



# NATIONAL COMPILATION PAPER - BULGARIA

## DEVELOPING JOINT TRAINING PROGRAMMES ON ADDRESSING HATE CRIMES FOR POLICE AND PROSECUTORS

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## **Introduction**

This compilation paper was developed as part of the OSCE Office for Democratic Institutions and Human Rights' (ODIHR) project on "Building a Comprehensive Criminal Justice Response to Hate Crime", co-funded by the European Union and the United States. The paper provides an overview of the activities conducted in Bulgaria as part of the project.

### **The project**

Efficiently countering hate crime requires close co-operation of various criminal justice actors – including police officers, lawyers, prosecutors and judges – as well as the victims of such crimes. To be truly effective, these different actors must co-ordinate their efforts based on a comprehensive understanding of hate crimes. With this in mind, in February 2017 ODIHR launched a two-year project to help strengthen the skills of, and collaboration among, criminal justice professionals in four OSCE participating States – Bulgaria, Greece, Italy and Poland – towards building a comprehensive criminal justice response to hate crime in these countries. The project also aims to deepen co-operation of criminal justice professionals with civil society.

In Bulgaria, the project focused on developing a joint training programme for police and prosecutors that would allow them to identify and overcome differences in their understanding of hate crimes and in their approaches to processing hate crime cases. Based on lessons learned from piloting the training programme, the project also foresaw the development of a manual on a joint hate crime training of police and prosecutors, as well as the organization of a national conference for criminal justice professionals from across Bulgaria.

#### **Project timeline in Bulgaria**

- February 2017: Preparatory meeting with Bulgaria's National Institute of Justice held in Warsaw
- September to December 2017: Preparation of the training material
- January 2018: Joint pilot training course in Sofia
- February 2018: Joint pilot training course in Veliko Tarnovo
- February 2018: Joint pilot training course in Plovdiv
- March to April 2018: Preparation of the manual on the joint hate crime training of police and prosecutors
- June 2018: National conference
- November 2018: Final project conference

These activities capitalize on the long-standing co-operation between ODIHR and the Bulgarian authorities in countering hate crimes. In 2012, the Bulgarian Ministry of Interior and ODIHR agreed to implement ODIHR's Training Against Hate Crimes for Law

Enforcement programme (TAHCLE),<sup>1</sup> and in 2015, the Bulgarian National Institute of Justice (NIJ) and ODIHR began implementing ODIHR's Prosecutors and Hate Crimes Training programme (PAHCT).<sup>2</sup> In 2016, the NIJ agreed to partner with ODIHR as part of the current project to strengthen the criminal justice response to hate crime. Additionally, in early 2018, the Bulgarian authorities requested that ODIHR review and prepare a legal opinion on the relevant provisions of Bulgaria's Criminal Code, and to customize ODIHR's practical guide addressing the security needs of Jewish communities to the Bulgarian context.<sup>3</sup>

## **Activity 1: Joint training programmes for police and prosecutors**

### Process

When evaluating ODIHR's PAHCT programme in Bulgaria, many training course participants suggested to develop joint hate crime training workshops for the police and prosecutors. Taking this into consideration, ODIHR approached the Bulgarian NIJ to explore their interest in such an approach. As a result, ODIHR and the NIJ agreed to pilot joint hate crime training courses for police and prosecutors as part of the project.

Once the project proposal was approved, ODIHR and the NIJ met in Warsaw to discuss details of co-operation, planned activities (three pilot training sessions for police and prosecutors and the development of a training manual) and the project timeline. ODIHR and the NIJ then agreed on specific terms of reference describing their responsibilities. ODIHR would cover all costs and support the logistical aspects of the training, including interpretation, qualified international trainers and training materials. The NIJ would offer training facilities where available and would select police and prosecutors from different regions of Bulgaria to participate in the training courses, keeping the gender balance of the participants. Finally, the NIJ and the Bulgarian General Prosecutor's Office would appoint a contact person to facilitate co-ordination with ODIHR and the implementation of the project's activities.

### Developing the training curriculum

Prior to the start of this project, TAHCLE and PAHCT training curricula were developed by ODIHR in consultation with the National Implementation Working Groups. They were based on the findings of Needs Assessment Missions (NAM). The assessment process relied on the National Liaison Officer to co-ordinate and convene focus group sessions and meetings with police officials, prosecution services and relevant authorities, including judges, institutions dealing with minorities and human rights, civil society organizations and community leaders. The objective of the NAM was to assess the nature and, where possible, the extent of hate-

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<sup>1</sup> See: *Training Against Hate Crimes for Law Enforcement (TAHCLE): Programme Description* (Warsaw: OSCE/ODIHR, 2012), <<https://www.osce.org/odihr/tahcle>>

<sup>2</sup> See: *Prosecutors and Hate Crimes Training (PAHCT): Programme Description* (Warsaw: OSCE/ODIHR, 2014), <<https://www.osce.org/odihr/pahct>>.

