



EU High Level Group on combating racism, xenophobia and other forms of intolerance

February 2017

HATE CRIME TRAINING FOR LAW ENFORCEMENT AND CRIMINAL JUSTICE AUTHORITIES: 10 KEY GUIDING PRINCIPLES

This document is not legally binding and is intended for guidance only. It can therefore neither provide legal advice on issues of national law nor an authoritative interpretation of EU law, which remains within the sole remit of the Court of Justice of the EU.

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1. PURPOSE OF THIS PAPER

Specialised hate crime training is key for state and local law enforcement and criminal justice authorities to develop the necessary skills for the identification, recording, investigation, prosecution and sanctioning of hate crimes, and for ensuring a fair and adequate treatment of victims. Hate crime training programmes should therefore be an integral part of any comprehensive initiative to address hate crime, which every Member State is encouraged to set in place with a view to ensuring that EU and national hate crime laws and rules on victims' rights are effectively enforced in practice.

Information gathered by the European Commission's services showed that more than half of the Member States provided some form of hate crime training for law enforcement and/or criminal justice authorities during the past five years. Taking into account existing practices in the Member States and the work and expertise of key stakeholders including civil society organisations, EU agencies and international bodies, a number of good practice standards could be identified. On this basis, the European Commission fostered a thematic discussion on hate crime training for law enforcement and judicial authorities at the second meeting of the EU High Level Group on combating racism, xenophobia and other forms of intolerance ('the High Level Group')¹ on 7 December 2016.²

This paper, drafted by the European Commission's services (DG JUSTICE and CONSUMERS), constitutes the key conclusions of such a discussion. It is a result of a process of consultation gathering input from the Member States and various interested stakeholders, including civil society organisations, the EU Agency for Fundamental Rights (FRA), the EU Agency for Law Enforcement Training (CEPOL), OSCE's Office for Democratic Institutions and Human Rights (ODIHR) and the Council of Europe.

The purpose of this paper is to provide Member States' authorities and other relevant stakeholders with a compilation of key guiding principles on how to ensure effective and quality hate crime training for law enforcement and criminal justice authorities. All Member States are encouraged to build on these guiding principles when designing, delivering and evaluating hate crime training programmes for law enforcement and criminal justice authorities, adapting as needed their implementation to the specific national legal framework and organisational structure of law enforcement and criminal justice agencies.

This paper is not legally binding and is intended for guidance only, with a view to assisting Member States in building the capacity of competent national authorities to ensure effective implementation in practice of national legislation related to hate crime and hate speech and to the protection of victims of hate crime, including provisions transposing Framework Decision 2008/913/JHA on combating certain forms and expression of racism and xenophobia by means of criminal law³ and Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime⁴. In this respect, this paper is meant as a contribution to support Member States' efforts in setting in place appropriate non-legislative and policy measures which can facilitate the achievement of the objectives of the above mentioned EU instruments.

¹ <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3425>

² Such discussion built, in turn, on previous relevant EU level initiatives, including the work done by the FRA working Party on Improving Recording and Reporting of Hate Crime (2014-2016) and the meeting of the Working Group on minimal standards for hate crime training, hosted in Bratislava by the Slovak Presidency of the Council of the EU on 1-2 December 2016.

³ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32008F0913>

⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1421925131614&uri=CELEX:32012L0029>

2. INTRODUCTION TO THE KEY GUIDING PRINCIPLES

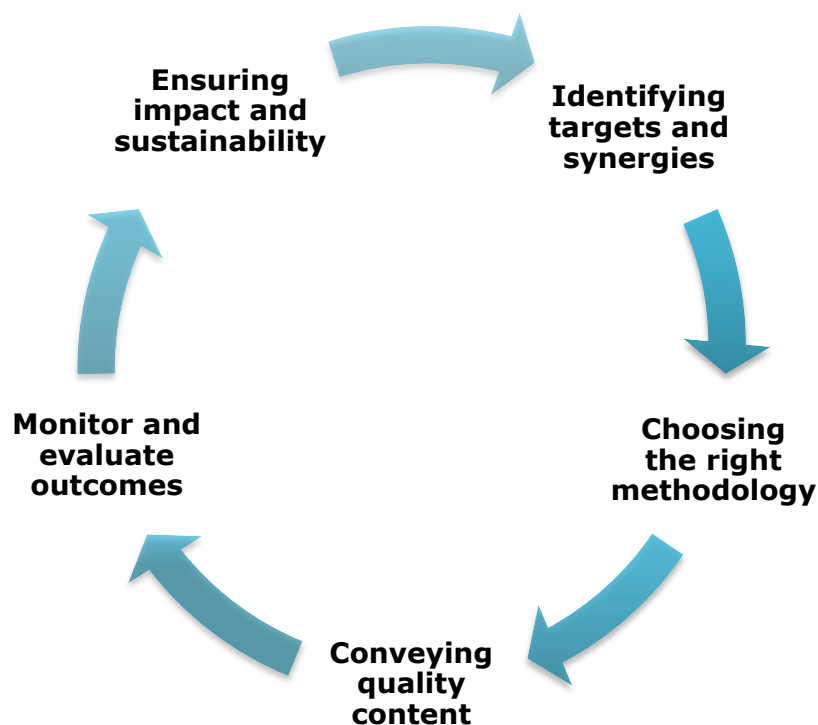
The development of hate crime training curricula and their delivery on a regular and systematic basis is necessary for law enforcement and criminal justice authorities to build their own capacity and fulfil their primary responsibility of ensuring an adequate response to hate crimes.

