also attends regular meetings with the local Division of Lancashire Constabulary to discuss recent crimes and actions that should be taken. At these, the project officer is invited to be critical of the police response to hate crime.

The project officer attends a Hate Crime Scrutiny Panel hosted by the local Crown Prosecution Service (CPS) where individual hate crime cases that have gone to prosecution are scrutinised. The panel advises the CPS on how they can improve the service for victims of homophobic and transphobic hate crime.

The project has set up 15 'third party' agencies where hate crime can be reported, as well as an online reporting facility. www.mywyre.co.uk/hatecrime

Since the project began, the reporting of homophobic hate incidents in the area has increased by 120%.

³⁷ OSCE Decision no. 13/06 combating intolerance and discrimination and promoting mutual respect and understanding, Ministerial Council Brussels 2006.



Homomonument –
memorial in
Amsterdam
(Netherlands)
commemorating all
LGBT people who
suffered and were
killed during the Nazi
persecution

B/ Partnership between Gay Men’s Health and the police in the UK

The Wiltshire and Swindon Lesbian and Gay Policing Initiative is a partnership between Gay Men's Health and the police. The initiative also works closely with the Borough, District and County Councils, Victim Support, Social Services, The Health Authorities, Housing Associations and many other service providers. www.gmhp.demon.co.uk/homophobia/reportform.html

- Creation of a police service to deal with hate incidents specifically

Good practice

A/ Gay Liaison Officers (UK)

Over the last 5 years, Wiltshire Constabulary have trained over 150 police officers and support staff as Gay Liaison Officers (GLOs), whose role it is to support gay, bisexual and transgendered people when they are the victims of crime. www.gmhp.demon.co.uk/homophobia/glos.html

B/ Policy Directive in Northern Ireland

According to the policy, there should be a specialist Hate Incident and Minority Liaison Officer in every police district. The police should also ensure that every victim of a hate incident is offered the assistance of a Police Hate Service. www.psni.police.uk/policy_directive_0206v3.pdf

- Training the police to enable them to deal with homophobic and transphobic violence

Good practice

A/ Law enforcement training organised by the OSCE

www.osce.org/odihr/20063.html and
www.osce.org/publications/odihr/2006/09/20673_676_en.pdf

B/ Standardised Police Training & Data Collection on Hate-Motivated Crime

A presentation on police training in Canada
<http://tandis.odihr.pl/content/documents/fulltext/03409.pdf>

C/ Training for the federal police by the Belgian equality body

The Centre for Equal Opportunities and Opposition to Racism in Belgium offers training to the federal police on dealing with victims of homophobic hate crime and informs the police about the existing obligations to deal with hate crime and hate speech under Belgian law. www.diversiteit.be

- Putting in place mechanisms to record homophobic and transphobic incidents

Good Practice

A/ Web-reporting available in the Netherlands

De Volkskrant writes that Dutch police in Amsterdam and Nijmegen launched a campaign in March 2008 against hate crimes. People who have been abused, assaulted or intimidated, or been confronted with vandalism because of their sexual orientation, religion or race, can file a report via a web site, anonymously if necessary.

The campaign is intended to give police a better insight into the number of hate crimes. A police spokesperson says that the number of reported racist and anti-gay incidents is "unacceptably low". Police also believe that a larger number of reports will provide points of departure for prevention and the prosecution of perpetrators.

B/ Online reporting of homophobic and transphobic incidents in the UK

'True Vision', launched in May 2004, was aimed at improving the service the police provide to minority communities. 23 different police forces have joined together to provide you with a single self-reporting and information pack together with an online facility that allows you to report hate crime directly to the police.

www.report-it.org.uk

C/ Policy of explicit inclusion of transphobic incidents (Northern Ireland)

The policy of Northern Ireland's police service provides a clear definition of transphobic incidents.

www.psni.police.uk/02-06_psni_policy_procedure_and_guidance.pdf

D/ Standardised data collection in Canada

A presentation of this methodology is available at:

<http://tandis.odihhr.pl/content/documents/fulltext/03409.pdf>



Building
of ultra nationalist
organisation in
Perugia (Italy) with
banner 'Zapatero is
a faggot'

- Developing policies on the support of victims of homophobic crime



Swedish

Gay Police
Association takes
part in Europride
2008 in Stockholm

Good Practice

A/A guide for the Improvement of Support to Victims of Hate Crime (Sweden)

This guide provides the Swedish police with some guidelines on how to conduct an efficient investigation in case of homophobic hate crime, how to deal with victims of hate crimes and reinforces the clear commitment made by senior management of the police authority.

www.polisen.se/mediaarchive/4347/3474/4637/Homophobic_crime.pdf

- Adopting a policy of diversity to attract LGBT officers in the ranks of the police

Good Practice

The Positive Action Team of the Greater Manchester Police (UK)

The PAT promotes career opportunities to all under represented groups which include LGBT people. The Greater Manchester Police also has an LGBT support network (LAGSA) which is available to support and provide advice networks for all staff in the force regarding lesbian, gay, bisexual and trans issues.

LAGSA also works towards equal opportunities for all employees of Greater Manchester Police and to enhance the relationship between Greater Manchester Police and lesbian, gay, bisexual and trans communities.

Information is available at www.gmp-recruitment.co.uk/officers_all.htm and www.gmp-recruitment.co.uk/spages/so_intro



NoPride protesters
at Tallinn Pride
2007, Estonia

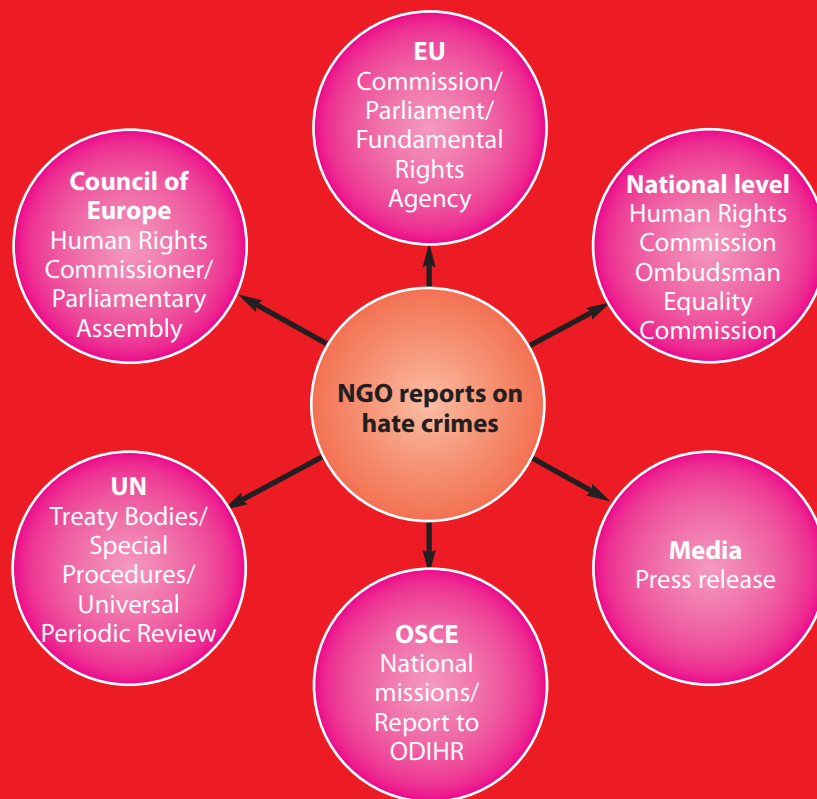


Representatives of
National Front
protesting at
London Pride 2007
with poster
“Outlaw
homosexual
marriage”, “Bring
back section 28”
and “Shut down
GPA”



**II. HOW
TO REPORT
AT NATIONAL AND
INTERNATIONAL
LEVEL**

This section provides information on how to use the information collected through the recording of occurrence of homophobic and transphobic incidents. This information can be sent to many different institutions which may be able to take action on the basis of the evidence gathered. Some of these institutions may appear intimidating and complicated, but it is possible to identify bodies within these organisations which are advancing the rights of LGBT people. Please note that this list is not exhaustive and that it is possible to find other LGBT-friendly bodies.