<sup>3</sup> *Understanding Anti-Semitic Hate Crimes and Addressing the Security Needs of Jewish Communities: A Practical Guide*, OSCE/ODIHR, Warsaw, 15 May 2017, <<https://www.osce.org/odihr/317191>>.

motivated violence, as well as the capacity of police, prosecutors, communities and civil society to address the issue. It also allowed for an understanding of current police and prosecutorial responses to hate crimes, as well as the structures of police and prosecutor services. Finally, the NAM assessed the legal framework and approach to the training of police and prosecutors. Based on the findings, a NAM report was produced that covered the following: the international and national legal framework; relevant government structures and policies; victim groups and their relationships with the authorities; reporting of, first response to and the registration of hate crimes by police; the investigation and prosecution of hate crimes; the adjudication of hate crimes; and hate crime statistics. This report was used to assess the country's main shortcomings in responding to hate crime, and served as a basis for developing core lessons that would be central to the customized curriculum.

It was clear from the beginning that training materials for joint training courses would draw on the customized curricula for Bulgaria prepared before. ODIHR began by reviewing the existing curricula to make sure that they were up to date. ODIHR and the national partners also reviewed all available hate crime-related materials from a number of sources. These included studies of police and prosecutor services, reports from other intergovernmental organizations and civil society organizations that were analysed to identify information relevant to the training.<sup>4</sup> Following this literature review, the NIJ, the Bulgarian General Prosecutor's Office and ODIHR agreed on the format and the content of the training.

The final agenda of the training combined modules from TAHCLE and PAHCT programmes, while also allowing for broader discussions and practice sessions aimed specifically at enhancing co-operation between police and prosecutors.

TAHCLE and PAHCT programmes contain similar content and standard modules, such as those on the definition of hate crime and bias indicators. As the TAHCLE programme is focused on police, some modules are more explicitly tailored to police work. Thus, the module referring to police response and investigation was integrated into the agenda for the joint police and prosecutors training. Meanwhile, the PAHCT programme has a specific module on national legislation pertaining to hate crime, which the TAHCLE programme covers only briefly. The more detailed version of the PAHCT programme was thus integrated into the agenda of the joint training programme. Both the TAHCLE and PAHCT programmes provide materials for group work and case studies of varying complexity. Practical modules included in the joint training programme incorporate case studies from both programmes.

The agenda for the joint training programme also sets aside extra time for police and prosecutors to discuss the specifics of their work. For example, the module on barriers to investigating and prosecuting hate crimes and strategies to overcome these barriers is allocated double the time provided for in the previous training programmes.

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<sup>4</sup> ODIHR consulted two documents published by Bulgaria's Supreme Prosecutor's Office of Cassation: "Methodological guidelines on work upon crimes perpetrated with a discriminatory element" (December 2013); and "Report on the results from the study and analysis of the judgments of the European Court of Human Rights finding that the Bulgarian authorities have not complied with their obligation to carry out an effective investigation, as well as of the cases, in which they are rendered, and the measures required to remedy the established omissions" (2016). Among other reports, ODIHR consulted: "Bulgaria: Missing the point: Lack of adequate investigation of hate crimes in Bulgaria", Amnesty International, 2015; and "Written Comments of the European Roma Rights Centre Concerning Bulgaria: For the Consideration of the United Nations Committee On The Elimination Of Racial Discrimination at the Concluding Observations of the 92nd Session (24 April to 12 May 2017)", European Roma Rights Centre.

Furthermore, an extra training module is included to enable specific, practical discussions on how police and prosecutors can better co-operate to address hate crimes. The module features realistic and complex case studies, mostly based on real events that occurred in Bulgaria. Their complexity is such that the cases could only be resolved through extensive co-operation between police and prosecutors. During the pilot training sessions, this module provided police and prosecutors with an excellent opportunity to refer to the specific examples, what in turn led to engaged discussions about professional challenges that both face when working on hate crimes.