In order to be effective, hate crime training programmes should be designed in a way which is targeted to the achievement of a defined set of objectives.

These objectives are:

- Ensuring that police are equipped to effectively investigate hate crimes, uncover bias motivation, protect victims and refer victims to appropriate support;
- Ensuring that prosecutors are equipped to work in partnerships with the police to build successful hate crime prosecutions, facilitate the necessary support for victims to give their best evidence and bring to the court's attention to the relevant criminal law provisions;
- Ensuring that police and prosecutors are equipped and confident to engage with affected communities, to explain how hate crimes are investigated and prosecuted and how they can work with communities to prevent and effectively respond to hate crime;
- Ensuring that the judiciary is equipped to appropriately apply and give effect to relevant hate crime laws, including when it comes to sentencing.

Having in mind these objectives, the work towards the design and implementation of effective hate crime training programmes for law enforcement and criminal justice authorities should be developed around the following components:



3. 10 KEY GUIDING PRINCIPLES

ENSURING IMPACT AND SUSTAINABILITY

✓ **Embed training within a broader approach to tackling hate crimes**

Training programmes are more successful when underpinned by national or regional action plans and strategies with clear goals, targets and indicators. Their success and sustainability is also more likely when complemented by legal, policy and operational guidance for national authorities, awareness raising initiatives, and/or measures to address underreporting and improve victim support. This multidisciplinary and multi-tiered approach can also contribute to strengthening and fostering coordination and cooperation across different national authorities (police, prosecution, judiciary, but also other authorities in areas such as education, social affairs, health, etc.); as well as across national authorities and other actors (equality bodies, national human rights institutions, victim support services, civil society and community-based organisations).

Example: in Italy hate crime training programmes for law enforcement authorities are embedded in the activities of the Observatory for Security against Acts of Discrimination (OSCAD), a multi-agency body housed within the department of public security at the Ministry of the Interior, which takes a holistic approach to tackling hate crimes, including by improving hate crime reporting by victims.

Hate crime training can also be delivered as part of an overall fundamental rights based approach to law enforcement and criminal justice, and thus embedded in more general training on human rights or non-discrimination.

Example: in Austria elements relevant to hate crime training are embedded in the organisational project "Police, Power and Human Rights", aimed at building a human rights based approach to policing within law enforcement authorities.

✓ **Develop a methodology to assess training needs**

The design of national or local hate crime training programmes should always be supported by a thorough training needs' assessment. These allow training programmes to be customised to the specific national or local context, taking into account the applicable legal framework, the organisational structure of law enforcement and criminal justice agencies (in order to identify the training's targets) and, where available, data concerning trends and statistics of hate crime and hate speech (in order to adapt the content of the training, where relevant). They also contribute to ensuring that the design of training programmes is strategic and evidence based, is supported by adequate resources and is geared at achieving targeted and realistic objectives, so as to enhance continued impact and sustainability. Such an assessment should be performed by responsible national authorities ideally on the basis of a participatory method with the involvement of other stakeholders, including national authorities from different services, equality bodies, national human rights institutions, civil society or community based organisations.

Example: in the UK special independent advisory bodies have been set up to carry out the training needs' assessment, involving national authorities from across different relevant ministries (multi-disciplinary approach) and foreseeing the participation of other actors such as civil society organisations.

IDENTIFYING TARGETS AND BUILDING SYNERGIES

✓ ***Customise programmes on the basis of the identification of target personnel***

Training programmes should be designed and customised to each specific training target, in light of the role and functions of the category concerned.

Appropriate personnel for hate crime training can comprise a wide variety of categories within the law enforcement and criminal justice authorities.

An accurate identification of target personnel is key to ensuring that a training can achieve its desired outcomes. Such identification should be based on the training needs' assessment and take into account the organisational structure of the law enforcement and criminal justice agencies (i.e. federal/local; existence of specialised departments/units; hierarchical structure; etc.).

