



Running through Hurdles:



Obstacles in the Access



*to Justice for Victims of
Anti-LGBTI Hate Crimes*



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Bulgaria

At a glance

Attitudes

According to the Special Eurobarometer (437/2015), 51 percent of the Bulgarians think that gay, lesbian and bisexual people should have the same rights as heterosexual people, but only 19 percent would feel comfortable with a couple, of two men, showing affection in public. Only 7 percent would feel comfortable with or indifferent to their child being in a love relationship with a transgender or transsexual person, which is the lowest level of acceptance in the EU.

Victimization levels

According to the EU LGBT survey (2013), 31 percent of respondents from Bulgaria declared they had been physically/sexually attacked or threatened with violence in the previous five years; however, only 14 percent of Bulgarian LGBT respondents reported the most recent incident to the police.

Official Statistics on Anti-LGBT Hate Crime

Bulgaria does not record anti-LGBT violence as hate crimes. No official data on the number of anti-LGBT hate crimes is available.

Summary

- Anti-LGBT hate crimes in Bulgaria remain unrecognized by the law and, if recorded, they are usually treated by the police as acts of hooliganism. In only one case so far, has the court recognized the anti-gay motivation of the crime; in 2017 following a seven-year long trial.
- The transposition of the Victims' Rights Directive generally, has been insensitive to the needs of victims who may be vulnerable because of their sexual orientation, gender identity or gender expression, or because they have experienced a bias motivated crime.
- There is currently no state-endorsed prevention, recording, classification and analysis of anti-LGBT hate crimes, nor support for victims. In the absence of official statistics, the only data about anti-LGBT hate crimes is collected by LGBTI organizations and a small number of other human rights NGOs.
- Civil society organizations which provide services to victims of domestic violence and human trafficking are open also to supporting victims of anti-LGBT hate crime but acknowledge the need for training on this topic. LGBTI NGOs provide legal services, safe space and psychological support to victims.
- ODIHR and the Bulgarian Police Academy have trained some police officers and prosecutors to enable a better response to bias-motivated crimes but more capacity building on specifically anti-LGBT violence is needed.
- An effective response to anti-LGBT hate crimes in Bulgaria requires changes in the Penal Code; that is, introducing bias based on sexual orientation and gender identity, as an aggravating factor, as well as enhancing the collaboration between LGBTI NGOs and official stakeholders.

Invisible Crimes – Anti-LGBT Hate Crimes in Bulgaria

Gloria Filipova and Monika Pisankaneva

Legal Framework

While Bulgarian law recognizes some hate crimes, the list of motivations constituting aggravating circumstances does not include sexual orientation, gender identity or gender expression. If reported, hate crimes targeting LGBT people are treated as hooliganism. LGBT victims' rights are not assured: the transposition of the Victims' Rights Directive has been insensitive to the support and protection needs of this group.

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The Penal Code (*Penal Code of the Republic of Bulgaria*, 1968, amended 2017) proscribes hate crimes in *Chapter III: Crimes against the Rights of the Citizens*. In the absence of a definition of "hate crime", the term which is used is "crimes against the rights of the citizens". There is no general penalty enhancement for hate crimes although the law criminalizes some deeds motivated by hatred, or instigating hatred towards people based on race, ethnicity or nationality, religious or political belief. These are as follows:

- Article 162 imposes legal sanctions on the incitement and proselytizing of discrimination, violence and hatred based on race, nationality or ethnicity, by means of speech, print or other mass media.
- Paragraph 2 of Article 162 penalizes any deeds of violence or damage to the property of someone, based on race, nationality, ethnicity, religion or political belief.
- Article 163 criminalizes participation in crowds that attack other groups of the population, based on their race, nationality or ethnicity.
- Articles 164 to 166 criminalize actions against religious freedoms and actions which incite hatred on the basis of religion.

The Penal Code does not contain any substantial provisions describing an act as a hate crime and/or hate speech based on sexual orientation, gender identity, gender expression or sexual characteristics. There are also no provisions characterizing this bias as an aggravating circumstance. Some level of protection against insults based on sexual orientation may be obtained from administrative or civil law, under the Law on Protection against Discrimination (Protection against Discrimination Act [Bulgaria], in force since January 2004), but the latter does not provide protection on the basis of gender identity and/or gender expression.

