



Regional Seminar on Hate Crimes against People with Disabilities for National Human Rights Institutions and Criminal Justice Officials
Mariboegate 13, ground floor
Oslo
4 June 2013

REPORT

Background

OSCE participating States agree that hate crimes violate core values of tolerance, mutual respect and understanding, and pose a serious danger to the security of targeted groups, threatening to create long-lasting experiences of isolation, exclusion and fear. In Moscow (1991) OSCE participating States committed themselves, ‘to ensure the protection of people with disabilities’. Participating States specifically committed themselves to combat hate crimes in Maastricht (2003). A comprehensive approach to responding to hate crime was set out in Athens (2009), where governments acknowledged the need to “take appropriate measures to encourage victims to report hate crimes”, and committed themselves to enact hate crime legislation, to report sufficiently detailed hate crime statistics to ODIHR, and to develop the capacity of criminal justice agencies to respond to hate crime.

However, hate crime against people with disabilities is particularly underreported, with successive annual hate crime reports published by ODIHR revealing that only a small number of participating States collect data on disability hate crime, and that disabled people’s organizations have very limited capacity for monitoring activities.

National Human Rights Institutions can play a key role in improving the recognition of and responses to disability hate crime. Ministerial Council Decision No. 10/07, adopted in Madrid (2007) encouraged participating States to establish national institutions or specialized bodies to combat intolerance and discrimination as well as to develop and implement national strategies and action plans in this field.

In November 2012 Sunniva Ørstavik, the Equality and Anti-Discrimination Ombud for Norway hosted a workshop in partnership with ODIHR involving people with disabilities from Denmark, Finland, Norway and Sweden. Participants relayed personal experiences of hate crime ranging from verbal threats to physical assaults. They agreed that the issue should be brought to the attention of senior police and those involved in criminal justice policy in the

region, in order to raise awareness of the problem and to identify steps that can be taken to measure and effectively respond to it.¹

The regional seminar on hate crimes against people with disabilities for national human rights institutions and criminal justice officials offered a forum for the key stakeholders to explore challenges and identify good practices and ways forward in the region. Specifically it aimed to:

- Raise awareness about the concept and nature of disability hate crime, and to share experiences from the region;
- Present effective responses to disability hate crime at the national level, and;
- Identify ways forward for criminal justice officials, national human rights institutions, and civil society.

Welcoming remarks

Sunniva Ørstavik, the Equality and Anti-Discrimination Ombud for Norway welcomed participants and highlighted the issue of disability hate crime in Norway and beyond. She expressed her hope that participants will engage actively in the seminar and that they will take away actions for further work within their own role and country.

Session one: Setting the scene- experiences of disability hate crime in the Nordic region

This session focused on personal experiences of disability hate crime. Joanna Perry started the session by giving an overview of the hate crime concept and disability hate crime in particular. Ms. Bolling, Finn Helman (Sweden) and Pirkko Mahlamäki (Finland) shared personal experiences as well as more examples gathered during the workshop held in Oslo in November 2012, attended by people with disabilities. Examples included being shouted at and abused on the street, an incident where a couple with a disability got a letter with condoms inside and with the message, “use these so that will be no more people like you in the world’. Another incident involved a group of boys interfering with an owner’s guide dog and escalated to physical assaults against the person with disabilities. Several participants expressed surprise and shock that these incidents happen in the Nordic region and stated that there is a general lack of awareness about the problem.

Session two: Understanding and taking action against disability hate crime: the United Kingdom (UK) perspective

Mike Smith, former lead commissioner on disability hate crime at the UK Equality and Human Rights Commission (EHRC) shared his experience of chairing a national inquiry into disability-related harassment, and Paul Giannasi, Hate Crime Programme Lead, UK Ministry of Justice, shared the government experience of responding to the inquiry, and its impact on disability hate crime policy.

