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The Growing Problem of Hate Crime in Europe

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Racist violence and crime is a serious social problem in Europe, and it is growing.

However we don't know how much it is growing because the majority of European states still don't measure it, despite having agreed to do so.

In many States the police don't know how to record racist violence, and their governments lack the political will to have them trained to do so.

In a report on Policing Racist Crime and Violence published in September 2005 for the European Monitoring Centre on Racism and Xenophobia (now renamed the Fundamental Rights Agency – FRA) the then director, Beate Winkler, noted that

“From police training on how to record racist crime through to police cooperation with relevant NGOs, most Member States lack anything other than localised and limited initiatives when it comes to the policing of racist crime and violence. Where ‘good practices’ exist they often touch on generic training in the area of ‘multiculturalism’, racism and discrimination, rather than on the specific subject of policing responses to racist crime.”

The failure to monitor and record crime that is racially or religiously motivated, directed towards the handicapped or on the basis of sex, other than those crimes which are specifically pre-defined as ‘racist’ or ‘antisemitic’ means that the available data does not reveal the true extent of racist crime.

Let me give just one example from the UK. The available data on racist crime from the annual Section 95 Report indicates that 58,000 racist incidents were reported to the police in 2004/5, the latest year for which we have data.

However the British Crime Survey, a large scale voluntary door to door poll, indicates that that the actual number of incidents for the same period was 179,000.

Under-reporting is therefore substantial even in the UK, which has made great strides in recent years in identifying and prosecuting such crime.

The EUMC report identified five areas of concern in Europe:

1. In the majority of States the police responses to racist crime and violence requires development to make them effective
2. Approaches to policing racist crime and violence differ widely. The lack of consistency results, of course, from the different legal systems.
3. Most policing initiatives do not provide a comprehensive response to racist violence.
4. Looking at best practice, the report identified the UK as having developed the most comprehensive and systematic approach to policing racist crime and violence, and that France, Germany and Sweden had demonstrated the most serious commitment to addressing the issue of racist crime and violence. However all four states still needed to improve their performances.
5. The majority of EU States, however, had no provision for recording crimes as 'racially motivated' and therefore the extent of this form of specific crime is difficult to gauge.
6. Only a third of EU States identified the need for specialist police training on racist crime and violence, and only in five Member States was there some specialist provision for this.

To some small extent this last issue is now being addressed by the OSCE Law Enforcement Officers Programme, which provides national workshops on monitoring and investigating hate crime, but the majority of States have not availed themselves of the opportunity to have the multi-national police task force provide training on best practice.

It would do well to note, at this stage, the priority given by European States to combating hate crime. The 1997 Treaty of Amsterdam, which introduced Article 13 to the EC treaty, gave the Community the power to take legislative action to combat discrimination 'based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation'. Article 29 of the EU Treaty stressed the importance of preventing and combating racism and discrimination. The 1998 Action Plan which followed from the Treaty proposed four initiatives:

1. Paving the way for legislative initiatives
2. Mainstreaming the fight against racism.
3. Developing and exchanging new models by granting funding to projects and initiatives
4. Strengthening information and communication work.

The 2000 EU Racial Equality Directive, which flowed from Article 13, provided for the prohibition of direct and indirect discrimination. From then on, the fight against racism and xenophobia became an explicit EU objective.

Justice ministers of the EU Member States meeting within the framework of the Council of Europe in Strasbourg in October 2000, committed their States to providing 'legal protection against racism and related discrimination at sub-national, regional and international levels, and policies and practices to combat racism and related discrimination at sub-national and national levels'.

Latterly, but still not finalised and adopted, the EU Council of Ministers agreed the Common Framework Decision on prosecuting incitement to racist and xenophobic crime.

Let me turn now to the current situation.

In 2005, the EUMC reported that while some Member States had amended their legislation to enhance criminal law penalties for racist and xenophobic offences, the specific problem of racist violence and crime was not being addressed at a policy proactive level in most States. Most were concentrating on generic initiatives concerning integration and inter-ethnic relations. It found very few examples of specific initiatives targeting racist violence and crime.

In their 2007 report, the FRA, found that by the end of 2006, nearly all EU Member States had transposed the European Racial Equality Directive into their national legislation. However, only four out of twenty seven Member States had so far established national, regional and or local mechanisms for proper collection of data on racist violence or other incidents. The ongoing lack of information was 'significantly constraining the abilities of Member States to counteract discrimination and inequality', it noted.

It pointed out that 'Racist violence and crime remains a serious social ill across the EU'....and that 'most States still had insufficient data collection on racist violence and crime'. It added that 'there continue to be disturbing reports of violence and malpractice against vulnerable minorities by agents of the state – police, immigration and border control personnel – in many countries'.

Their survey showed that five of the twenty seven Member States did not report any criminal justice data on racist crime (namely, Greece, Spain, Italy, Cyprus and Portugal). Ten States were categorised as having 'limited' criminal justice data collection mechanisms on racist violence and crime, with a further ten categorised as having 'good' data collection mechanisms in place for registering crimes. Only two States, Finland and the UK, were classified as having 'comprehensive' data collection. It noted the stark contrast that the UK authorities collected more reports of racist crime in a twelve month period than all the other twenty six Member States combined !