One of our interviewees indicated that the police are generally insensitive to the hate motives of any crimes, even those that are covered by the law. “The big problem is the masking of discriminatory motives as ‘hooliganism’ This happens with all characteristics, even those that are included in the law” (Investigating police officer, interview 9).

The only case in which the homophobic bias of a crime has been recognized by the judiciary was the murder of Mihail Stoyanov in 2008, which was under investigation for 7 years, despite the fact that the perpetrators were arrested soon after the crime was committed.

With this conclusion, Sofia Appellate Court admits for the first time, that a homophobic hate crime has been conducted, recognizes that the motive for the committed crime is the sexual orientation of the person, as well as the higher level of public danger of the defendants. But the court cannot apply a law on heavier criminal offense (although there is justification for such) because such law does not exist, nor does it exist in the Penal Code on aggravating circumstance that provides more severe punishment for homophobic offenses. (Appellate Court Sofia, Decision № 330/12.072017)

The recognition of the homophobic motive for the murder came after an international advocacy campaign by the Bulgarian Helsinki Committee and Amnesty International which, in September 2012, started to draw attention to the slow investigation of the case and demand justice. The Amnesty International report on hate crimes in Bulgaria (published in 2015) also uses the above case as an example of the inadequate treatment of anti-LGBT hate crimes in the country.

In spite of several revisions of the Penal Code which have taken place since 2012, homophobic and transphobic motives are still not included as aggravating circumstances.

The recognition and investigation of anti-LGBT hate crimes was not improved with the transposition of the Victim's Directive, accomplished in 2016. Bulgaria has officially reported changes in 16 laws in relation to the transposition of the EU/2012/29 Directive. They provide improvements for the rights of victims in general, but no specific provisions for victims of bias-motivated crimes have been included.

The process of preparation for the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence, known as "*The Istanbul Convention*", presented an opportunity for introducing homophobic and transphobic motives into the Penal Code. The convention was expected to be ratified at the beginning of 2018, but after a strong social and media campaign against it, it was withdrawn at the beginning of March of that year.

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The Murder of Mihail Stoyanov

The 25-year-old medical student Mihail Stoyanov was murdered in 2008 in Borisova Garden Park in Sofia, which is a cruising area. In 2010, two young men were arrested as suspects. In their testimony to the police, they admitted that they were "clearing the park of gays" and were regularly assaulting gay men who were meeting there.

The two defendants were found guilty on 13.07.2017 by the Sofia Appellate Court, which ruled that their initial verdicts from June 2015 had been unreasonably lenient. In explaining its decision, the Sofia Appellate Court recognized – for the first time – the anti-gay motive of the crime, stating that the perpetrators were driven not by hooligan motives, but by strong and unreasonable hate against the victim's perceived identity and their own feeling of superiority over those they consider to be different (Appellate Court Sofia, Decision № 330/12.072017 r. on appeal, criminal case of general nature № 84/2016 r.).

Professionals and Anti-LGBT Hate Crimes

All interviewed professionals from reporting centers and victim support services had a basic knowledge of the topic of hate crimes. Representatives of NGOs dealing with victims were more likely than police officers and prosecutors to acknowledge the necessity of special training on anti-LGBT hate crimes. Existing capacity-building opportunities for police and prosecutors on recognizing, understanding and investigating hate crimes so far, have covered only a small number of professionals.

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Hate crimes are understood as a concept, but are rarely dealt with in practice by professionals working at public and private reporting centers and in victim support services. Interviewed professionals, from both groups had a basic knowledge of hate crimes, in spite of the lack of definition in Bulgarian law. Only one respondent was insecure in defining the term and asked the interviewer to provide the definition for him/her (Interview 14) while everyone else gave adequate explanations of the term and included not only physical violence, but also recognition that hate crimes can be non-physical and include such things as hate speech, threats or damage to property.¹ However, some respondents were uncertain whether or not homophobic and transphobic motives are subject to sanction by the law (Interviews 6 and 13).

Only one of our respondents, who had formerly been working in the police service and was currently a lecturer at the Police Academy, had previously participated in in-service training on hate crimes. When asked if the different sub-groups affected by hate crimes (for example sexual or ethnic minorities) were addressed in the training program, the respondent answered: “No, because of the simple reason that the lawmaker did not see any difference [between them]” (Investigating police officer, interview 9).