### Delivering and evaluating the training course

#### **Hate crime training courses in numbers**

Three training courses

Three regions of Bulgaria

22 districts of Bulgaria represented by participants

4.5 days

Six trainers (3 men and 3 women)

70 trainees, of which:

- 35 police officers (3 women, 30 men),
- 35 prosecutors (26 women, 11 men) and,

70 per cent of participants will apply the hate crime training knowledge frequently or occasionally

82 per cent of test answers correct

Three pilot training courses were held in different regions of Bulgaria. Each course lasted one and a half days and gathered between 20 and 25 police and prosecutors from different districts of the country. Three to four international trainers, representing police and prosecution services from the Netherlands, Spain and the United Kingdom, delivered the training. ODIHR representatives were also present to share their expertise on hate crime, their knowledge of ODIHR's TAHCLE and PAHCT programmes and their experiences in facilitating hate crime training in multiple countries.

On 22 and 23 January 2018, the first training course took place in Sofia at the training facilities of the NIJ. Thirteen police officers and 12 prosecutors (12 women and 13 men) from the prosecutorial region of Sofia participated in sessions delivered by the police officer from the Netherlands, the prosecutor from Spain and the ODIHR Hate Crime Officer. Following the training, 80 per cent of participants said they felt confident enough to apply the knowledge provided by the training in their work. The evaluation forms also revealed that some participants were confused about certain aspects of hate crime, in particular regarding the distinction between hate crime, hate speech and discrimination. Overall, the training course was assessed very positively. In particular, participants singled out training methods, the opportunity to interact with trainers and the quality of training materials as the highlights of the course.

The second training course took place in Veliko Tarnovo on 13 and 14 February 2018. The training brought together 25 participants (9 women and 16 men) – of which 13 were police officers and 12 were prosecutors – from the prosecutorial region of Veliko Tarnovo. Three

trainers facilitated the sessions: the police officer from the Netherlands, the prosecutor from the United Kingdom and the ODIHR Hate Crime Officer. In the beginning, participants expressed reservations about the purpose of the course. Some declared that no hate crimes occur in their region, while others asserted that there are no problems with existing legislation or with communication and co-operation between the police and prosecutors. By the end of the training, more than 50 per cent of participants said that they would have the opportunity to apply their newly acquired knowledge occasionally or frequently. 65 per cent assessed the training course very positively, while the remaining one-third said they were satisfied with the course. Participants assessed trainers' knowledge and their ability to engage participants' interest positively. During the course, some participants also highlighted the need to review Bulgaria's hate crime legislation, in particular by revising the provision on "hooliganism" and expanding the list of protected characteristics.

The third training course was held in Plovdiv on 27 and 28 February 2018. The course gathered 20 participants (eight women and 12 men), of which 11 were prosecutors and nine were police officers from the prosecutorial region of Plovdiv. Facilitating the event were representatives of the Dutch police and the United Kingdom prosecution services, as well as two ODIHR representatives: Assistant Programme Officer and expert on hate crimes. In evaluating the course, 95 per cent of participants said that they felt confident enough to apply the knowledge provided. At the same time, 70 per cent said that they would have the opportunity to use this knowledge in their work frequently or occasionally. Some participants suggested holding similar training exercises for judges in order to improve the overall response of the criminal justice system to hate crimes. This suggestion was also raised in Veliko Tarnovo.

### Good practices and lessons learned

When organizing training courses such as the ones implemented in this project, it is a good idea to take the following measures:

- Partner with relevant institutions, such as the National Institute of Justice and the General Prosecutor's Office.
- Make use of existing training facilities for police and prosecutors, such as those provided by the NIJ.
- When inviting participants, make an effort to ensure that equal numbers of men and women and police and prosecutors are represented, and take into account the geographic representation of participants.
- Appoint at least two trainers who are able to complement and support one other (for example, one police representative and one prosecutor), maintaining the gender balance.
- Ensure that the trainers are knowledgeable about hate crime and familiar with the specific context of the country and region.

To prepare for the course, it is a good idea for trainers to do the following:

- Undertake extensive desk research and consult with civil society organizations and other relevant stakeholders. Develop a precise methodology to ensure that the training is interactive (participants are expected to share their expertise and experiences) and

participatory (participants are expected to engage, including in groups), and prepare all the training materials accordingly, including hand-outs, case studies, PowerPoint presentations and videos.

- Assess the individual training needs of the participants prior to each session and modify the session accordingly.
- Customize the training to the specific context of the country and regions that the participants represent.

Finally, training courses should aim to address specific questions. Hate crime training courses that do not discuss the following issues are less likely to be successful.

