



Measures to enhance active participation of hate crime victims in criminal proceedings

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Participation of Hate Crime Victims in Criminal Proceedings

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Introduction

- Research design
- Comparative measures benefitting victim participation in criminal proceedings
 - *Not reporting barriers*
- Measures v. victims' procedural needs
- Conclusion

Research design

Van der Aa, Hofmann & Claessen, 'A comparative perspective on the protection of hate crime victims in the EU', *ELR*, 2021 (3)

- Survey in 22 EU MS (+ UK case study)
 - March 2019 > national experts on hate crime
 - Goal to make inventory of:
 - 1) hate crime definitions
 - 2) protection measures (exclusively) available for hate crime victims in criminal proceedings.
 - Many limitations (but will not discuss)

Procedural measures to enhance active participation > the minimum standard

- Article 22(3) EU Victim Directive (2012) > Individual Assessment to identify protection needs > hate crime victims are ‘earmarked’
- Article 23 EU Victim Directive:
 - During interviews:
 - Interviews in special premises
 - Professional interviewers
 - All interviews by same interviewers
 - During court sessions:
 - Measures to avoid contact with defendant (e.g., screens)
 - Testimony via telecommunication
 - Avoid unnecessary questions regarding private life
 - In camera hearings

Extra measures in EU MS

- Registration /earmarking of hate aspect in CJS registration
- Specialized police officers
- Specialized prosecutors
- Compulsory / elective courses on hate crime
- Have contact details kept out of police report
- Choose domicile at police station
- Police officers who share same characteristics
- Additional info (e.g., on specialized support services)
- Referral to specialized support services
- VPS/VIS/Community Impact Statement (UK)

Hate crime victims' procedural needs

- *Reduction of reporting barriers*
- Proper treatment by CJS
 - E.g., specialized police/prosecutor; liaison officer; courses; avoid unnecessary questions on private life
- Access to special services,
 - E.g., specialized police/prosecutor; info on special services; referral to services; interpreter (e.g., mentally disabled)
- Recognition and acknowledgement of hate aspect
 - E.g., specialized police/prosecutor, liaison officer, courses, adequate registration, VIS/Community Impact Statement

Highlighting some measures

- Specialized police/prosecutors or not?
 - In practice often unavailable > better to have compulsory courses for all (front office) police officers?
- VIS/Community Impact Statement?
 - More insight into actual impact on individual victim and community; bonding between community and CJS; better informed decisions > but what about expectation management? Which community? Principle of equality? Perception of the individual victim?

Conclusion

- IA in combination with well-balanced set of rights/services/national policy has potential to fulfil victims' needs, but:
 - Measures widely dispersed across EU
 - Some measures unclear
 - Measures on paper versus practice?

Thank you!