This explains the overall lack of sensitivity to the special needs of victims of anti-LGBT crimes which was evident from the interviews with police officers; the general belief that all victims should be treated the same way prevailed. Because of this, respondents from the police



1 It is worth noting that four respondents (reference: interviews 11, 13, 15 and 18) admitted that they had searched online for information on hate crimes before the interview.

and the prosecution services did not acknowledge the necessity of additional training on understanding the needs of victims of anti-LGBT hate crimes. One of them, (Prosecutor, interview 19) gave no answer to this question, while the other did not answer directly, but explained that everyone would receive help, regardless of their sexual orientation. “Foundations like yours need to let those people (LGBTI) know, that when a crime is committed, they will receive attention, and their dignity will not be harmed” (Police officer, interview 17).

Professionals from NGOs, working with victims of gender-based violence and/or trafficking, showed a higher level of sensitivity towards the needs of different groups of victims, and acknowledged the necessity of receiving additional training on the special needs of victims of anti-LGBT hate crimes. Except for those respondents who were LGBT activists, everyone else admitted that they had received no training on the topic of anti-LGBT hate crime. When asked if anyone from their team underwent training on working with victims of hate crimes, one respondent, from a crisis center for women and children victims of violence, reported: “No one had; we encounter this topic for the first time through your organization” (Interview 14).

The respondents who had more in-depth knowledge of the topic, (Lawyer, interview 4 and investigating police officer, interview 9) underlined that there is a general problem with the treatment of hate crimes in Bulgaria, because the hate motives which lie behind them are misunderstood and neglected. The Investigating Police Officer (Interview 9) suggested that very often, hate crimes on grounds such as ethnicity or religion (which, unlike sexual orientation and gender identity, are included in the law) are not classified as crimes with discriminatory motives, but rather, as hooliganism. The same respondent believed that what matters in a case of hate crime, is the discriminatory motive and not the actual identity of the victim. He did not believe that collecting information about the identity of the victim was at all important.

While we did not identify any professionals who specialized in working with victims of anti-LGBT hate crimes (except for the experts who are LGBT activists), all respondents from NGOs who were providing support services expressed a willingness to expand their knowledge and skills for dealing with this group of victims. Unlike them, the professionals from public reporting centers were not interested in dealing with aspects of a crime which are not formally regulated by the law.

A common view among the respondents from NGOs was that the training of police officers on human rights related issues is the key to better reporting by and better provision of help to the victims of hate crimes. Training courses for police officers and prosecutors have already been delivered by ODIHR and by the Academy of the Ministry of Interior, but so far, they have not produced a systemic effect. We learned about two training modules offered by the Academy of the Ministry of Interior (Investigating officer, lecturer at the Academy, interview 9). In 2012, a discipline titled *“Protection from discrimination”* was introduced in the Master’s program for police officers where LGBTI issues were also included. For police officers on the Bachelor’s Program, there was a discipline titled *“Protection of human rights”*. The Police Academy had also organized 3 conferences on protection from discrimination and human rights within the last 6 years and had published two handbooks for police officers on the same topics. These initiatives were part of internationally-funded projects in which the Academy was a partner. None of the tools that we heard about were available online.

Good Practice: Joint training on hate crimes for police officers and prosecutors

In July 2015, Bulgaria’s National Institute of Justice signed an agreement with ODIHR to train prosecutors in recognizing, understanding and investigating hate crimes. This followed the police training on hate crime which has taken place in Bulgaria since 2012.

At the beginning of 2018, both programs were combined and a series of joint training programs brought together prosecutors and police officers in three towns (75 people were trained altogether). Some aspects of anti-LGBT hate crimes were covered in the training.

Training sessions were also implemented as part of the project, *Building a Comprehensive Criminal Justice Response to Hate Crimes*.

See:

<https://www.osce.org/projects/criminal-justice-response-hate-crime>

Reporting Anti-LGBT Hate Crime

Hate crimes against LGBT people in Bulgaria are rarely reported to the police. The LGBT community is hesitant to report incidents of violence because of fear of a homophobic reaction and/or secondary victimization, and a general lack of trust in the public institutions. LGBT organizations are the only ones collecting data on anti-LGBT hate crimes, by means of an online platform that encourages reporting within the community and by means of face-to-face meetings.