What conclusions they were able to draw from the available data indicated a marked upward trend in recorded racist crime in Denmark, Germany, France, Ireland, Poland,

Slovakia, Finland and the UK. Only three States indicated a general downward trend: Czech Republic, Austria and Sweden.

The gap in data collection is however filled by NGO's in many states, and in the period under review they indicated an increasing number of violent crimes committed against all visible minorities, including asylum seekers, Roma and Sinti and Jews.

It is worth looking briefly at the findings of one in particular, which has a consistent record of high quality reporting. Human Rights First (formerly the Lawyers Committee for Human Rights) has been looking at the increase in hate crimes since 2001. In their June 2005 report, *Everyday Fears – A Survey of Violent Hate Crimes in Europe and North America*, they referred to

‘The dramatic rise in racist and antisemitic violence in much of Europe...(and that) In the last several years there have been extraordinary outbreaks of antisemitic violence and a parallel surge in hate crimes against immigrants in the region.’

They noted that

‘The most pervasive racist violence in Europe (and North America) is also the most banal and unorganised: the low-level violence of the broken window, the excrement through the letter box, late night banging on doors, and the pushes, kicks and blows delivered to the passerby on the sidewalk. The accompanying epithets and threats, the frequent repetition, the threats that are both random and constant, and the likelihood of a blow becoming a beating, a beating becoming a stabbing or a shooting, adds to a pervasive terror.’

Similar conclusions were reached by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) in their 2006 Annual Report on Hate Crimes in their wider region of 57 member states.

In noting the ‘expressed alarm’ at the growth of hate crimes within their participating states, and the devastating and broad impact that such crimes have on society, they also recorded the rise in racist crimes. They listed, in particular, the rise in crimes exacerbated by regional intergovernmental conflicts, the rise in attacks on national and visible minorities and the shift from attacks on property to violent attacks on individuals. They also noted the evidence of increasing cruelty and severity in many attacks, and the rising number of deliberate killings and attacks resulting in severe injuries.

They recognised that the spread of hatred and prejudice through the Internet continues largely unchecked, despite some national and international initiatives to limit its use to incite hatred.

Like the FRA and the EUMC, they referenced the lack of sufficient data to measure the real levels of racist violence, even as new and effective measures to hold perpetrators criminally accountable are being introduced within some States.

The symbiotic relationship between discourse that incites hatred, and the violence that all too often ensues as a consequence, was also examined in the OSCE report. This

has also been narrowed in on recently by the Council of Europe's Commission against Racism and Intolerance (ECRI), in its Policy Recommendations and country reports which are sent as policy guidance to Member States. The Director of the EUMC, shortly before it became the FRA, had referred to 'the destructive power of racist speech and types of discourses that influence people's beliefs, emotions and perceptions'.

The OSCE report noted that racist discourse intended to propagate racist views or instigate racist acts, is punishable under laws barring incitement to hatred, but that racism and xenophobia in the media and in statements of political parties and leaders is sometimes also at fault. In doing so it drew attention to ECRI's General Policy Recommendation No 7 to Council of Europe States, which calls for the withdrawal of public financing for political parties that promote racism.

The prosecution of racist incitement and violence in sport has also become a general concern. Inter agency and international police cooperation to target perpetrators has improved enormously in recent years, but few states have established special task forces to tackle the problem effectively, including the prosecution of identified offenders. Germany and the UK stand out in this regard; the former with the German Football Federation and German Football League task force, and the UK with its Kick it Out initiative and special national police unit. The UK also passed the Football Offences Act in 1999 which allow the courts to impose bans, fines and imprisonment for convicted offenders.

In their report, Human Rights First made four recommendations to governments:

1. Establish a proper definition of 'hate crime' which must be inclusive and consistent with the prevailing trend in international human rights law.
2. Address the information deficit by enacting legislation to require criminal justice agencies to collect, analyse and make public data. Such data should be disaggregated to distinguish which groups are targeted.
3. Strengthen enforcement by facilitating closer collaboration between community-based organisations and law enforcement bodies, and ensure that law enforcement officials and prosecutors are properly trained.
4. Create specialised anti-discrimination bodies to monitor hate crimes and support law enforcement efforts.

The EUMC Report likewise made recommendations to Member States.

These included:

1. The need to establish a legal and public policy framework to empower the police to effectively tackle racist crime.
2. A public commitment by police leaders to take seriously and combat the problem of racist crime.

3. A requirement that the police initially record as ‘racially motivated’ any crime that they, a victim or witness consider to be racially motivated, so that any subsequent investigation can consider ‘racial motivation’ as a possible factor.
4. Provision for ‘racially motivated’ crime to be recorded so that it is identifiable as a specific crime category and available for (anonymous) statistical analysis.

It went on to make other recommendations at the European policy level.

What it did not do was to address the specific role of prosecutors in the process. Let us hope that this conference addresses that issue effectively.