

Participation of Hate Crime Victims in Criminal Proceedings

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Participation of Hate Crime Victims in Criminal Proceedings

- Practical problems and challenges regarding active involvement of the victim in criminal proceedings
- Issues faced by lawyers representing hate crime victims
- Focus on Roma minority (Central European perspective)

Active Participation of Victims

- before criminal proceedings – i.e. shortly after the hate crime happened
- during criminal proceedings
- after criminal proceedings

Before criminal proceedings begin

- securing necessary evidence ASAP
- seeking assistance with organisations providing support to victims of hate crimes
- filing a criminal complaint
 - victim
 - intermediary

Before criminal proceedings begin

Hate crimes are often unreported:

- 20-35% of Roma victims of assault or threat reported them to police
- 49% of Jewish victims of antisemitic physical violence reported them to police

Before criminal proceedings begin

Reasons for under-reporting (personal experience):

- fear from the perpetrator
- fear from police (secondary victimisation, discrimination)
- lack of trust towards investigation authorities
- lack of education, knowledge of one's rights

Before criminal proceedings begin

Victim support organisations:

- Legal support, psychological support ...

Problems:

- Lack of organisations overall
- Lack of organizations supporting victims of hate crime in particular
- Limited regional scope
- Problems with funding

During criminal proceedings

Directive 2012/29/EU of the European Parliament and Council – Victim's Rights Directive:

- Transposed to the laws of the EU Member States
- Victims of hate crimes = victims with specific protection needs

During criminal proceedings

Victims with specific protection needs:

- Interviews (paying attention to vulnerability, trained police officers, as few as possible)
- Medical examinations kept at minimum
- Limitation of visual and personal contact with the perpetrator
- Potential exclusion of public

During criminal proceedings

Main challenges:

- Legal representation – not mandatory
- Problems securing free legal aid – not guaranteed
- Informing of victim's rights – formalistic approach (e.g. via handout)

During criminal proceedings

Main challenges:

- First consideration of the case by a police officer decides who will investigate the case (special units or general investigating officers)
- Victims are not entitled to be present at every procedural steps
- Police decide which evidence they secure, although the victim may propose and present evidence
- Prosecutor is in charge of investigation – reliant on evidence as taken by police

During criminal proceedings

Main challenges:

- At the hearing before the court, the involvement of the victim is limited to the issue of compensation
- This applies to the appeal, too
- Judgment without reasoning - if the prosecutor and the convicted perpetrator waive their right to appeal

During criminal proceedings

Roma-specific issues:

- Violence perpetrated by police
- Antigypsyism in police resulting in ineffective investigation

After criminal proceedings

- Possibility of civil proceedings
- Impact within the affected group:
„Good practice“ or „chilling effect“?

Legal representation of hate crime victims

- Sensitive and respectful approach by lawyer and ensuring the same from the authorities
- Patience
- Understanding what the client (victim) wants to achieve
- Explaining what is realistic to achieve and what to expect

Legal representation of hate crime victims

Potential problems:

- Slow proceedings
- Perpetrator is not found guilty
- Growing frustration – decreased interest in outcome
- Decreased trust towards authorities but also the lawyer representing the victim



THANK YOU!