In Bulgaria, crimes are expected to be reported to the police in order to be investigated further. They can be reported to any police officer in any police station, or to regional police inspectors. According to one respondent (Police inspector, interview 17) it is also possible to report crimes by e-mail. All reports are verified, even those which are anonymous. This was confirmed by another respondent (Lawyer, interview 4) but does not seem to be a consequence of any formal law or regulation.

In theory, anyone can report a crime to the police but in practice, many people from the LGBT community fear doing so because they expect to encounter homophobic, biphobic and transphobic attitudes. This fear has its roots in numerous cases when police officers have actually behaved in negative ways towards LGBT people including sometimes, cases of police brutality. For example, the participants at Sofia Pride have heard homophobic remarks from police officers protecting the street march. In 2015, Bilitis Resource Center found, in research, that some police officers not only failed to protect but actually abused trans women sex workers who had reported assaults by clients (*Domestic and Dating Violence against LBT Women in the EU*, 2016).

According to one respondent, when a hate crime is reported to the police, the victims fill out a form where they add information about their biological sex and their ethnicity (Police inspector, interview 17). The form does not include options for sexual orientation or gender identity. He hinted that victims who are LGBT often feel reluctant to share their identity because they do not want to be outed if the case is publicized. One respondent, working at the Bulgarian Helsinki Committee, who is also an LGBTI activist, suggested, in fact, that one of the main reasons for LGBT people not reporting crimes to the police is the fear of coming out (Interview 12).

Underreporting, resulting from shame and fear of coming out was confirmed by another interviewee who works at an NGO for HIV prevention and reported that in his work he had met victims of anti-LGBT hate crimes on many occasions:

I know many people who have suffered hate crimes. In the beginning, when I started in our organization, I thought that these things happen to 1 out of 1000 people and the victim “was asking for it”, but actually that’s not true at all... Victims seek protection very rarely, firstly they search for the guilt in themselves ... they feel ashamed even to say that something like this has happened to them, this (anti-LGBT hate crimes) is basically a taboo topic. (Interview 16)

In relation to outreach activities, there has never been a state-organized, or a state-supported campaign aimed at encouraging victims to report crimes motivated by SOGI, whereas LGBT organizations have been actively encouraging this since 2015. In that year, GLAS Foundation created the online reporting service, tolerantni.com (initially named wearetolerant.com) for anti-LGBT hate crimes, accessible to people from all over the country. The foundation also held an outdoor and online awareness-raising campaign called “Bulgaria – country without homophobia”.

[Tolerantni.com](https://tolerantni.com) was upgraded in 2017 with support from ILGA-Europe, which provided the methodology for collecting, classifying and analyzing the data. It collects information about the type of crime, place of occurrence, relationship between the victim and the offender, and whether the crime has been reported to the police. The reports can be anonymous or they may include personal data (personal information is required if the victim wishes to receive further support). The 33 completed, unique reports show that the most common type of incident which occurred in 2017 was threat, followed by physical assault (*Report on anti-LGBT Hate Crimes and Incident in Bulgaria in 2017*, GLAS Foundation, 2018). In the same year, another NGO, Youth LGBT Organization “Deystvie”, also researched and collected information about anti-LGBT hate crimes, by means of interviews with 25 victims.

In the absence of any official data on anti-LGBT hate crimes (see section 3.8), the information collected by GLAS Foundation and “Deystvie” demonstrates that LGBT people are common victims, and hate

crimes against them remain both underreported and under-investigated. While there are no official records of anti-LGBT hate crimes in the last 2 years, the LGBT organizations have collected information on over 55 incidents which have taken place in the last 12 months. None of the 33 victims who reported to GLAS, and only 1 in 25 victims who spoke to “Deystvie” had reported the incident to the police. In fact, the only case in which the victim has reported to the police has not yet been investigated, and the lawyer who consulted the victim thinks that it will not be taken any further because there was only a mild body injury (Interview 4). While various reasons for not reporting to the police were provided many victims said that they felt too uncomfortable to report, either because they did not believe the incident would be taken seriously and effectively investigated, or because they feared they might experience additional harassment from police officers. Witnesses of the crimes have also suggested that the victims did not report the incidents because of lack of trust that the police could help them and for fear of secondary victimization (*Hate Crimes and Incidents Based on Sexual Orientation, Gender Identity and Gender Expression; Carried Out in Bulgaria in 2017*, Youth LGBT Organization “Deystvie”, 2018).

