



RACIST CRIME IN EUROPE

ENAR Shadow Report 2013 - 2014



european network against racism

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to bring an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

Published by the European Network Against Racism (ENAR) in Brussels, in 2014, with the support of the PROGRESS Programme of the European Union, the Open Society Foundations and the ENAR Foundation.

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TABLE OF CONTENTS

FOREWORD	2
EXECUTIVE SUMMARY	3
RECOMMENDATIONS	4
TERMINOLOGY	7
1. INTRODUCTION	8
1.1 Methodology	8
1.2 Background on ethnic and religious minorities in Europe.....	8
2. RACIST CRIMES IN 2013	10
2.1 Rise and fall of racist crimes	10
2.2 Who are the victims?	11
2.3 Type of crime.....	15
2.4 Racially motivated crime and political parties and groups.....	15
3. DATA COLLECTION ON RACIST CRIME	19
3.1 Recording of racist crimes.....	19
3.2 Victimization surveys.....	21
3.3 NGO recording and reporting	22
4. EU MEMBER STATES' RESPONSE TO RACIST CRIME	23
4.1 Legislating racist crime.....	23
4.2 Investigation of racist crimes by the police.....	26
4.3 Racist crimes and the judiciary	29
5. VICTIM SUPPORT AND REPORTING OF RACIST CRIMES	34
5.1 Victim support.....	34
5.2 Non-reporting of racist crimes.....	35
6. CONCLUSIONS	37
BIBLIOGRAPHY	38
APPENDIX	40

FOREWORD



Racist crime in Europe is a serious concern for the European Network Against Racism. This edition of the ENAR Shadow Report is the first ever focusing on racist crimes and the impact on victims. It is based on the compilation of data provided by 26 civil society organisations, many of which are members of ENAR, and provides a crucial and unique civil society perspective on the situation of racism and related discrimination in Europe, from 1 January to 31 December 2013.

Despite the lack of comparable equality data, disaggregated by ethnic origin, religion and other characteristics, the Shadow Report brings to light the current reality of racist crimes within 26 European countries. Racist crime is one of the worst implications of racism, a threat to people's lives on the sole basis of their real or perceived race, ethnic origin or religion. In this report we provide evidence of racist crimes across Europe and tell the stories of victims of racist crime, such as Berry Sohal, Yusupha Sallah, Savona, Leïla, Anil Chadha, Pavlos Fyssas, Mohammed Saleem, who, for some, did not survive their racist attacks.

These stories are however just the tip of the iceberg. Racist crime remains an unknown and under-reported phenomenon and real political will is required to tackle it. In particular, our challenges in dealing with racist crime are threefold: we need to better report, record and appropriately sanction these crimes.

First, because many feel ashamed, do not trust the police or think their testimony will not change anything, victims often do not come forward to report the crime. Second, law enforcement authorities do not always record racist crimes as such or publish data disaggregated by type of bias motives, thus making it difficult to identify the scope of this phenomenon and even harder to address it. Finally, adequate sanctions for perpetrators and reparation for victims are hindered by a justice system, which from prosecution to victim support, is not sufficiently well equipped to deal with these specific crimes.

This report also aims to underline good and promising practices, such as training of police officers and judges, as well as cooperation between official authorities and NGOs to assist victims and curb racist crime.

With this Shadow Report, ENAR hopes to demonstrate the need for action at the European Union and national levels, to strengthen the legal framework in order to better identify and fight racist crime. We call on Member States to step up their efforts in this area. With the transposition deadline for the EU Victim's Directive fast approaching, there will be a renewed focus at a national level on policies and procedures that support victims of hate crime. This is also a good opportunity to assess the interaction of criminal justice officials with victims of racist crimes.

We also hope that this report will highlight the need to break the circle of violence and contribute to ensuring the protection of human rights for all, in particular in the current context of rising racist attacks.

Finally, we are very grateful to all the dedicated people who have contributed to ENAR's Shadow Report, and for the valuable support of the European Commission and the Open Society Foundations in making the publication of this unique monitoring tool possible.

Sarah Isal
ENAR Chair

EXECUTIVE SUMMARY

ENAR's Shadow Report on racist crime is based on **26 national questionnaire responses from EU Member States and Iceland**¹ and covers the period from 1 January to 31 December 2013. Rising levels of racist crimes have been reported in ENAR Shadow Reports over several years and in light of this ENAR has focused this year's Shadow Report on racially motivated crimes. The report pays special attention to the patterns of racist crimes, the nature of these crimes and the effects on victims.

