

Hate Crime Victims with Irregular Migration Status: Safe Reporting Practices



OSCE

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The problem of safe reporting

- Migrants in an irregular migration situation do not report crimes they are victims or testimonies because they are afraid of **deportation**. The contact with the policies forces could lead to the initiation of a deportation procedure.
- Available data: from 70% to 80% (SOS Racisme; FRA 2021; PICUM 2021).
- Report of the implementation of the Victim Directive recognizes that victims with irregular migration status are less likely to report crimes due the fear of deportation.



VISA RoC Project

Project: Victims with irregular migration status. Safe Reporting of Crime (VISA RoC)

Scope: This project focuses on the experiences of four cities (Barcelona, Gent, Utrecht, and Milan).

Objectives: deepen in the local practices for safe reporting. improve local practices or conditions for safe reporting increase cooperation among various stakeholders mutual learning and exchange of good practices

Partners participating: Universities, ONG, City Hall

Funding: D.G. Justice European Commission

Project period: October 2022 – October 2024

Webpage: <https://www.safereporting.eu/>



Balancing two legitimate aims: a central legal challenge.

- Directive 2008/115/EU. Return Directive:
Return order as the general rule for irregular stay and as an obligation of the Member States.
- Directive 2012/29/EU Victims' rights (access to justice) and the non-discrimination clause also applicable in cases of irregular administrative status

Two opposing objectives that need to be balanced.



Why ensuring Safe reporting

Protection of fundamental rights: Everyone has the right to access justice and protection when they are victims of a crime (as recognized in the EU Victims' Rights Directive 2012/29/EU).

Public safety: When victims or witnesses of crimes feel safe to report, it strengthens law enforcement efforts and helps prevent impunity — benefiting society as a whole.

Trust in institutions: Safe reporting builds trust between migrant communities and local authorities, reducing fear and social exclusion.



The solution

Firewalls: refers to build a legal or institutional barrier that separates the enforcement of immigration laws from the access to justice.

Safe reporting mechanisms aim to ensure that victims and witnesses of crimes can access justice and protection regardless of their residence status. These mechanisms are often supported by “firewalls”.



Barcelona local initiatives for safe reporting

- Local initiatives for safe reporting
- In Barcelona there isn't an official policy of safe reporting but there are some administrative practices that create a safe reporting environment in the case of victims of trafficking, gender violence and hate crimes
- Those practices consist in social and legal advice and support in case the victim decides report those crimes.
 - SARA Assistance, Recovery and Reception Service for victims of gender violence
 - UTEH Municipal Unit against Human Trafficking for victims of trafficking
 - Non discrimination office



Barcelona's practices for safe reporting

KEY ELEMENTS:

- Coordination with other administrative units
- In the case of gender violence: coordination with police forces
- In the case of Trafficking: coordination with police forces, prosecutor and ONG
- In the case of hate crime and non discrimination coordination with persecutor. if the victim is not willing to report, the Non-discrimination office has an agreement with prosecutors who may report on behalf of the public interest



Positive results of safe reporting barcelona practices

- A declining fear of contacting the police.
- Greater awareness among victims of the consequences of reporting.
- Catalan police forces support these practices because they provide access to information about crimes.
- Future issues:
 - Institutional support leads to higher reporting rates.
 - There is no relationship between the implementation of safe reporting practices and the increase in irregular migration



Challenges for safe reporting

For other crimes like labour exploitation, housing scams, sexual abuse, scams linked to the migration process, abuse to domestic workers, etc:

- There is a gap of social and legal assistance for cases that goes beyond trafficking, gender violence and hate crime.
- Barcelona City Hall do have administrative units addressed to give information and support for labour rights, domestic workers, sexual workers,
- But those units do not have social support or legal advisers that foster and accompany the victims to report in a police station or in Court

The Spanish Law guarantees free legal advice (public defender), but if there is no extra support to accompany the victim, the report is unlikely.