The fear that investigation into the case would neither be seamless nor unproblematic is not exaggerated. The ineffective and very slow investigation of the most serious cases such as the murder of Mihail Stoyanov in 2008 (see section on law, above), which took seven years to investigate, discourages the victims of anti-LGBT hate crimes from reporting and seeking justice. The fact that anti-LGBT hate crimes are not recognized by the law is also well-known in the LGBT communities.

The above findings suggest that, except for the capacity building and sensitization efforts in the police force (see previous section) the authorities need to ensure that victims feel empowered and safe in approaching law enforcement agencies.

Rights of Victims of Anti-LGBT Hate Crimes in the Criminal Justice Process

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The transposition of the Victims' Rights Directive into national legislation led to the improvement of some legal texts concerning the rights of victims. However, no specific mention of SOGI is to be found in the revised laws. The results from our research do not show any specific strategies for providing support to victims of anti-LGBT hate crimes and avoiding secondary victimization. Victims of anti-LGBT hate crimes face many challenges in relation to reporting, investigation and lack of support in the criminal justice process which creates a vicious circle of underreporting, low levels of investigation, and inadequate criminal law.

Bulgaria transposed the Victims' Rights Directive into national law, albeit with some delay, in 2016/2017. The transposition does not recognize SOGI as factors contributing to the vulnerability of some victims and there is no mention of the specific need for protection of victims of anti-LGBT hate crimes. In addition, none of the interviewed professionals from the public reporting centers had personal experience of victims of anti-LGBT hate crimes. We therefore found no official information on how such victims are treated and whether they are directed to appropriate support centers. Since access to trial depends on the timely reporting of a crime and the collection of sufficient evidence, we can only assume that the lack of specific measures of support and empowerment for victims of anti-LGBT hate crimes also leads to diminishing access to justice for them.

The "Right to Protection", guaranteed by the transposition of the Directive, requires the police to assess each individual victim to find out whether they are likely to suffer further damage during criminal proceedings. In order to do this effectively, the police should be sensitive to the specific needs for protection of the different groups of victims. We found no evidence that the Bulgarian police are using this approach with victims of anti-LGBT hate crimes. The invisibility of SOGI-biased crimes within the current legal framework creates a vicious circle of underreporting, inadequate assessment of the specific needs of the victims, and inadequate follow-up support, which in turn leads to low awareness of this type of crime and inadequate criminal laws to combat it.

The police are not sensitive at all to any hate crimes. There are only a few cases which were handled as general hate crimes in Bulgaria. Furthermore, the police are even less sensitive to anti-LGBTI hate crimes. (Lawyer at Youth LGBT Organization "Deystvie", interview 4)

The lawyer continued by saying "[a]nti-LGBTI crimes are treated the same as any other crime" (Interview 4). If the victim has suffered from a mild body injury, the crime is further investigated only on the basis of a private complaint. This places enormous pressure on the victim to collect sufficient evidence to file a complaint, and to find a lawyer for the court case. If the crime has resulted in medium or severe body injury, the process of investigation is led by the prosecution. "Medium and severe body injuries are treated as offenses of a public criminal nature,...[B]ut it does not mean that if there was a homophobic motive, it would be adequately registered. Anti-LGBT hate crimes are usually registered as other crimes of a general nature, and sometimes 'hooliganism' is mentioned as an aggravating factor" (Lawyer, interview 4). We believe that hooliganism does not provide an adequate framework for responding to anti-LGBT hate crimes (see next section).

There are no strictly established procedural means for the police to handle cases of anti-LGBT hate crimes. As a co-organizer of Sofia Pride, Bilitis Resource Center collects information about pride-related incidents. We have information about one specific case in which the victim of anti-LGBT hate crime has been discouraged from using a lawyer when she reported to the police. This individual case suggests that the police were not interested in starting a further investigation of a crime with an obvious homophobic motive. The interviewed lawyer (Interview 4) also spoke about other cases in which the police have registered anti-LGBT hate crimes consisting of mild body injury or verbal threats and the latter have not been further investigated. She concludes:

The victims of anti-LGBT hate crimes do not have equal access to justice in Bulgaria... The absence of a law which takes into account their specific needs is a prerequisite for discrimination and works against the principle of equal treatment by the law. It is a prerequisite for unequal treatment and deprivation of human rights, including the right to life. (Lawyer, interview 4)

Recording anti-LGBT Hate Crime

The law-enforcement institutions in Bulgaria do not record the bias motivations of hate crimes and no official records are available on anti-LGBT hate crimes. According to our research respondents, when reported, anti-LGBT hate crimes are mostly classified as “hooliganism”. The only existing records of hate crimes were provided by LGBTI organizations who collected data online and during community meetings.