When writing to these different institutions, it is recommended to link the situation you are describing to one of the international instruments mentioned in Chapter 1 of this handbook. This gives your report more weight and will make it easier for the different institutions to consider your reports.



Protesters with poster
“Go Home” and t-shirt
“No to homosexual
propaganda” outside
the ILGA-Europe
annual conference in
2007, Vilnius,
Lithuania

4. Reporting to international and European institutions

4.1. The United Nations human rights system

The UN human rights system is made up of a number of mechanisms which all contribute to the implementation of human rights treaties and the broader promotion and protection of human rights in the world. The UN human rights bodies monitor how states comply with their international obligations, develop international standards and clarify the interpretation of existing human rights instruments; they also make recommendations to states, including legally-binding recommendations. The UN human rights mechanisms can therefore play a significant role in developing standards related to protection from homophobic and transphobic incidents.

The main reporting mechanisms in the UN human rights system are the Treaty Body Committees, the Special Procedures (Special Rapporteurs/Representatives) and the Universal Periodic Review (of the Human Rights Council). In recent years, these bodies have all contributed to increasing the visibility of LGBT issues and supporting developments towards the explicit recognition of LGBT rights as human rights. Active participation of NGOs in the work of these mechanisms, including via the ongoing submission of information, has proven to be a key factor in the increased awareness of LGBT issues within the UN human rights system. Reporting homophobic and transphobic incidents by NGOs is thus an essential step towards the recognition of homophobic and transphobic incidents as hate crime.

4.1.1. Treaty Body Committees

As mentioned in Chapter 1 of this report, several United Nations human rights conventions³⁸ can be invoked when addressing the issue of incidents motivated by hatred of LGBT people, the implementation of which is monitored by the Treaty Body Committees. There is a separate committee for each of the core human rights treaties. Reports on the occurrence of homophobic and transphobic incidents can be sent to the committee responsible for a particular human rights treaty. They are:

- the Human Rights Committee (Covenant on Civil and Political Rights)
- the Committee against Torture (Convention against Torture)
- the Committee on the Rights of the Child (Convention on the Rights of the Child)
- the Committee on the Elimination of Racial Discrimination (Convention on the Elimination of Racial Discrimination)

³⁸International Covenant on Civil and Political Rights, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Elimination of Racial Discrimination, Convention on the Elimination of the Discrimination Against Women, Convention on the Rights of the Child

- the Committee on the Elimination of Discrimination Against Women (Convention on the Elimination of Discrimination Against Women).

Treaty Body Committees carry out their monitoring work through periodic examination of a state's record on human rights. Indeed, states that ratified UN human rights conventions have the obligation to submit reports periodically, usually every four years, to the various Treaty Body Committees to present how they are fulfilling their obligations under the treaties. It is possible to find out when a state is being examined by the committees by looking at the UN treaty bodies database.³⁹

The outcome of the examination of state reports by committee members are concluding observations or recommendations issued to assist states in implementing their obligations. In principle, states must act on these recommendations and report on how they followed up on them at their next examination. It should also be noted that the Treaty Body Committees play an important role in interpreting provisions of their respective treaties; in the past, many interpretations have been favourable to increased recognition of LGBT rights as human rights.

NGOs and individuals can present reports on a state's human rights record – which are often called “shadow reports” – to the Treaty Body Committees. These shadow reports are useful tools to raise the attention of committee members to particular issues, especially issues that are marginalised or silenced in states' reports. NGO reports thus provide an important source of information for the committees in relation to human rights violations and guide the work of the committee members. For example, committee members have been known to ask questions to states on ‘controversial’ issues raised in NGO reports to obtain clarification.

³⁹ The list of countries to be examined under the reporting system is available at www.unhchr.ch/tbs/doc.nsf/RepStatfrset?OpenFrameSet

⁴⁰ To check whether your state has ratified the First Optional Protocol see: www.ohchr.org/english/countries/ratification/5.htm

⁴¹ A list of states having signed and ratified the Covenant is available on this website www.ohchr.org/english/countries/ratification/4.htm



Ultra nationalists attack participants of Belgrade Pride, Serbia

To find out more about how to submit information to the UN Treaty Bodies see:

- Office of the High Commissioner on Human Rights Fact sheet no. 30 *The United Nations Human Rights Treaty System: An Introduction to the Human Rights Treaties and Treaty Bodies*
www.ohchr.org/english/about/publications/docs/fs30.pdf
- International Service for Human Rights – *Simple Guide to the Treaty Bodies*
www.ishr.ch/hrm/tmb/simple_guide_to_treaty_bodies.pdf

Some treaty bodies, such as the Human Right Committee, can also receive complaints taken by individuals, also called a petition, against states that have ratified the first Protocol of the ICCPR.⁴⁰ Conditions to be fulfilled to bring a complaint before the Human Rights Committee are as follows:

- The state must have signed the International Covenant on Civil and Political Rights⁴¹ and its First Optional Protocol.

- The state or one of its agents must have violated one of the rights contained in the Covenant.
- It can be the violation of a negative (interference by the state) or positive duty (omission to act to protect rights).
- Exhaustion of national remedies: the case has been put forward to all the courts at national level without reaching a satisfactory remedy.
- The complaint can be brought forward by the victim or representative of the victim⁴².

Contact details

Petitions Team

Office of the High Commissioner for Human Rights

United Nations Office

1211 Geneva 10

Switzerland

Fax: + 41 22 917 9022

(particularly for urgent matters)

E-mail: tb-petitions@ohchr.org

4.1.2. Special Procedures

One of the most effective and responsive mechanisms of the UN human rights system are the Special Rapporteurs or Special Representatives, also called Special Procedures. Special procedures are normally entrusted to individuals who are independent human rights experts, or occasionally to a group of independent human rights experts.

Over the last few years, a growing number of Special Rapporteurs have shown real support for LGBT issues by talking on cases of human rights violations against LGBT people and their supporters. They have done so, for example, by paying attention to LGBT issues in their reports or by meeting with LGBT people during their country visits. A number of Special Rapporteurs have also intervened directly with governments when they received information about serious human rights violations to ask the governments to take appropriate action. As a result, discrimination on the basis of sexual orientation is now being addressed by a number of Special Rapporteurs and now features as a cross-cutting theme for special procedures⁴³.

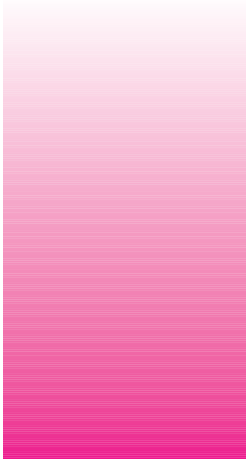
The Special Rapporteurs or Representatives have a mandate to examine, monitor, and publicly report on human rights situations in specific countries or on specific human rights and issues. They do this work by undertaking fact-finding missions in countries, conducting studies to identify



Pierre Serne,
board member of
ILGA-Europe, after
being attacked at
Moscow Pride 2006

⁴² For more information on the complaint procedure see:
www.ohchr.org/english/bodies/petitions/individual.htm#contact

⁴³ See OHCHR website at www2.ohchr.org/english/bodies/chr/special/sexualorientation.htm



Graffiti on a house

where a lesbian
activist lives reading
“Lesbian, you will be
fucked” suggesting
her year of death in
Zemun, Serbia

trends and explore specific issues, issuing public statements and responding to individual complaints through urgent appeals to governments. More generally, they can contribute to the elaboration of human rights standards falling within their mandate. Special Rapporteurs present annual reports to the Human Rights Council about their work on a particular right, which includes information about the situation in different countries.