- Explain that society is often more diverse than what individuals are able to experience or perceive, and that it can undergo rapid change.
- Address prejudices and stereotypes of the participants.
- Explain the harm caused by manifestations of intolerance.
- Explain that anybody, including members of a majority group, can be a victim of hate crime.
- Acknowledge that hate crimes can have a greater impact on the victims than regular crimes and pose a threat to security and social cohesion.
- Explain that, when hate crimes are properly investigated and prosecuted, police and prosecutors send the message that these crimes are not tolerated and that the criminal justice system protects all individuals and communities equally.
- Acknowledge that the investigation and prosecution of hate crimes is an international obligation, and that there are ways to overcome gaps in the national legislation.
- Discuss obstacles to investigating and prosecuting hate crimes and ways to overcome these obstacles.

## **Activity 2: Manual on joint hate crime training for police and prosecutors**

Based on the pilot training activities, a manual on joint hate crime training for police and prosecutors has been developed.<sup>5</sup>

The manual sets out basic principles for conducting joint hate crime training courses for police and prosecutors. It outlines what priority issues need to be addressed and how such training courses are expected to shape police and prosecutors' understanding of hate crimes. The publication addresses a range of topics, including the concepts of diversity and intolerance; the concept and impact of hate crimes; bias indicators; investigating hate crimes; international obligations and national legislation aimed at countering hate crimes; prosecuting hate crimes; obstacles to investigating and prosecuting hate crimes; and good practices to overcome such obstacles. These topics are divided into sub-chapters that reflect key learning outcomes when conducting joint hate crime training activities for police and prosecutors. Although it briefly describes potential training methodologies, the manual is not a

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<sup>5</sup> The manual is available at project's website: <https://www.osce.org/projects/criminal-justice-response-hate-crime>.



comprehensive training curriculum, and should be used in conjunction with other ODIHR training programmes (TAHCLE and PAHCT).

The manual draws on the experience of the pilot training courses, including open discussions and exchanges among trainers and participants, as well as recommendations and good practices provided by the trainers. The manual also addresses specific experiences of and challenges facing Bulgarian police and prosecutors in addressing hate crimes. It gives readers insight into how police and prosecutors assess diversity and intolerance, how they understand hate crime concepts and how they apply these concepts when resolving cases. The manual's annexes contain a number of case studies used during training activities. These case studies are mostly based on discussions with civil society representatives held during the NAM visit, as well as on reports by civil society organizations. This information provides a solid basis for organizing new hate crime training courses in the future.

Although the manual is intended for use by government authorities, it can also benefit civil society organizations involved in the work of criminal justice agencies and in conducting hate crime training courses for similar audiences.

The manual was written by the ODIHR representative who facilitated the three pilot training courses in Bulgaria. It was also reviewed by all international trainers involved in delivering pilot training courses and by the Bulgarian General Prosecutor's Office.

As part of the project and based on the experience of holding such courses in Bulgaria, a generic version of this training programme will be developed in English for use by other OSCE participating States interested in undertaking joint hate crime training courses for police and prosecutors.

### **Activity 3: National workshop**

On 12 June 2018, a national workshop was organized in Sofia.<sup>6</sup> The workshop gathered 48 police, prosecutors, judges and representatives of a number of relevant government ministries and civil society organizations in Bulgaria, including 21 women and 27 men. The primary purpose of the workshop was to promote and receive feedback on the manual, including any concerns and considerations. The feedback was integrated into the materials developed as part of this project, including training methodologies, guidance notes and the manual itself.

### **Next steps**

Outside the scope of the current project, Bulgarian authorities have committed to undertake additional efforts to address the problem of hate crime. This can be seen from their request to ODIHR to provide an opinion on Bulgaria's legislative provisions pertaining to anti-discrimination, bias-motivated crime and hate speech. This opinion was finalized and discussed at the project's national workshop on 12 June 2018 in Sofia.<sup>7</sup> The authorities also requested that ODIHR customize its practical guide addressing the security needs of Jewish

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<sup>6</sup> The full report from the national workshop is available at project's website: <https://www.osce.org/projects/criminal-justice-response-hate-crime>.

<sup>7</sup> "ODIHR Legal Reviews, Assessments and Guidelines. Bulgaria", Legislationline website, 2 November 2018, <https://www.legislationline.org/odihr-documents/page/legal-reviews/country/39>.

communities to the Bulgarian context. A needs assessment mission related to this project took place in February 2018.

Useful next steps towards ensuring a comprehensive approach to addressing hate crimes in Bulgaria could include developing relevant and specific guidelines for police and prosecutors, as well as providing them with tools to properly record and collect hate crime data. Involving civil society organizations in any future hate crime-related activity would also contribute to creating a more holistic approach to countering hate crimes.