Key points mentioned by Mr. Smith included: the importance of basing a national inquiry on robust evidence of the problem. To this end, before the Inquiry was launched the EHRC

¹ The event was preceded by a workshop co-hosted by ODIHR and the European Network for Independent Living (ENIL) in Dublin in May 2012, which identified similar issues experienced by people with disabilities in other European countries.

conducted research into people with disabilities' experiences of disability-related harassment, which found that it was a wide spread and serious problem in the UK. The second key point was that he ensured that the Inquiry heard evidence from the most senior officials from across the criminal justice system, which increased the chances of clear next steps being taken by the leadership of the police, prosecution service and the courts. Mr. Smith referred to a 'culture of disbelief' around the problem of disability hate crime, which he believed was a significant barrier to acknowledging and addressing the problem. He concluded by stating that the UK authorities still have a long way to go and that the EHRC is monitoring their progress against the actions they have pledged to take. He also highlighted the point that National Human Rights Institutions in other jurisdictions can take the same or similar actions as the EHRC in order to raise awareness of and investigate the problem of disability hate crime.

Paul Giannasi summarized the UK approach to hate crime generally and highlighted the key cases of disability hate crime that first drew the authorities' attention to the problem. A key incident involved Fiona Pilkington, who killed herself and her daughter Francessca after suffering years of harassment by neighbourhood bullies, despite having alerted the police numerous times. Superintendent Giannasi set out the key steps that the authorities are taking to address the issue, including better recording of incidents, strategic campaigns to increase reporting of incidents and specific guidance for police and prosecutors to improve the outcomes of cases that are dealt with by the criminal justice system.

Session three: The roles and responsibilities of national human rights institutions (NHRIs), Ombudspersons, civil society and criminal justice agencies in recognizing and responding to disability hate crime

Joanna Perry, Hate Crime Officer, ODIHR and Signe Poulsen, Human Rights Adviser, ODIHR set out and discussed the roles and responsibilities of these bodies in addressing disability hate crime. Joanna Perry presented the key OSCE Ministerial Commitments relevant in the area of disability hate crime and also gave an overview of other IGO activities and standards in this area. She highlighted the significant gaps in available data on disability hate crime and set out key steps that can be taken to improve knowledge in this area such as: working with civil society organizations to obtain a clearer picture of the problem; introducing a question on hate crime in national victimization surveys, and ensuring that police recording forms include the facility to record disability hate crime. Ms. Perry explained that further information about these points will be set out in a guide on hate crime data collection to be published by ODIHR later this year. Ms. Perry concluded her presentation by sharing the key facts and findings of the case of *Dordavic versus Croatia*, in which a man with disabilities and his mother were repeatedly harassed by neighbourhood bullies.² The court found that the authorities had the duty to prevent the harassment, and awarded damages to the victims.

Signe Poulsen, ODIHR Human Rights Adviser, focused on the role of NHRIs and civil society in improving understanding of and responses to disability hate crime. She pointed out that NHRIs can: act as a bridge between civil society and government; work with governments to undertake comprehensive legal review of the measures needed to afford full legal protection; and monitor and report incidents. This includes reporting in international

² *Dordevic v Croatia*, Application No. 41526/10

fora such as treaty bodies and the Universal Periodic Review. NHRIs can assist the Government with integrating disability hate crime into its reports to UN treaty bodies where relevant, and the Universal Periodic Review. Ms. Poulsen also suggested that NHRIs can specifically focus their efforts on revealing gaps in protection in relation to the criminal justice system by: including disaggregated data and report on hate crimes against persons with disabilities in their regular reports to parliament; raising awareness of the problem with criminal justice agencies; monitoring the response of authorities to such complaints; where appropriate, make recommendations for change; and acting as intermediaries in interactions with the authorities.

Session four: What can be done in the region?

Moderated by Joanna Perry, Hate Crimes Officer, ODIHR

The purpose of this session was to give participants the chance to work together with colleagues from their own countries to apply information from earlier sessions to an analysis of what can be done within their role and in their countries. Participants discussed the following questions in small groups: (1) what is your role in addressing disability hate crime and what are you planning to do?; (2) what should be the follow up activities for this seminar?

Group one (Norway/Denmark)

Members of this group reported that they discussed details of many more cases that have not been reported. In this regard, they concluded that training and education is a main need. Organizations working with disability issues should be consulted in order to establish a better knowledge database as a first step towards addressing overarching issues.

Yeung Fong Cheung (Norway Parliamentary Ombud's Office) stated that the Parliamentary Ombud's Office is mandated to receive and address individual complaints, but receives very few from persons with disabilities. She said that she would suggest that the Parliamentary Ombud establish a way to track how many cases are received, and look more into motivations. She also mentioned that the Parliamentary Ombud is entitled to start investigations on her own initiative. One advantage is that the Parliamentary Ombud is mandated to look at broader issues of injustice, and not only those incidents that amount to criminal offences.