Through their communications with governments, country visits and reports to the Human Rights Council, Special Rapporteurs can increase recognition of the rights and the visibility of LGBT people. However, they can only do so when they are sent relevant and factual information by people or organisations whose rights are affected.

Special Rapporteurs/Representatives will use the information in different ways:

- 1) if they consider that the situation calls for immediate action, they may decide to perform an urgent action, i.e. intervene directly with a government to ask them to remedy the violation immediately;
- 2) if they consider that the situation does not require such urgent intervention, they may use the information in their annual reports or for country missions.

In order to take action, Special Rapporteurs/Representatives need to **receive information which is clear, factual, consistent and reliable**. The basic principles to remember when submitting information to Special Procedures are⁴⁴:

- To identify yourself and your organisation (contact details, website of organisation, mandate of your organisation, affiliations to any national/regional/international NGOs or human rights network, etc.);
- Facts should be described as clearly as possible (refer to Chapter 2 for information on how to present information in a report);
- Make links with the mandates you are targeting (provide information to make the links between the human rights violations you are reporting and the special procedures concerned – using the human rights standards detailed in Chapter 1).

In relation to violence, the most relevant mandates are the Special Representative on Human Rights Defenders, the Special Rapporteur on Torture, the Special Rapporteur on Arbitrary Detention and the Special Rapporteur on Extra Judiciary, Summary or Arbitrary Executions. These Special Rapporteurs and Representatives are among those who have been raising issues relating to the rights of LGBT people.

The Special Representative on Human Rights Defenders has highlighted:

- attacks and harassment of defenders of the rights of sexual minorities;
- the greater risks faced by those who defend the rights of sexual minorities (taking into consideration social structures, traditional and religious practices used to justify violation of the human rights of members of such groups);
- that defenders and members of sexual minorities are often very vulnerable to prejudice, marginalisation and public repudiation;
- specific legislation that is used to limit the work of human rights defenders.

The Special Rapporteur on Torture, Inhumane and Degrading Treatment has highlighted:

- ill-treatment and torture of LGBT people by police;
- poor conditions of detention, including the intentional denial of medical treatment in detention;
- non-action by the state in cases of violence against sexual minorities carried out by non-state actors.

The Special Rapporteur on Arbitrary Detention has highlighted:

- people being arrested and detained because of their sexual orientation or as a result of their activities to defend the rights of LGBT people.

The Special Rapporteur on Extra Judiciary, Summary or Arbitrary Executions has highlighted:

- persons subjected to death threats or killed because of their sexual orientation.

If you have a case that requires **urgent action** by one of the special procedures (such as an activist being arbitrarily detained and at risk of torture or ill-treatment), you can send the information by e-mail (urgent-action@ohchr.org) or by fax to the following number: (41 22) 917 9006⁴⁵.

You can also contact the Special Rapporteurs and Special Representatives directly through their assistants. For their contact details, please see the Info-Pack produced by the Geneva-based International Service for Human Rights.

www.ishr.ch/hrm/Infokit/InfoPack/2008first/InfoPack_1st_semester_2008_Final.pdf

⁴⁴ For more information, see www2.ohchr.org/english/bodies/chr/special/communications.htm and www.ecre.org/files/Dos%20and%20dents%20English.pdf

⁴⁵ More information about the special procedures is available at www2.ohchr.org/english/bodies/chr/special/index.htm

4.1.3. Universal Periodic Review

Universal Periodic Review (or “UPR”) is a new mechanism of the UN Human Rights Council, set up as part of the reform of the UN human rights system. It is intended to be a co-operative mechanism, designed to assist states in fulfilling their international commitments and improving their human rights situation. With the UPR, the human rights records of all 192 Member States will be regularly reviewed on a four-year cycle; 48 states will be reviewed per year, 16 at each of three sessions annually. Unlike other UN processes, this review is not conducted by independent experts but by other Member States.

The UPR affords a unique opportunity not only to raise awareness of LGBT issues, but also to get governments to commit to concrete recommendations, especially since NGOs have a number of opportunities to be involved throughout the UPR process. First, NGOs can submit information concerning countries under review. Information received from NGOs is summarised by the Office of the High Commissioner for Human Rights in reports that are considered in the review process, and can therefore influence the issues that will be raised during the UPR sessions. NGOs can also make public interventions at the Human Rights Council prior to the adoption of a country report to comment on it and propose recommendations to be taken up by a state. Finally, NGOs have a key role to play in the follow-up phase by monitoring a state’s action on the recommendations made by the Council.

It is easy to submit information to contribute to the Universal Periodic Review. Here are a few things to keep in mind when preparing a submission:

- As previously mentioned, information submitted needs to be clear, **factual, credible and reliable**. It is important to avoid personal opinions or allegations that may be challenged as unverifiable. Submissions do not need to be lengthy, so long as they are clear and substantiated. Information should be sent in English, French or Spanish, which are the working languages of the UN.
- Any NGO can make a written submission, but it may strengthen a submission if it is prepared as a joint NGO report, particularly with NGOs with accreditation by the UN’s Economic and Social Council (sometimes called “ECOSOC status”), like ILGA-Europe. ILGA-Europe is willing to use its ECOSOC status to help support UPR submissions jointly with other NGOs. To discuss making joint submissions with ILGA-Europe, contact the ILGA-Europe office (evelyne@ilga-europe.org).
- You may wish to use the Yogyakarta Principles when preparing your submission. You can refer to the Principles to highlight where a state is not fulfilling its international human rights obligations, and get inspiration to draft specific recommendations on measures states can take to fulfil these obligations.

For more information, a document to assist NGOs in developing submissions has been prepared by the Office of the High Commissioner for Human Rights and is available at:

www.ohchr.org/english/bodies/hrcouncil/upr/noteNGO_041007.htm.

Contact details

Submissions can be sent at UPRsubmissions@ohchr.org

For more general inquiries on the UPR, write to: civilsocietyunit@ohchr.org

A number of NGOs have expertise in working with the United Nations human rights system and can offer useful advice in relation to bringing information and submitting reports to the United Nations.

ARC International

John Fisher

Co-Director

62, rue de Vermont, # 44

CH-1202 Geneva, Switzerland

Phone: +41 22 733 4705

Fax: +41 22 734 4761

john@arc-international.net

www.arc-international.net

International Service on Human Rights (ISHR)

Rue Varembe 1, P. O. Box 16

CH-1211 Geneva 20, Switzerland

Phone: + 41 22 919 71 00

Fax: + 41 22 919 71 25

www.ishr.ch (emails for staff available on the website)

**ISHR organises training sessions in international law and on the UN human rights system.

OMCT International Secretariat

P. O. Box 21

8, rue du Vieux-Billard

CH-1211 Geneva 8, Switzerland

Phone: + 41 22 809 4939

Fax: + 41 22 809 4929

omct@omct.org

www.omct.org/index_en.cfm?CFID=3658442&CFTOKEN=39202182

'Square Paolo Seganti – victim of violence and homophobia (1967–2005); Rome, Italy





FIDH representation to the United Nations

15 rue des Savoises
CH-1205 Geneva, Switzerland

Phone: + 41 22 700 12 88

Fax: + 41 22 321 54 88

www.fidh.org

4.2. Council of Europe

One of the main goals of the Council of Europe is to promote human rights, democracy and the rule of law. While the European Court of Human Rights appears at the forefront of this work, other institutions within the Council of Europe also contribute to the Council's human rights work, including the Committee of Ministers, the Parliamentary Assembly and the Commissioner for Human Rights. The latter two institutions provide a means of putting pressure on national governments to take action to counter hate crimes.