Ideally, for a training programme to be effective the identification of training targets and the customisation of programmes should take into account the following elements:

- training the executive: including high level officials among training targets can play a key role in building leadership and commitment of the executive in preventing and countering hate crimes, and can be a factor ensuring the success of training to low-level staff and train-the-trainer sessions. Such training should be customised to high level officials and therefore normally include elements such as input on human rights-based leadership, objective setting, prevention strategies, the use of community intelligence, community engagement and measuring performance;
- training specific categories within a single target group (e.g., as regards police, patrol/frontline officers, detectives, policy-level officers, hate crime officers, etc.; as regards prosecutors, specialised prosecutors): developing training for well determined target groups is key in order to convey operational guidance and enhance specialised skills related to the specific role and functions of concerned officials;
- training a mixed audience within a single target group (e.g., as regards police, police officers with different level/functions): developing training for different categories belonging to a same target group allows strengthening the understanding of needs and challenges for the different actors of a same process and can contribute to enhanced cooperation and the streamlining of relevant procedures;
- training a mixed audience from different target groups (e.g. police and prosecutors, prosecutors and judges): developing training for different target groups allows strengthening the understanding of needs and challenges at different stages of the process and can contribute to enhanced cooperation and the streamlining of relevant procedures;
- pre-service training: including pre-service training on hate crime as part of the educational curriculum of future law enforcement and criminal justice officials allows developing or reinforcing targeted basic knowledge and skills before taking office, so to ensure that authorities are able to understand and handle hate crimes from an early stage.

Example: in Sweden a prosecution development centre within the Swedish Prosecution Authority offers targeted training to all tenured and non-tenured judges on how to determine the penal value of a crime motivated by hatred.

✓ **Develop a model of structured cooperation with civil society**

Civil society and community-based organisations can bring specific added value to the planning, preparation, delivery and evaluation of hate crime trainings for law enforcement and criminal justice authorities.

Experience gathered in a number of Member States shows that these actors play a key role both as trainers and as advisers, including as regards:

- addressing the authorities' attitudes;
- bringing the victim's experience and perspective and facilitating the involvement of victims or victim groups;
- offering specialist intelligence and knowledge about the specificities of bias indicators affecting particular groups and on local hate crime patterns and trends;
- building the skills of public authorities to effectively engage with communities and improve their confidence.

Furthermore, practical cooperation for training purposes can result in a concrete opportunity to develop effective partnerships and address existing barriers, both practical (limited contacts between civil society and/or community-based organisations and the authorities) and in terms of overcoming mistrust and prejudice on both sides. This is likely to benefit relations between the authorities and the communities in the long term, offering further avenues for cooperation and fostering the positive engagement of both sides, also with a view to improving reporting and improving the evidence gathering.

A reasonably comprehensive mapping of possible partner civil society and/or community-based organisations at local or national level and the subsequent development of a model of cooperation between selected organisations and the authorities, be it through formal or informal agreements or partnerships, is key to ensure a structured, rather than *ad hoc*, exchange and engagement.

Example: in Northern Ireland a structured partnership has been developed between the police, victim support services and civil society organisations, including for training purposes.

CHOOSING THE RIGHT METHODOLOGY

✓ **Combine different training methodologies, including practice based sessions**

An effective hate crime training programme should combine different types and methodologies of training, including: reading based, including through the development of educational material for self-study; interactive, including through the creating of a learning environment based on team work; practice based and hands-on, focussing on operational experience.

Example: in Spain the project "Training for the identification and recording of racist incidents" has been developed on the basis of the "Manual for the training of security forces on the identification of racist and xenophobic incidents", available online.

Practice based training, underpinned by operational experience, is particularly important when it comes to hate crime training for law enforcement and criminal justice authorities. In particular, the use of case studies (including case studies from other countries) and the development of operational guidelines, instructions and checklists is key to provide detailed and practical information on how to deal with difficult operational situations or transfer and develop skills to be able to apply in practice guidelines and instructions. A hands on approach generally encourages inclusive and proactive individual participation and can thus contribute to identify and address unconscious bias. Furthermore, it can help achieving a better understanding of the role of different actors in the process and foster better cooperation between officials.

Example: in Ireland, hate crime training of investigating officers includes case studies based on real life cases, to help the authorities building the skills necessary to conduct effective investigations and secure evidence of crimes committed with a hate motivation.

Hate crime training is increasingly being delivered in the form of e-learning and online modules. While delivering hate crime training in an online form has the merit of allowing to potentially reach a wide number of target personnel while containing costs, there is however some evidence, that online learning is often seen by participants as less effective than 'in-person' training, as it is often not interactive enough. In order to ensure that online training is effective, it is therefore important to build in opportunities for interaction (discussion forums), online working groups, practical application (case studies), etc. The design of this kind of operational, hands-on, high quality interactive online learning needs however to be carefully planned and evidence based.