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The authorities responsible for collecting hate crime data in Bulgaria are the Interior Ministry’s Co-ordination, Information and Analysis Directorate; the Supreme Judicial Council’s Commission on Professional Qualification, IT and Statistics; the Supreme Court of Cassation’s Criminal College; the Supreme Prosecutor of Cassation’s Analysis Unit; and the National Statistical Institute.

The law-enforcement institutions only record data on hate crimes which are formally recognized in criminal law. In 2016, a total number of 28 hate crimes were reported by the state, to ODIHR. However, they are not sufficiently disaggregated and the bias motivations are not recorded (Human Rights First, Anti-Defamation League, 2016). One of our respondents, a police inspector, confirmed this lack of disaggregation;

I asked my colleague who works with this, to extract (information) specifically about bodily harms on racist, hooligan, and xenophobic motives, but they are under the same section. I checked them right before I came here: there are 60 cases in total for the last year and a half, but in the annotation for all of them is written “hooligan motive”. We have not had any racist or xenophobic (crimes) in a long time. (Police inspector, interview 17)

Data on hate crimes are not published. The police create records for all of the cases they work on but their reports are not available to the public, not even with anonymized data: Everything stays here with us... these reports contain a lot of personal data... we don’t have such a practice. (Police inspector, interview 17)

There are no official data on anti-LGBT hate crimes. As part of the data collection process, Bilitis Resource Center requested official information from the Minister of the Interior, the Chief Prosecutor, and the Director of Sofia Directory of Internal Affairs, on the number of reported and investigated anti-LGBT hate crimes in 2015 and 2016. They also asked for information on protection and support services for LGBT hate crime victims. The responses from the Minister of Interior and the Chief Prosecutor stated that these institutions are not obliged to collect, analyze, classify and disclose such information while the Sofia Directory of Internal Affairs stated that the number of registered cases was zero.

Our research shows that in the rare cases when homophobic attacks were recorded by the police, or criminal proceedings have been instituted, the perpetrator has been charged with causing bodily harm because of hooliganism (Art. 131, para. 1, item 12 of the Criminal Code). The case of Mihail Stoyanov (see box in section on law) is the notable exception here. Previous reports also indicate that the homophobic motives of the crime are usually not taken into account (Amnesty International, 2012, 2015). Our Police Inspector respondent suggested another way to record homophobic and transphobic crimes: "There are no such terms (homophobic and transphobic motives), but yes (they can be registered as xenophobic crimes), based on hate" (Interview 17). But even if anti-LGBT hate crimes are classified as xenophobic crimes we will not have statistics on the number of anti-LGBT crimes committed in the country, because they will be in the same group as other xenophobic crimes.

Hooliganism is defined as an act of anti-social behavior, brutally violating public order and manifesting in obvious disrespect for society. It does not provide an adequate frame for treating hate-crimes because it neglects and hides the bias motives, and makes them invisible. The consequence is that specific, vulnerable groups of victims will not receive adequate evaluation of their needs during the investigation process, and their rights will not be guaranteed.

ODIHR reports on two national developments which are expected to improve recording of hate crimes in the Bulgarian context. The first is a training workshop on the practical difficulties of investigating crimes with discriminatory motives, held for 85 investigating police officers from the Investigation Department at the Regional Office of

the Ministry of Regional Development and Public Works. This training programme was conducted by ODIHR. The second is the development of two curricula prepared by the Ministry of Interior for both new recruits and experienced police officers. The curricula focused on working in multicultural environments, the use of force, aids and weapons from police authorities, anti-discrimination and hate crimes. The program prepared 41 officers as trainers to further cascade the courses (ODIHR 2017).

In the context of civil society recording, information collected from the NGOs is not used to create national statistics. Just eight incidents were reported to ODIHR by civil society organizations in 2016 but none of these were anti-LGBT hate crimes. The number of organizations collecting data on this kind of victimization however, is growing. Notably, the GLAS foundation (see the section on reporting above) started to collect data in 2015. The two most recent reports published by GLAS Foundation and Youth LGBT Organization “Deystvie” at the beginning of 2018 feature over 55 individual cases recorded by the LGBT organizations in 2017.