4.4.1 European Court of Human Rights

In certain cases, it is possible to take a case to the European Court of Human Rights. Decisions taken up by the Court – which is composed of judges from Member States who are elected by the Parliamentary Assembly – are binding on a state and can instigate important legislative changes in a country. The European Court has an established case law in relation to freedom of assembly and in relation to rights of LGBT people.

It is important to know that a number of conditions have to be met before a case is taken to the European Court of Human Rights:

- One of the rights contained in the European Convention on Human Rights has been violated.
- The complaint should concern state authorities for their actions or their omission to act (on their positive duties).
- The complainant should be an individual or an organisation living in one of the State Parties to the European Convention on Human Rights.
- Exhaustion of national remedies: the case has been put forward to all the courts at national level without reaching a satisfactory remedy.

- The case has to be brought before the Court in Strasbourg within 6 months of the last decision at national level.

It is also important to be aware of the fact that, given the high numbers of cases brought before the Court, there might be a delay of several years between the submission of a complaint and its resolution. Moreover, taking a case might put a financial burden on individuals and NGOs. It is therefore advised to look for funding or for institutions to support the case (for instance a national human rights institution). Finally, bringing a complaint before a court requires technical knowledge of the law, and therefore requires access to legal advice from a lawyer who knows national and international remedies.

If you decide to take a case to the European Court of Human Rights, you can ask ILGA-Europe to intervene in the case as *amicus curiae*. This means that ILGA-Europe will be able to advise the Court on the situation of human rights of LGBT people in your country and in Europe in general. For more information contact: christine@ilga-europe.org.

Protesting against same-sex adoption during the first LGBT Pride in Brno, Czech Republic, 2008

Further information

For information on how the Court functions, please refer to:

www.echr.coe.int/ECHR/EN/Header/The+Court/The+Court/History+of+the+Court/

An application form is available in all languages spoken by the Council of Europe's State parties at the following site:

www.echr.coe.int/ECHR/EN/Header/Applicants/Information+for+applicants/Application+form/



4.2.2. Human Rights Commissioner

The Commissioner for Human Rights is an independent institution within the Council of Europe which has the mandate to promote the awareness of and respect for human rights in all the Council of Europe Member States.

The Commissioner's main functions are to:

- promote education in and awareness of human rights;
- foster the effective observance and full enjoyment of human rights;
- provide advice on the protection of human rights;



**Pride poster
vandalised by
swastikas in**



- identify possible shortcomings in the law and practice concerning human rights;
- assist Member States in the implementation of Council of Europe human rights standards.

The Commissioner carries out these functions in a number of ways, including by monitoring developments in the 47 Member States, organising conferences and preparing reports on individual countries. Current practice regarding country reports is to cover each of the Member States with one full report and one follow-up report during the six-year period of office of the Commissioner. These reports provide a wide-ranging assessment of the human rights situation in each country.

The Commissioner's office is always looking for evidence of discrimination and hate crimes, including those committed on the grounds of sexual orientation and gender identity. LGBT NGOs can get in touch with Commissioner's office to find out when the report on a country is due, when the Commissioner is planning his next official visit to a particular country, and whether it is possible to meet with him, as well as to submit documentation reports.

The Commissioner also issues viewpoints on specific issues that he considers require some attention. Some of these statements have been made in support of the LGBT community. In a statement entitled "Homophobic policies are slow to disappear" published to mark the 2007 International Day Against Homophobia, he commented that: *"Individuals are victimised in their daily lives. Some live in constant fear of being exposed while others, who have "come out" into the open, are facing discrimination or even harassment. Their organisations have been made targets of hate speech."* He recommended that *"hate crimes against LGBT persons should also be seen as serious crimes"*⁴⁶.

On 14 May 2008, he published another viewpoint entitled *"Time to recognise that human rights principles apply also to sexual orientation and gender identity"*⁴⁷ in which he highlights violence and harassment related to sexual orientation and gender identity. The Commissioner also makes extensive reference to the Yogyakarta Principles, including the recommendation to states to *"take all necessary legislative measures to impose appropriate criminal penalties for violence, threats of violence, incitement to violence and related harassment, based on the sexual orientation and gender identity"*, and that such violence is adequately investigated.

Reports on homophobic and transphobic incidents constitute essential information and data for the Commissioner. This information is the basis on which the Commissioner can make statements, discuss the issue of homophobic incidents in a country report or call on governments to adopt

⁴⁶ See full text of the viewpoint at www.coe.int/t/commissioner/Viewpoints/070516_en.asp

⁴⁷ See full text of the viewpoint at www.coe.int/t/commissioner/Viewpoints/080514_en.asp

anti-discrimination legislation, anti-hate crime legislation, and other measures to address homophobic or transphobic behaviour.

Contact details

Thomas Hammarberg

Commissioner for Human Rights of the Council of Europe

commissioner.humanrights@coe.int

www.coe.int/T/Commissioner/About/welcome_en.asp

4.2.3. Monitoring Committee of the Parliamentary Assembly

The Council of Europe has a Parliamentary Assembly made up of 630 members coming from the 47 national parliaments. The Parliamentary Assembly is a deliberative body which debates on a wide range of social issues. It plays a key role in the accession process for new members and in monitoring compliance with undertakings entered into.

This is done by the Monitoring Committee that reports to the Parliamentary Assembly on the progress of new Member States in meeting their human rights commitments. National governments are always keen to bring the monitoring process to an end as soon as possible. So, ensuring the inclusion of a particular human rights issue in a report of the Monitoring Committee is a useful way of putting pressure on the government to implement change.

Reports on hate crimes provide important information to the Committee on the situation of LGBT people in the country and enable the Assembly to make specific recommendations to the national government on the introduction of anti-discrimination legislation, anti-hate crime legislation and other measures to address homophobic or transphobic behaviour.

As of 2008, countries subject to monitoring are Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, Monaco, Montenegro, the Russian Federation, Serbia and Ukraine.

ILGA-Europe works closely with PACE monitoring committee and makes regular submissions of documented cases of discrimination and hate crimes. If your country is subjected to the monitoring procedure and you would like to influence the contents of your country reports, you can contact ILGA-Europe office (maxim@ilga-europe.org or nwarner@gn.apc.org).



Anti-gay protesters
in Northern Ireland



4.3. Organization for Security and Co-operation in Europe

The Organization for Security and Co-operation in Europe (OSCE) provides a European-wide forum for raising LGBT issues in the context of the OSCE's mandate on the human dimension. Although not a treaty organisation where states take on legal obligations when they join, the OSCE is a political organisation. It seeks to exercise authority through political pressure on those states that do not live up to the commitments they make to human rights and the rule of law when they join the organisation.

The OSCE's relevance to LGBT rights has increased recently as the OSCE has taken on an expanded mandate in the area of tolerance and non-discrimination. Although not all OSCE states agree that LGBT people should be included in the new mandate, many OSCE missions and institutions such as the Office for Democratic Institutions and Human Rights (ODIHR) have been open to the involvement of LGBT people in their work.