The Ministry of Social Affairs and Integration is going to take the findings of this seminar and establish how these issues might be taken forward in Denmark.

Group two: participants from Finland.

Members of this group reported that under-reporting of hate crime against people with disabilities is a key problem in Finland, and that awareness of the issue is very limited even among groups working with persons with disabilities, as well as among law enforcement and justice actors. In this regard, members suggested, NGOs can play a vital role and that role-models are also needed to improve visibility for those cases that do occur. Overall, members of this group agreed that there is a lack of information, no systematic approach to collecting information.

Group two suggested that a separate study might be a more productive way of obtaining data about the issue; this might also lead to further reporting of cases. There are questions about what methodology might be best employed, including to ensure responses from persons with disabilities. The group was encouraged by the British example and acknowledged that there is a lot of work to be done to address the issue and that the first step is to collect the data that is needed to justify that the problem even exists.

Group two members emphasized that surveys can be an important tool for awareness raising, information gathering and lobbying for change. If the aim is to do a comprehensive survey, it is essential that the methodologies used are acceptable for other actors such as the police and other agencies. If NGOs or others collect data that cannot be used by target audiences, this is a missed opportunity.

Group three

Members of group three raised the important issue of how to report, and how to convince persons who have been subjected to hate crime to report. Representatives from Norway pointed out that a challenge in Norway is that police do not report on disability, only on hate crimes based on race, and that this is something that can be changed by policy makers.

Another difficulty that was recognized by the group relates to persons with cognitive disabilities. For example, in one case, a person with a cognitive disability attempted to report a hate crime to police, and the police dismissed him as being drunk. Such incidents have a chilling effect on reporting.

The representative from the Norwegian Directorate for Children, Youth and Family Affairs explained that they are conducting a project that is exploring the accessibility of domestic violence crisis centres for disabled women and disabled children.

Finally members of this group pointed out that “third party reporting schemes” are an option that can also be considered. This means that reporting is not done directly to the police, but to other actors. The benefit is that this helps cases get into the system. Mike Smith cautioned that such schemes do not necessarily lead to specific action for the person who reports the offence, and in this sense can feel like a ‘band aid’ rather than a comprehensive solution.

Conclusions

Joanna Perry summarized the key points of the day and the participants agreed a key recommendation.

Summary of key themes from the day:

- (1) Under-reporting by victims is a serious obstacle to getting a full sense of the extent and nature of disability hate crime at the national level. This is exacerbated by a number of factors including low awareness among people with disabilities themselves, lack of trust in the authorities, and a lack of adequate response by the authorities when people do report.

(2) Under-recording by police. This is exacerbated by a number of factors including low awareness and shortcomings in recording methodology, or the criminal code.

(3) It is necessary to increase general awareness to improve confidence to report, improve the accuracy and frequency of reporting, and to put in place a framework which encourages reporting, addresses challenges, and ensures that perpetrators are brought to justice.

Key recommendation:

It was agreed that there should be an event at the regional level on how to gather evidence on hate crime. A range of methodologies could be presented including gathering information from people with disabilities themselves, organizations working in this area, police and other agencies, and international organizations.

ANNEX ONE: AGENDA



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Finland, Norway and Sweden. Participants relayed personal experiences of hate crime ranging from verbal threats to physical assaults. They agreed that the issue should be brought to the attention of senior police and those involved in criminal justice policy in the region, in order to raise awareness of the problem and to identify steps that can be taken to measure and effectively respond to it. The event was preceded by a workshop co-hosted by ODIHR and the European Network for Independent Living (ENIL) in Dublin in May 2012, which identified similar issues experienced by people with disabilities in other European countries.