Some NGOs interviewed in this research, who provide support for victims, keep their own records, every year classifying the cases they worked on by type of crime – domestic violence, gender-based violence, sexual assault and human trafficking. However, these NGOs, so far, have no data about victims of anti-LGBT crimes because the latter have not turned to them for support.

Good Practice: Collecting data and awareness-raising on anti-LGBT hate crimes by Youth LGBT Organization “Deystvie”

In the period from May to October 2017, Youth LGBT Organization “Deystvie” organized community meetings in 4 major cities of the country, to encourage reporting of anti-LGBT hate crimes and hate-based incidents. Over 350 people took part. They were encouraged to fill in an online reporting form if they had personally been affected, or if they had witnessed a hate-based incident. Two different online questionnaires were distributed, one for victims and one for witnesses. In addition to the questionnaires, representatives of “Deystvie” held face-to-face meetings with all individual victims and witnesses who reported, to get further details about the cases. The organization

combined data collection with awareness-raising among different professionals on the topic of anti-LGBT hate crimes. They organized meetings with regional police departments in several major cities as well as meetings with prosecutors and NGO experts (lawyers, psychologists).

Support for Victims of Anti-LGBT Hate Crime

The existing support services for victims of anti-LGBT hate crimes are provided exclusively by NGOs which rely on private funding. State-subsidized victim support centers are under-resourced and unable to provide adequate services to victims of anti-LGBT hate crimes, although they have shown good will in attempting to do so.

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The law-enforcement and criminal justice agencies fail to consider that diverse groups of victims of hate crimes have different needs. While police are currently receiving a lot of training, including on hate crimes (see section 3.5), the issue here is that these training events cover hate crimes in general and do not discuss the specific needs of different vulnerable groups of victims. “The lawmakers and we also, do not think that those people, when they have suffered a crime, are somehow different from anyone else who is also a victim of the same kind of crime. They will receive support; for us it doesn’t matter what their sexual orientation is” (Interview 17). A respondent who works as a prosecutor echoed this, saying: “What does it mean ‘specific needs’? According to the current legislation all citizens are equal” (Interview 19).

The above quotes reflect the reality that the specific needs of victims of anti-LGBT hate crimes are not recognized; the professionals at reporting centers and victim support centers are not informed about them and the victims do not receive adequate help.

Attempts to familiarize regional police departments with the needs of victims of anti-LGBT hate crimes have been made by Youth LGBT Organization “Deystvie” through a project implemented in 2017, but the effect is very limited in scope. The efforts of NGOs to train the police to recognize the specific needs of victims of anti-LGBT hate crimes will not produce sustainable change in the practice of law-enforcement institutions unless there is an official policy which requires this approach to be used consistently, across the country.

Our research on victim support centers managed by civil society organizations included mainly shelters and crisis centers which provide services to victims of domestic violence, gender-based violence, and human trafficking, because these are the main types of services subsidized by the state. Within the country, there are several such shelters and emergency housing facilities which provide psycho-social support, as well as legal counseling. These NGOs have shown great willingness to help victims of anti-LGBT hate crimes but they reported that such victims have never yet turned to them for support.

The NGOs managing victim support centers usually work closely with the police and in both the capital as well as in smaller towns, the police know the organizations and redirect victims there. They give the victims information brochures, contacts or take them directly to a shelter, depending on the case. When asked why, in their opinion, LGBT people hesitate to ask for help from victim support service centers, the respondents suggested that one of the reasons might be because the NGOs had never openly stated that they work with this group:

If they worry and are afraid to ask for help, this will give them freedom to forget these concerns and they will ask for support. At least in this way they will be assured that the people here are familiar with the problem and can help them. (Manager of crisis center, interview 2)

A good practice in this respect was announcing, on their website and in social media, as well as in brochures and other information materials that the organization would accept and provide support for LGBT people. This practice was found in the work of the IMAGO Association and the Bulgarian Helsinki Committee.