4.3.1. Office for Democratic Institutions and Human Rights

The ODIHR's mandate is to assist OSCE participating states in "ensuring full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society." Based in Warsaw, Poland, the ODIHR has been growing steadily since its creation in 1990 and now includes a human rights section and a tolerance programme. Today, it employs more than 140 staff members and is active throughout the whole OSCE region.

As part of the Tolerance and Non-Discrimination programme, the ODIHR publishes information on hate crime in the OSCE Signatory States⁴⁸. The Tolerance and Non-Discrimination Information System (TANDIS) has a specific section on hate crime that provides information on the OSCE commitments in relation to hate crime and good practices⁴⁹. It is also used to disseminate good practices on combating hate crimes and other information on national initiatives received by the Office. The system is interactive and information can be easily put in it. The ODIHR has also asked States to nominate a focal point for the collection of information⁵⁰. Although problems have been reported with some focal points, it is important to send the information to them and to ODIHR. The ODIHR is also developing a curriculum for NGOs in order to prevent and respond to hate crime. A manual has been drafted and training for NGOs is to be organised in the near future.

⁴⁸ In 2005, the Office produced a report entitled "Combating Hate Crimes in the OSCE Region: An Overview of Statistics, Legislation, and National Initiatives" which compiles information about statistics, policies and legislation on hate crime from different States. Report available at www.osce.org/odihr/itm_11_16251.html

⁴⁹ <http://tandis.odihr.pl/index.php?p=ki-hc>

⁵⁰ A list of focal points in 48 States is available at this address http://tandis.odihr.pl/content/documents/table_npc.pdf.

Every year the Tolerance and Non-Discrimination Programme of ODIHR produces reports on hate crimes in the OSCE participating states. NGOs are invited to submit information through an open consultation process. The reports are drafted between February and April/ May of each year, and this time period is most suited for submitting your documented cases. Examples of the OSCE reports on hate crimes from previous years can be consulted at:

www.osce.org/item/26296.html.

Contact details

Azra Junuzovic

Hate crime reporting officer

Tolerance and non discrimination

Al. Ujazdowskie 19

00-557 Warsaw, Poland

azra.junuzovic@odhir.pl

For questions about the time frame of the annual reporting on hate crimes, and to ask to be included in consultation, you can write to:

OSCE office at civilsociety@odih.pl or

ILGA-Europe staff responsible for OSCE affairs at maxim@ilga-europe.org.

4.3.2. OSCE field missions

The OSCE has 18 missions and field operations located in South-Eastern Europe, the Caucasus, Eastern Europe and Central Asia. They work 'on the ground' to facilitate political processes, prevent or settle conflicts, and promote civil society and the rule of law.

These missions can be a first point of contact, at national level, for individuals and NGOs whose rights have been violated. LGBT organisations in Kyrgyzstan and Serbia reported positive experiences with OSCE missions: in Bishkek the OSCE mission hosted a roundtable on intolerance against LGBTs and in Niš a lesbian group was involved by the OSCE mission in a "Community Policing" project. To find out more about the missions, please consult the OSCE website at:

www.osce.org/about/13510.html

Brick used by ultra
radicals against
LGBT Pride in
Budapest 2008,



**Giorgi, victim of
homophobic attack
in Georgia**



4.4. European Union

Issues can be brought to the European Union institutions through different channels. One effective way to make the issue known at the European level is to send information about homophobic and transphobic incidents to the European Parliament's Intergroup on Gay and Lesbian Rights. Another important institution is the newly created Fundamental Rights Agency, which has in its mandate to collect data on the state of human rights in the EU.

4.4.1. Intergroup on Gay and Lesbian Rights

The European Parliament's Intergroup on Gay and Lesbian Rights brings together Members of the European Parliament (MEPs) from different political parties around the common goals of advocating for the rights and interests of LGBT people. The Intergroup acts as a pressure group within the European Parliament to ensure that LGBT rights remain at the forefront of the EU's agenda. Intergroup members monitor the work of the European Commission and the situation in EU Member States, and take action through public statements, adoption of resolutions and direct political pressure, when needed. As MEPs, members of the Intergroup can also make sure that LGBT issues and rights are raised in the EU legislative process and included in the adoption of new legislative measures.

The Intergroup has a small Steering Committee and more than 150 members within the EU institutions (more than half being MEPs). The Steering Committee is constituted of the President and Vice-Presidents who meet regularly in order to update each other and discuss developments and future activities of the Intergroup. More information on the work of the Intergroup is available at: www.lgbt-ep.eu/news.php

President:

Michael Cashman – PES/UK: mcashman@europarl.europa.eu

Vice-presidents:

Sophie in't Veld – ALDE/NL: sintveld@europarl.europa.eu

Sirpa Pietikainen – EPP/FI: sirpa.pietikainen@europarl.europa.eu

Raül Romeva i Rueda – Green/SP: raul.romeva@europarl.europa.eu

Lissy Gröner PES/DE: lissy.groener@europarl.europa.eu

*(**Please note that this composition may subject to change after the 2009 European Parliamentary Elections.)*

4.4.2. The European Commission

The European Commission has two main roles in the EU institution structures. It is known as the guardian of the treaty and it is also the body preparing any new legislation. In this context, the Commission is the institution that would have the mandate to propose legislation dealing with violence targeting LGBT people and to follow-up on its implementation. However, the Commission has been very reluctant to pick up this issue so far, as it sees it as falling outside the mandate conferred to the EU by the Treaty of the European Union. It is nonetheless useful to send information on the occurrence of homophobic and transphobic incidents to the Commission to build up the arguments in favour of proposing legislation in this area.

The Commission also plays an important role in the context of the **accession process** of new countries to the European Union. As discussed in Chapter 1, the issue of the lack of state protection from homophobic and transphobic violence contravenes the European Convention of Human Rights, and it can therefore be raised in the context of the accession process to the EU. Indeed, the human rights records of countries that are candidates for EU accession are under close scrutiny, in particular with regard to the European Convention, which is mentioned in the Copenhagen Criteria governing the accession process.

The Commission gathers all evidence of progress towards better human rights in a yearly report. These reports are used by the Commission to work with accession countries on legislative changes that are needed and to identify issues that countries need to address. It is therefore important to submit information to the Commission on the state of LGBT rights in an accession country, including in relation to homophobic and transphobic violence, since this can be raised by the Commission in its annual reports.

Currently, Croatia, Macedonia (FYROM) and Turkey are in the process of accession to the EU. Albania, Bosnia Herzegovina, Kosovo, Montenegro and Serbia are potential candidates and have signed stabilisation and association agreements with the EU.

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4.4.3. European Fundamental Rights Agency

The Fundamental Rights Agency (FRA) replaces the European Union Monitoring Centre on Racism and Xenophobia (EUMC) which used to collect data on the occurrence of hate crime based on racism. The Agency was established to provide assistance and expertise to the EU institutions and its Member States, when they are implementing Community law, on fundamental rights matters. The aim is to support them to respect fully fundamental rights when they take measures or formulate courses of action⁵¹.

The European Parliament has requested the FRA to produce a 'Comparative study on the situation concerning homophobia and discrimination on grounds of sexual orientation in the EU'. This study should be guiding the Committee of the European Parliament responsible for Justice and Civil Liberties (LIBE) in their debate over the need for further protection against discrimination affecting LGBT people. The issues of incidents of violence and discrimination against LGBT people is included in the legal part of the study which concludes that "Homophobic hate speech and hate crime represent obstacles to the possibility for individuals to exercise their free movement and other rights in a non-discriminatory manner" and recommends the adoption of an EU-wide criminal legislation to combat hate crimes against LGBT people.⁵²

Beyond this first study, NGOs can send examples of good practices, data on the occurrence of hate crime and response by the authorities to the FRA to provide the Agency with information on which to build its work on homophobic and transphobic violence.