✓ **Consider the development of train-the-trainers programmes**

Train-the-trainers models can enable building a pool of competent instructors who can subsequently lead to cascade trainings, ideally, peer-to-peer. The advantage of this model is its wide reach and the possibility of progressively building capacity within the target group, also ensuring a more effective use of resources.

Example: in Belgium the Antwerp police has developed a training programme where specialised and trained police officers deliver hate crime training to frontline officers.

CONVEYING QUALITY CONTENT

✓ **Focus on achieving targeted overall objectives through quality content**

Having in mind the outcomes that hate crime training for law enforcement and criminal justice authorities should achieve, hate crime training curricula should be designed with a view to the following, complementary, overall objectives:

- raising awareness, fostering empathy, addressing attitude aspects, including *vis à vis* specific groups and communities;
- improving knowledge of basic concepts and of the national and international legal and policy framework, and its application;
- transferring and developing practical skills to more effectively deal with hate crimes and ensure adequate support to victims, in light of the role and functions of each specific authority.

In order to achieve these objectives, hate crime training curricula for law enforcement and criminal justice authorities should be based on an equitable balance of different elements in terms of content:

- raising awareness on the values of diversity and the nature and social impact of hate crimes;
- raising awareness on trends and data, ideally targeted to the national/local context;
- providing information and guidance on the legal and policy framework (including national, EU, European and international instruments and standards, as well as their application, as it results for example in relevant case-law of national and supranational courts such as the European Court of Human Rights);
- providing information and guidance on the institutional framework, in particular as regards cooperation with other authorities or actors at local, national or European level;
- providing practical instructions on handling the various stages of the procedure, which shall be adapted to the role and functions of the training targets but should generally cover:
 - identification and recording of hate crimes on the basis of bias indicators;
 - evidence gathering and investigation;
 - application of relevant legislation in the prosecution and sentencing phase;
 - collecting, categorising and processing data;
- providing practical instructions on approaching and providing assistance and support to victims, which shall be adapted to the role and functions of the training targets but should generally cover: interview skills; needs assessment and referral to support services; the right to information;
- providing guidance on building positive and constructive community relations, including as regards identification of civil society and community actors, engagement and cooperation with these actors, addressing underreporting, engaging in community/proximity policing, improving responses to conflict situations;
- challenging and fostering reflection on bias and addressing individual and/or structural discriminatory attitudes, policies or practices;
- providing guidance on how to ensure effective public outreach and communication to the public.

Advanced trainings can be designed to focus on in-depth analysis of specific aspects.

Example: in Cyprus, training resources developed for the police include a hate crime training programme for police officers and sergeants working on investigation and training courses and materials to raise awareness intercultural sensitivity in policing.

✓ **Develop targeted training modules to address specific forms of intolerance**

Having in mind available data and current trends in the different national contexts, hate crime training programmes should also include targeted modules designed to address the specificities of certain forms or manifestations of intolerance, such as Antisemitism, anti-Muslim hatred, anti-migrant hatred and xenophobia, antigypsyism, Afrophobia,

homophobic and transphobic hate crime, hate crimes against persons with disabilities, etcetera.

Intersectionality is also an issue to which hate crime training should pay particular attention.

These types of targeted training, which can be designed with the help of civil society organisation and community actors, can help creating specific understanding of a group at risk of hate crimes, and can prevent double victimisation.

Example: in Portugal police forces and the judiciary have developed a partnership with ILGA-Portugal, a civil society organisation working to protect the LGBTI community, in order to offer specific training on how to deal with homophobic and transphobic crime to law enforcement officials, the judiciary as well as civil servants.

MONITORING AND EVALUATING OUTCOMES

✓ Link hate crime training to mainstream performance review processes

In order to increase the chance that increases the chance that hate crime training participation is linked to mainstream performance review processes, hate crime training should be included as an integral part of compulsory or basic training programmes for law enforcement and criminal justice authorities.

This approach supports the systematic acquisition of basic awareness, knowledge and skills throughout law enforcement and other criminal justice agencies.

Compulsory training can and should be complemented by advanced and specialised training programmes, modules, seminars, workshops and conferences which could offer in-depth and more targeted knowledge and guidance to those officials who are likely to be faced with the handling of hate crime cases.

Example: in Finland hate crime training is a mandatory part of basic police training.

✓ Ensure regular monitoring and evaluation of training outcomes

Procedures ensuring a regular monitoring and evaluation of training outcomes should be put in place, which should ideally include trainers' and trainees' self-evaluation and feedback from concerned groups (victims/victims' support services, community groups).