This seminar offers a forum for government officials, political representatives, law enforcement practitioners, representatives of national human rights institutions and disabled people's organizations, to explore challenges and identify good practices and ways forward in the region. Specifically it aims to:

- Raise awareness about the concept and nature of disability hate crime, and to share experiences from the region;
- Present effective responses to disability hate crime at the national level, and;
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9.00-9.30	Arrival and coffee
9.30-9.45	Welcoming remarks Sunniva Ørstavik, Equality and Anti-Discrimination Ombud for Norway
9.45-10.15	Setting the scene- experiences of disability hate crime in the Nordic region Moderated by Jamie Bolling, Director European Centre for Independent Living (ENIL) <i>An overview of personal experiences collected from the region are shared with participants.</i>
10.15- 11.00	Understanding and taking action against disability hate crime: the UK perspective Moderated by Joanna Perry, Hate Crimes Officer, ODIHR <i>Mike Smith, former lead commissioner on disability hate crime at the UK Equality and Human Rights Commission shares his experience of chairing a national inquiry into disability-related harassment. Paul Giannasi, Hate Crime Programme Lead, UK Ministry of Justice, shares the government experience of responding to the inquiry, and its impact on disability hate crime policy.</i>
11.00- 11.30	Coffee break

11.30-12.00 The roles and responsibilities of national human rights institutions (NHRIs), Ombudspersons, civil society and criminal justice agencies in recognizing and responding to disability hate crime

Moderated by Jamie Bolling, Director European Centre for Independent Living (ENIL)

Joanna Perry, Hate Crime Officer, ODIHR and Signe Poulsen, Human Rights Adviser, ODIHR set out and discuss the roles and responsibilities of these key bodies in addressing disability hate crime. Examples of good practice from the OSCE region are presented.

12.00-13.15 What can be done in the region?

Moderated by Joanna Perry, Hate Crimes Officer, ODIHR

Participants work together with colleagues from their countries to identify key actions that can be taken to improve information about, awareness of and responses to disability hate crime. These examples and ideas are shared in plenary.

13.15-14.30 Close and lunch

ANNEX TWO: LIST OF PARTICIPANTS

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Oslo 4 June 2013

List of participants

Norway	
Kjersti Skarstad	Norsk senter for menneskerettigheter/ Norwegian Centre for Human Rights
Johannes F. Nilsen	Norsk senter for menneskerettigheter/ Norwegian Centre for Human Rights
Yeung Fong Cheung	Norwegian Parliamentary Ombud's Office
Lars Grue	NOVA - Norwegian Social Research
Ingjerd Hansen	Oslo Police District
Lars Ødegård	Special Adviser National association for disabled people (NHF)
Ms. Kristin Hogdahl, Director	Norway Director of Norwegian center of human rights
Hans Wiggo Kristiansen	Seniorrådgiver Directorate for Children, Youth and Family Affairs Norway

Joseph Vasquez	Seniorrådgiver Directorate for Children, Youth and Family Affairs Norway
Cheryl Lorens	Managing Editor Nordic Journal of Human Rights Coordinator Socio-Economic Rights Programme
Hedvik Ekeberg	The Norwegian Association for Persons with Developmental Disabilities (NFU)
Gro Wærstad	Office of Equality and Anti-Discrimination Ombud for Norway
Mariette Lobo	Office of Equality and Anti-Discrimination Ombud for Norway
Bjørg Unstad Equality	Office of Equality and Anti-Discrimination Ombud for Norway
Lene Nilsen	Office of Equality and Anti-Discrimination Ombud for Norway
Sweden	
Finn Hellman	ILGA
Finland	
Ms. Pia Holm	Chief Superintendent, National Police Board ASK Pia re another contact
Detective Inspector Kimmo Hyvärinen,	East Uusimaa Police Department
Pirkko Mahlamäki	secretary general email Vammaisfoorumi ry/Finnish Disability Forum
Mr Veli-Pekka Kauhanen	Pirkko's assistant
Ms Milla Aaltonen	Research Manager
Denmark	
Ms. Anne Bækgaard	Special Adviser Ministry of Social Affairs and Integration Denmark
Speakers	
Signe Poulsen	Human Rights Adviser, Human Rights Department, ODIHR
Joanna Perry	Hate Crimes Officer, Tolerance and Non-Discrimination Department, ODIHR
Jamie Bolling	Director, European Network for Independent Living
Mike Smith	Former lead commissioner on disability hate crime, EHRC,

	UK
Eli Knosen	Office of Equality and Anti-Discrimination Ombud for Norway
Sunniva Ørstavik	Equality and Anti-Discrimination Ombud
Paul Giannasi	Hate Crime Programme Lead, UK Ministry of Justice