⁵¹ FRA was established through Council Regulation (EC) No 168/2007 of 15 February 2007.

⁵² http://fra.europa.eu/fra/material/pub/comparativestudy/FRA_hdgso_part1_en.pdf



5. Working with allies at national level

5.1 National human rights institutions

National human rights commissions, ombudspersons and equality commissions are set up to ensure the respect of human rights and equality at national level. Depending on their mandate, they can support victims of hate crime through reporting cases to the government, supporting cases before courts or monitoring the police.

Good practices

Sweden

The Swedish Ombudsman Against Discrimination on Sexual Orientation (HomO) produced an overview of the case law related to homophobic motives as aggravating circumstances and incitement to hatred. The Ombudsman also organised training sessions for the police staff in order to draw attention to the issue of hate crimes and the importance of clarifying the motives underlying hate crime during the initial investigation phase.

www.homo.se/o.o.i.s/2065

Belgium

The Centre for Equal Opportunities and Opposition to Racism has a mandate to receive complaints and has established some specific mechanisms to deal with cyberhate.

www.diversite.be

5.2. Collaboration with other marginalised groups

Joint efforts to publish reports on violence and incidents motivated by hate can have a strong effect. Work with other NGOs working on racism and in particular on anti-Semitism can be a good idea; the issues are usually quite similar. A report on hate violence affecting several groups cannot be ignored by governments.

Such a group exists at the European level under the name Coalition Europe. On 15 March 2007, the group launched a campaign on dealing with hate crime during a press conference in the House of



**“Homosexualism:
disgrace and misery
of humanity”
published in Latvia**

Lords in London. At the conference, the Coalition highlighted the rising incidence of hate crimes throughout Europe and expressed its desire to create a greater understanding and awareness of prevalence of hate-motivated crimes within all regions of Europe. The campaign aims to advocate for effective legislation and policy against hate crimes and for increased victim support. More information on this campaign is available on

www.coalition europe.org/english/index.php?link=index

5.3. Working with human rights organisations

Some human rights organisations have been quite active in highlighting the issue of hate crime. For example, in 2001, Amnesty International published “Crimes of Hate, conspiracy of silence, torture and ill-treatment based on sexual orientation”⁵³. More recently, Amnesty published reports on the situation in Poland and in Latvia, drawing particular attention to the lack of protection of rights of LGBT people during Pride.⁵⁴

In 2007, another human rights organisation, Human Right First, produced a report on the occurrence of homophobic hate crime⁵⁵ and also developed tools to report hate crime.⁵⁶ The organisation welcomes information on hate crimes which it documents.

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⁵³www.amnesty.org/en/library/asset/ACT40/016/2001/en/dom-ACT400162001en.pdf

⁵⁴www.amnesty.org/en/library/info/EUR01/019/2006/en

⁵⁵Homophobia hate crime survey 2007
www.humanrightsfirst.info/pdf/07601-discrim-hc-homophobia-web.pdf

⁵⁶www.humanrightsfirst.info/pdf/071217-discrim-hc-report-card-overview-2007.pdf

5.4. Practical help: the Human Rights Fund

The ILGA-Europe Human Rights Violations Documentation Fund provides financial support for the documentation of human rights violations, including homophobic and transphobic incidents. Calls for projects are issued twice a year in the spring and the autumn. Please visit ILGA-Europe's website for updates and more information about the fund at:

[www.ilga-](http://www.ilga-europe.org)

[europe.org/europe/news/ilga_europe_announces_4th_call_for_proposals_for_pilot_human_rights_violations_documentation_fund](http://www.ilga-europe.org/europe/news/ilga_europe_announces_4th_call_for_proposals_for_pilot_human_rights_violations_documentation_fund)

Priority areas:

- hate crimes and hate speech (including in the media);
- brutalities of law-enforcement authorities;
- legal position of LGBT people in an eligible country;
- freedom of assembly and association.

The information contained in the documentation reports will subsequently be used by ILGA-Europe in its lobbying activities with the European institutions: European Union, Council of Europe and the OSCE. ILGA-Europe will do its best to make available to partner organisations instruments for documentation as well as examples of already developed reports for reference.

Eligibility criteria:

- proposals will be accepted from officially registered with local authorities LGBT organisations or initiative groups (in countries, where there are no registered LGBT NGOs);
- countries eligible are Western NIS (Moldova, Ukraine, Russia, Belarus), Southern Caucasus (Armenia, Azerbaijan, Georgia), the Western Balkans (Albania and former Yugoslavia), the 10 new EU Member States and the EU accession countries.

To apply, please fill in the application form containing the following information:

- a brief description of your organisation and its achievements;
- the goals and objectives of the proposal;
- a brief description of the scope and methodology of documentation of human rights violations;



Poster "No to
perversion, yes to
family values!"
displayed at Tallinn
Pride, Estonia

- a description of planned documentation activities;
 - expected outcomes (long-term results) and outputs (short-term results).
- A budget should be annexed, which should not exceed € 5000. A maximum of 20% of the budget can go to overhead expenses (office costs). All other costs are eligible if justified by the needs of the project. You can submit your application or ask any questions in relation to the Fund by e-mail to maxim@ilga-europe.org

The decision will be made by a board of independent experts within a maximum of one month from the time the proposal was submitted. ILGA-Europe looks forward to your applications!

Conclusion

The goal of this handbook is two-fold. First, it is to provide a methodology to document and report homophobic and transphobic incidents and violence in a systematic and factual manner using the principles of human rights monitoring. Second, it is to highlight opportunities that exist for LGBT and human rights organisations to advocate for legislative changes to increase legal protections from violence motivated by hatred against LGBT people at the European and international level through the reporting of information.

Documenting and reporting homophobic and transphobic incidents is critical to giving visibility to the issue of homophobic and transphobic violence, to empowering the LGBT community and to supporting advocacy for protection for LGBT people against violence. But there are of course other strategies to achieve these aims, such as organising a media campaign or taking a legal case before a national and international court. Documentation of incidents remains nonetheless central to all strategies since information about cases of violence is needed to take legal action and to develop a public campaign, as much as it is needed to advocate for legislative changes with European and international institutions.

It is our hope that, in the immediate future, this publication will contribute to an increase in reporting of homophobic and transphobic incidents at national and European level which will translate in the longer term into increased recognition of the rights of LGBT people – including the right to be protected from violence – as human rights.

Appendix 1 – Useful References

Useful Websites

Police Associations

European Gay Police: www.eurogaycops.com

Austria Gay Police Network: gaycopsaustria.at

Flag (French association of gay and lesbian police) www.flagasso.com

German Gay Police: www.velspol.de/front_content.php

Spanish Gay Police: www.gaylespol.org

UK Gay Police Association: www.gay.police.uk

Metropolitan Police Service: www.met.police.uk/csu/hatecrime.htm

Swedish Police: www.polisen.se/inter/nodeid=10230&pageversion=1.html

<http://bra.siteseeker.se/?i=en&l=1&ll=2&q=gay>

Bullying

Anti-Bullying Alliance (ABA) – www.ncb.org.uk/aba/

Advisory Centre for Education – www.ace-ed.org.uk

BBCi online – www.bbc.co.uk/schools/bullying/

Beatbullying – www.beatbullying.org

Childline – www.childline.org.uk

Children's Legal Centre – www.childrenslegalcentre.com

Department for Education and Skills – www.dfes.gov.uk/bullying/

Kidscape – www.kidscape.org.uk

NSPCC – www.there4me.com

Parentline Plus – www.parentlineplus.org.uk

Organisations working on homophobic/transphobic violence

Galop

Galop operates a helpline. This provides advice and support to lesbians, gay men, bisexual and transgender people who have experienced homophobic or transphobic hate crime or violence in



the greater London area. It is free and you can remain anonymous if you wish. You can also use the Live Online Help.