## **Annex 1: Indicative Agenda for the joint training sessions**

### **JOINT TRAINING OF POLICE AND PROSECUTORS ON ADDRESSING HATE CRIMES**

#### **DAY 1**

**09.30 – 09.45 Introduction**

*The session will provide information about the general and specific goals of the training activities.*

**09.45 – 10.15 Experiences from the community**

*Statements by victims and/or witnesses will be studied to facilitate a discussion of the extent of bias and prejudice in the local context, with the aim of enhancing participants' understanding of the effect of hate crimes.*

**10.15 – 11.15 Understanding hate crimes and their impact**

*The characteristics of hate crimes will be examined in order to distinguish from them from “regular” crimes and other acts, such as hate speech and discrimination. The session will also focus on the roles of police and prosecutors and why a proper criminal justice response is necessary. Video materials of hate crime cases, including in the Bulgarian context, will also be studied.*

**11.15 – 11.30 Coffee break**

**11.30 – 12.00 International and regional legal framework**

*The session will introduce participants to international documents on investigating, prosecuting and sentencing hate crimes, as provided for by the UN, the OSCE and, in particular, the ECtHR. The session will study hate crimes cases based on different protected characteristics.*

**12.00 – 12.30 Identifying a potential hate crime case: bias indicators**

*This session will provide participants with the tools to identify bias motivation in a potential hate crime case. Special attention will be given to hate symbols and the importance of reviewing bias indicators in the specific context of each case.*

**12.30 – 13.30 Lunch**

**13.30 – 14.15 Response and investigation**

*During the session, participants will review the procedures for identifying and recording the information found at the scene of a hate crime. The procedures will be discussed in connection with the initial response, the proper registration of relevant facts, dealing with victims and witnesses and the criminal procedural requirements.*

**14.15 – 15.00 Using Bulgarian law to prosecute hate crimes**

*National hate crime provisions will be reviewed, with a focus on general and specific penalty enhancements, protected characteristics, the legal*

*qualification of a crime, plea bargaining and the status of a victim, among other aspects.*

15.00 – 15.15 *Break*

15.15 – 16.00 **Bias indicators and evidence**

*The session will closely consider the threshold of evidence in the Bulgarian criminal justice system, and will look at how to prove a case, how to substantiate claims made in the indictment and what to do if perspectives differ between police and prosecutors.*

16.00 – 16.30 **Conclusions on Day 1**

## **DAY 2**

09.30 – 09.45 **Recap of day one**

09.45 – 11.00 **Case study 1: Bias indicators and evidence of motive: training session**

*This session will be a group exercise, in which participants will develop and practice their skills in identifying a potential hate crime case and using the evidence to prove bias motivation for convictions and sentencing. The trainers will provide feedback and guidance on participants' performance.*

11.00 – 11.15 *Coffee Break*

11.15 – 12.45 **Case study 2: Bias indicators and evidence of motive: real-life setting**

*This exercise will be more complex and will reflect a complicated, real-life situation. The groups will review each other's work and will make notes on the obstacles to effective investigation and prosecution of a hate crime.*

12.45 – 13.45 *Lunch*

13.45 – 14.45 **Obstacles to prosecuting hate crimes and ways to overcome them**

*The session will present the cycle of a hate crime and all the potential obstacles to its successful investigation and prosecution for different stakeholders. It will also explain law enforcement obligations to support victims and discuss some specific situations. The mapping of obstacles will enable participants to anticipate and resolve them in advance.*

14.45 – 15.00 **Conclusions and evaluations**

*This session will summarize the issues discussed during the training event. Participants will also fill out an evaluation form, which will provide an anonymous assessment of the event and enable improvements to be made.*

**Annex 2: End of course test: questions and answers**

1. Do hate crimes require that the perpetrator feel hate? **No**
  
2. Can a property be the target of a hate crime? **Yes**
  
3. Can victims of hate crimes also belong to a majority? **Yes**
  
4. Which of these is not a protected characteristic?
  - a. Ethnicity
  - b. Law Enforcement**
  - c. Religion
  - d. Gender
  
5. Why are hate crimes different from hate speech and discrimination?
  - a. Because hate crimes are criminal offences
  - b. Because hate crimes cannot be committed by words
  - c. Because hate crimes always have a base offence and a bias motivation**
  - d. Because hate crimes mostly happen at the workplace
  
6. Can community members be affected by a hate crime committed against one person in the community?
  - a. No, only the direct victim is affected
  - b. Yes, only if the community is very sensitive
  - c. Yes, because hate crimes send a message to the entire community**
  - d. No, only the direct family of the victim is affected
  
7. Which of these is less likely to be a potential hate crime?
  - a. A place of worship was set on fire
  - b. An exhausted mother killed her baby**
  - c. A member of an ethnic group was threatened with a knife
  - d. A man was beaten on public transport without apparent reason

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