All the respondents from shelters and crisis centers admitted that they need further training on working with LGBT people who are victims of hate crimes. For example, one respondent stated:

In my work practice I didn't have access to such training [on anti-LGBT hate crimes]; it is interesting to know more, to have more comprehensive information and a way of working, because when a person stands in front of you, you don't know who they are... As in working with victims [of domestic violence] there are specifics

[in working with LGBT] as well; anything said on this topic will be new for me and I'm open to developing and learning about methods and techniques of work, even about how to lead the conversation with such people, the behavior you need to have, their exemplary reactions... Certainly, everything that can be used to work with these [LGBT] people will be interesting to me... There must be awareness at least among the specialists. (Social worker, interview 13)

When it comes to housing and shelters, a number of respondents shared a concern that since the organizations' shelters are only for women, if a male victim of hate crime or domestic violence looked for shelter there, this would be a problem. For example, the manager of one of the crisis intervention centers said:

If it's a man victim, such a shelter and crisis center – we don't have any; they are all for women. And if there is an elderly man, a victim of violence, or in a homosexual relationship, there is nothing to do; there is no place to redirect them. Our crisis center is only for women and children, its capacity is so small – for 8 people – and there is no way to adapt male and female parts. (Interview 2)

Because of the problem with the housing, the respondent stated that a male victim will not receive shelter, but will receive psychological support in their organization. In a similar vein, a respondent, working in a reporting service, said: "Here in the region there is a crisis center; the work with them is very easy-going; we redirect there, mainly women, victims of domestic violence, but a man will not receive shelter there" (Police inspector, interview 17).

Another concern shared by most of the respondents from victim support providing centers, was that they did not have enough capacity to work with victims of hate crimes. They did not have enough staff or funding, and when it comes to victims of anti-LGBT hate crimes, they were not adequately trained. Such organizations commonly receive very low government funding in Bulgaria and their existence depends on grant funding, so they spend a lot of their staff time on preparation of grant proposals. They typically do not have enough rooms, beds, sanitary products, and other supplies, and often they house more people than their capacity allows (Interviews 1, 2, 5, 10 and 13).

Against this background, we identified two examples of good practice, featured in the box below; the online psychological consulting service, provided by the IMAGO Association, and the intersectional approach to victims of hate crimes, applied by the Bulgarian Helsinki Committee.

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Good Practices: Online Consultation by IMAGO Association

IMAGO Association, based in Sofia, provides the service of online psychological counseling. Their psychologist has at least one meeting in person with the client, in order to build trust between them and afterwards they continue their meetings online. This is a very good example of accessibility since, in many cases the victims don't have the financial or physical ability to go continually to the office of the association. This is very suitable for people who live outside of the capital city, and even for people who live abroad.

An Individual and Intersectional Approach in every Case

The Bulgarian Helsinki Committee, which has experience of working with LGBTI people, has developed good practice in considering the individual situation of each person seeking help. They consider not only the sexual orientation and gender identity of the person but also, whether the person is out or not, if they are in contact with their family, and they keep in mind the awareness that femininity and masculinity can vary. This helps them to provide help without causing any extra harm to or victimization of the person, and builds trust.

Conclusions and Recommendations

The lack of any legal mechanisms to deter and deal with hate crimes based on homophobic, biphobic and transphobic motives is the main barrier to maintaining official statistics on anti-LGBT hate crimes, and to providing adequate support to the victims.

Based on our research findings, the following recommendations have been formulated for consideration by the Bulgarian state. Bulgaria should:

1. Introduce hate crime legislation into the Penal Code, covering discrimination based on sexual orientation and gender identity.
2. Make more effective, the investigation and prosecution of hate speech and violence, including those against persons, based on their sexual orientation or gender identity.
3. Intensify its efforts to protect individuals from homophobia, biphobia, transphobia, and hate crimes by encouraging reporting and ensuring proper recording of anti-LGBT hate crimes, as well as ensuring that bias motives are fully taken into account in the investigation, prosecution and sentencing of offenses.
4. Ensure appropriate training for public servants in the police and prosecution services, and the legal system, with the purpose of raising their awareness of anti-LGBT hate crimes and how to support victims.
5. Recognize that LGBTI organizations can be an important ally of the police and other law-enforcement bodies in the process of anti-LGBT hate crimes reporting, recording, investigation, and offering assistance to the victims.
6. Build the capacity of service providers working with victims of crimes by sensitizing them to the specific needs that victims of anti-LGBTI crimes have.
7. Build the capacity of service providers working with victims of crimes by better funding for these services, to enable provision of support to diverse and vulnerable groups.

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