Its main services:

- Free and confidential advice and advocacy
- Advocate on your behalf with the police or other organisations
- Report a crime to the police on your behalf
- Help to obtain Criminal Injuries Compensation
- Advice about injunctions
- Provide details of LGBT-friendly solicitors and police officers
- Make a complaint against the police

www.galop.org.uk/help_with_hatecrime.html

'**SOS homophobie**' is a not-for-profit association whose goals are to take action against homophobic discrimination and violence. It was established on 11 April 1994 and is comprised exclusively of volunteer members from throughout France. SOS homophobie's main goals are:

- To help victims of homophobic abuse
- To run homophobia prevention activities
- To achieve equality in rights between homosexual and heterosexual couples, and between homosexual and heterosexual individuals

www.sos-homophobie.org/english

Maneo – Berlin Victim Support for gay men

Maneo provides service to gay and bisexual men, who have become victims of violence. This for example can also be homophobic or domestic violence, any kind of discrimination, slander or libel. Victims' relatives and witnesses are often exposed to a heavy burden-and are also welcome to contact Maneo.

www.maneo.de/highres/english/e_hindex.html

Useful documents and research

Hate crime

Neil, J. Tenant, A. An Acceptable Prejudice? Institute for Conflict Research 2003

http://conflictresearch.org.uk/documents/ICR_Homoph.pdf

Leslie J Moran, Susan Paterson and Tor Docherty 'Count me in!' A Report on the Bexley and Greenwich Homophobic Crime Survey

[www.casweb.org/galop/file-](http://www.casweb.org/galop/file-storage/download/Very%20final%20factsheet.pdf?version_id=27229)

[storage/download/Very%20final%20factsheet.pdf?version_id=27229](http://www.casweb.org/galop/file-storage/download/Very%20final%20factsheet.pdf?version_id=27229)

Combating Hate Crimes in the OSCE Region: An Overview of Statistics, Legislation, and National, 2005 www.osce.org/publications/odihr/2005/09/16251_452_en.pdf

Challenges and Responses to Hate-Motivated Incidents in the OSCE Region January-June 2006 www.osce.org/documents/odihr/2006/10/21496_en.pdf

Hate Crimes in the OSCE Region: Incidents and Responses.
Annual Report 2006, 2007
www.osce.org/publications/odihr/2007/09/26296_931_en.pdf

Tolerance Implementation Meeting "Addressing the Hate Crimes Data Deficit" Final Report Vienna, 9-10 November 2006
<http://tandis.odihr.pl/content/documents/fulltext/03052.pdf>

Human Rights First, Homophobia 2007 Hate Crime Survey
www.humanrightsfirst.info/pdf/07601-discrim-hc-homophobia-web.pdf

Scottish Executive, Working Group on Hate Crime Report, 2004
www.scotland.gov.uk/Resource/Doc/26350/0025008.pdf

Legislation on hate crime

EU Network of Independent Experts on Fundamental Rights Combating Racism and Xenophobia through Criminal Legislation: The Situation in the EU Member States Opinion n° 5-2005.
Thomas, R. Legislative Provisions for Hate Crime across EU Member State Institute for Conflict Resolution, Belfast, 2004.

National legislation on hate crime

www.legislationline.org/?tid=218&jid=1&less=true

Country-by-country report hate crime card (prepared by Human Rights First)
www.humanrightsfirst.info/pdf/071217-discrim-hc-report-card-2007.pdf

Policing

Radford, K. Betts, J. Ostermeyer, M. *Policing, Accountability and the Lesbian, Gay and Bisexual Community in Northern Ireland* Institute for Conflict Research, Belfast, 2006
www.conflictresearch.org.uk/documents/LGB%20book%20complete.pdf

Poster outside the
ILGA-Europe annual
conference in 2007,
Vilnius, Lithuania





Association of Chief Police Officer and Home Office *Hate Crime: Delivering a Quality Service. Good Practice and Tactical Guidance*, March 2005

www.acpo.police.uk/asp/policies/Data/Hate%20Crime.pdf

Police Service of Northern Ireland, Statistical Report No. 3 Hate Incidents and Crimes, 1st April 2005-31st March 2006.

Homophobic Incidents leaflet developed by the Police Service in Northern Ireland

www.psni.police.uk/hate_crime.pdf

A Guide for the Improvement of Support of Victims of Homophobic Crime

www.polisen.se/mediaarchive/4347/3474/4637/Homophobic_crime.pdf

Data collection

Hate crime in Germany: Processing Hate Crime Statistics by Mr. Ulrich Kinitz, Detective Superintendent, Head of State Security Division, Police Headquarters, Münster, Germany.

<http://tandis.odihr.pl/content/documents/fulltext/02984.pdf>

Hate crime data: follow up and policy implications by Astrid Mattijssen, Ministry of Justice of the Netherlands.

<http://tandis.odihr.pl/content/documents/fulltext/03403.pdf>

Cyber Crime

Hate on the internet, a response guide for educators and families

www.partnersagainsthate.org/publications/hoi_full.pdf

Centre pour l'Égalité des Chances, Delete Cyberhate, Guide d'Utilisation à l'Adresse de l'Internaute

www.cyberhate.be/templates/BrochureCyberhateFRDEF.pdf

Training of the police

Law enforcement officer programme on combating hate crime, ODHIR, OSCE,

www.osce.org/publications/odihr/2006/09/20673_676_en.pdf

Appendix 2 – ILGA-Europe’s indicative framework for semi-structured interviews with victims of human rights violations incidents

It is important to create a safe environment for the people we will interview. Let them know, that if they become emotional, they can stop at any time, or if there is a question they don’t want to answer, they can stop at any time. Ask them if they want their identity concealed/changed to protect their privacy. Explain how you propose to use the information before conducting the interview.



Religious protester
at Bucharest Pride,
Romania

1. Interview

Date:

Location of the interview:

Interviewer:

Interpreter:

Others present:

2. Personal data:

1.1 Name (if possible) / or nickname:

1.2 Age:

1.3 Sex:

1.4 Residence (city):

1.5 Sexual orientation / gender identity:

1.6 Social identity (unemployed/worker/official/professional):

1.7 Extent of being out (not out at all, only to close friends, only to family, very out):

1.8 Connected to the local LGBT community (in the place of residence)?



3. Human rights violations

Bologna Pride poster
vandalised by
swastikas, Italy



3.1 Have you ever suffered from any of the following acts? (You can say yes to more than one option)

1. Name calling directed at you
2. Threatened with physical violence
3. Personal property damaged/destroyed
4. Objects thrown at you
5. Chased or followed
6. Spat at
7. Been left out or ignored deliberately
8. Punched, hit, kicked or beaten
9. Assaulted or wounded with a weapon
10. Sexually assaulted
11. Sexually harassed (without assault)
12. Raped
13. Harassed by the police without assault
14. Beaten or assaulted by the police
15. Refused housing
16. Refused access to healthcare and services (for example, not treated because perceived or identified as LGBT)
17. Refused a job/fired
18. Refused commercial services (e.g. not allowed into/asked to leave a restaurant/bar/taxi etc)
18. Detained by the police without being given clear reasons
19. Any other form of physical/verbal violence or social/economic discrimination?
(please, specify) _____

3.1 Please, give us details of the circumstances: what happened, in what way, where, when, for how long, how many times and who did it?

3.2 Do you know anyone else who has suffered from such acts? At the same time or on other occasions?

3.3 Were the people who did this officials or private individuals?

3.4 Do you think it was your sexual orientation / gender identity or gender expression that caused these acts? Why do you think this?

3.5 What were the consequences of these acts (personal - on you, your family and/or friends, professional - on your job or any other position that you held at the time)? Are these consequences still affecting you?

3.6 Do you know if any remedies were available at the time that you could pursue to complain about these acts and obtain redress? Do you know anyone who could assist you in your situation?

3.7 If relevant, did you report the case to the police or other law enforcement authorities or ask for help from any other institutions (state or non-governmental)?

The questions 3.8 – 3.10 do not apply if the answer to the question 3.7 was 'no'.

3.8 If you reported the case to the police or other law enforcement authorities or other institutions, can you give us details about who you reported the facts to (name of the institution, name of the contact person, date and time)? Do you have any official records of your contact with them?

3.9 What was their reaction? Were they hostile or supportive?

3.10 Were they effective in helping you to resolve the situation, or obtain redress, to your satisfaction? If not, why not?

4. Observations

4.1 How is the interviewee behaving?

- Tone of voice (soft, loud, emotionless)
- Gaze (e.g. little eye contact)
- Tears (at which point during the interview)
- Silence or talk non-stop
- Body language (nervous movements, no movements)
- Responses (hesitation after questions, asks for questions to be repeated)
- Other

4.2 What is the setting, in which the interview takes place? Is there anyone with you? Anyone who could be perceived as being intimidating? Anyone in whose presence the interviewee might be hesitant to speak?



Poster advertising LGBT hate crime reporting in the London borough of Lewisham, UK



Appendix 3 – OSCE’s Toolbox to Combat Hate

In order to support participating States in implementing their OSCE commitments related to tolerance and non-discrimination, the ODIHR has, over the last two years, developed tools and networks of experts to provide technical assistance to OSCE states in their efforts to combat manifestations of hate and intolerance. The following table provides a summary of the ODIHR’s toolboxes available for OSCE participating States and civil society. The ODIHR hope that an increasing number of OSCE states will utilise these available tools. More information on these tools can be found on the ODIHR’s website at: www.osce.org/odihr/13477.html

I. Toolbox for OSCE participating States

Tool	Description	States using Tool
Law enforcement training	<ul style="list-style-type: none"> ● Uses a train-the-trainer approach that is tailored to each target country ● Trains police officers methods for identifying and investigating hate crimes, as well as skills for sharing intelligence and working with prosecutors and affected communities ● Designed and delivered by police officers for police officers ● Network of law enforcement hate crime experts from six OSCE states ● Comprehensive training curriculum, (including working definitions and a police reporting form template) which states customise to their needs 	Implementation completed ¹ : Spain Hungary Implementation ongoing: Croatia Ukraine Serbia Poland Initial interest shown by: Romania Russian Federation
Training on policing within Roma communities	Offers a good practice model for systematic assessment and review of current policing policy and practices	Russian Federation Poland Romania UK

¹ Since being piloted, the hate-crime curriculum has been added to the regular training programme for officers studying at the police academies in both Hungary and Spain.

<p>Guidelines and assessment of hate crime data collection methodologies</p>	<p>Comprehensive report developed – <i>Combating Hate Crimes in the OSCE Region: An Overview of Statistics, Legislation, and National Initiatives</i> which identifies gaps and deficiencies in the collection of data and developed tools, and offers a working definition of hate crime and a police reporting form to support states in their efforts to strengthen data collection and legislation related to hate crime.</p> <p>In November 2006, a first meeting of national focal points on hate crime from each of the 56 OSCE states was organized by the ODIHR. The meeting provided experts from throughout the region with an opportunity to discuss common strategies and to develop methods for improving the collection of statistics on hate crime.</p> <p>The ODIHR has now identified a group of data experts available to provide support and assistance to participating States in their efforts to strengthen their data collection methodologies. In mid-June, data experts will travel to Croatia in order to identify areas for possible co-operation and assistance.</p>	<p>48 states have nominated national points of contact on Hate Crime</p>
<p>Guidelines and assessment of educational approaches on Education on the Holocaust and Anti- Semitism</p>	<p>Comprehensive study developed – <i>Education on the Holocaust and Anti-Semitism. An Overview and Analysis of Educational Approaches</i> – which evaluates existing approaches and identifies good practices to support future efforts by OSCE states and civil society. It also identifies gaps and areas where teaching about the Holocaust and anti-Semitism needs to be strengthened. With its comprehensive recommendations it provides a framework for the development of curricula on Holocaust education and combating anti-Semitism.</p>	



<p>Guidelines for educators on Holocaust commemoration</p>	<p>Offer suggestions to educators how to prepare for Holocaust memorial days by identifying and presenting best practices from 12 OSCE participating states. Available in 13 languages.</p> <p>Developed in co-operation between the ODIHR, Yad Vashem and educational experts from 12 countries: Austria, Sweden, the Netherlands, Croatia, Poland, Hungary, Lithuania, United Kingdom, Russian Federation, Ukraine, Germany and Israel. Available on the ODIHR's website in: English, Russian, Italian, French, Dutch, Croatian, Hungarian. A German and a Polish version will be available soon.</p>	<p>Contributed to guidelines:</p> <p>Germany Belgium Poland Switzerland</p> <p>Using tool officially:</p> <p>Italy Croatia Hungary</p>
<p>Educational materials to teach about anti-Semitism</p>	<p>Teaching materials in seven versions and languages has been developed in seven OSCE states. The material was developed by experts from each of the seven countries, together with the ODIHR and experts from the Anne Frank House in Amsterdam.</p> <p>Country-specific adaptations, based on the historical and current situation in each country have been developed and piloted. The materials come in three parts: Part 1 is on the history of anti-Semitism, part 2 on contemporary forms of anti-Semitism and part 3 puts anti-Semitism into perspective with other forms of discrimination. There is also a teacher's guide which comes with the materials.</p> <p>Teaching materials are now being developed for three additional participating states.</p>	<p>Germany Netherlands Ukraine Lithuania Croatia Denmark Poland Russian Federation Spain Turkey</p>
<p>Recommendations to education authorities on how to strengthen diversity education</p>	<p>Comprehensive assessment report (currently under development) with recommendations concerning curricula development on diversity education, production of school material, definition and implementation of quality</p>	<p>Azerbaijan (request for assistance)</p>

	<p>standards, national diversity education strategies as well as pre-and in-service teacher training in the public school sector.</p> <p>Establishment of network of experts available to provide assistance</p>	
<p>TANDIS Tolerance and Non-discrimination Information System</p>	<p>A public website was launched in October 2006 which offers one-point access to:</p> <ul style="list-style-type: none"> ● Information received from the OSCE states, NGOs and other organisations; ● Country pages providing access to country initiatives, legislation, national specialised bodies, statistics, and other information; ● Thematic pages with information related to different key issues; ● International standards and instruments; ● Information from intergovernmental organisations including country reports and annual reports. 	
<p>Advisory Panel of Experts on Freedom of Religion or Belief</p>	<ul style="list-style-type: none"> ● Provides legislative assistance to participating states preparing or amending legislation pertaining to freedom of religion or belief; ● Offers expert opinions on specific infringements of freedom of religion or belief to participating states; ● Supports educational and training projects in order to raise awareness about FORB standards ● Provides support in mediation/conflict prevention. 	<p>In 2006, legislative assistance was provided to 5 participating states and opinions/interventions on cases involving potential violations of religious freedom were offered in 3 cases.</p>