There is no systematic recording of racist crimes across the EU and in some countries data collection is non-existent. Figures on racist crimes are therefore not comparable across the EU. In the countries where there is comprehensive data collection, the figures can fluctuate significantly from year to year and trends are therefore particularly difficult to identify. That being said, civil society organisations across the EU report an **increase in racially motivated crimes in 2013**.

There is very limited information published on the race or ethnic origin, nationality and citizenship status of victims of racist crime. However in many EU countries including Estonia, Greece, Italy, Poland, Sweden and the United Kingdom, the most violent physical attacks reported are perpetrated against **Black and Asian ethnic minorities**.

An increase in **anti-Semitic crimes** is reported in five out of 26 countries – in Denmark, Germany, Hungary, the Netherlands and Sweden. A high number of anti-Semitic crimes are acts of property damage/vandalism (in Lithuania and Poland) and online incitement to hatred (in Latvia).

Islamophobic crimes are on the increase in France, England and Wales. It is also reported that Muslim women are more likely to be victims of Islamophobic crimes and these crimes are often physical and very violent.

Most EU countries reported incidents of **racist crimes that targeted Roma**. They are often identified as particularly vulnerable in countries with a large Roma population such as Hungary and the Czech Republic but Italy also reported that Roma were most vulnerable to racist attacks. Where Roma experience high levels of state racism, they are often the target of public incitement to violence and hatred.

1 Austria, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Romania, Slovakia, Spain, Sweden and the United Kingdom.

Vigilante patrols in Austria and Bulgaria and police attacks in Slovakia were also reported.

Incidents of **racist crimes perpetrated by individuals with links to political groups** are reported in eight out of 26 countries – in Bulgaria, the Czech Republic, Denmark, France, Greece, Ireland, Italy and Sweden. Several Member States reported a direct link between incitement to hatred and violence by political representatives and acts of racist crimes perpetrated by individuals. Several Member States including Greece reported that racist crimes are perpetrated by the police.

Only one third of Member States have, at the time of writing, recorded and published information on racist crimes for 2013. This means the picture of racist crime is very uneven. Some countries are clearly more advanced in their **recording and reporting of racist crimes**. Many countries are taking reporting of racist crimes more seriously. Spain is one country that has improved their data collection by providing training to front-line police.

Civil society organisations do collect and monitor racist crimes in a number of EU countries but their ability to do so can be limited by funding, capacity and expertise. These organisations are often the only support available to victims and can be an important bridge between minority communities and the police. They often report racist crimes to the police and act as witnesses during court cases.

Victims of racist crimes can be reluctant to report racist crimes to the police for several reasons including a lack of trust in authorities and the lack of confidence that their complaints will be taken seriously. Irregular migrants, in particular, often do not report crimes to police for fear of deportation.

Notably, several Member States do not systematically **investigate racially motivated crimes** and although most countries recognise racially motivated crime in their legislation, narrow definitions of what constitutes a racially motivated crime can result in under-recording of incidents. **Under-qualification of racist crimes** takes place throughout the justice system, from police reporting to court judgements.

Finally, the information contained in ENAR's Shadow Report is only the tip of the iceberg. The full extent and nature of racist crimes can only be uncovered when data are more comprehensively collected across all EU countries and all victims feel able to report these crimes.

RECOMMENDATIONS

It is important to recognise that institutional and structural racism, as well as racist beliefs and bias within individuals, contributes greatly to the number of incidents of racist crimes each year. Institutional racism can also result in an absence of appropriate response to racially motivated crimes that encourages potential new perpetrators and increases the negative consequences suffered by the victims. A greater and comprehensive effort to eradicate all expressions of racism in society, through dedicated strategies to address specific forms of racism, is needed. In the absence of national strategies, there are specific recommendations that can lead to improvements in legislation, training and practice. The following recommendations are targeted at European institutions and agencies, EU Member States and civil society organisations.

To European institutions and agencies

1. Issue detailed guidelines on the implementation of the Framework Decision 2008/913/JHA that address the current ambiguity of racist crime by developing a harmonised definition of what constitutes a racist crime and also ensure that Article 4 is made fully effective in practice by providing clear and detailed standards on the investigation and prosecution of any alleged racist motive associated with a crime.
 2. In line with the Victims' Rights Directive 2012/29/EU, include provisions in the Framework Decision 2008/913/JHA that ensure the protection of undocumented migrant victims and witnesses of racist crime from detention and deportation and make sure they can report hate crimes safely.
 3. Launch infringement proceedings against Member States where there is evidence of failure to transpose or implement the Framework Decision 2008/913/JHA including on failure to investigate the racist motivation.
 4. Develop EU standards for official incident recording forms and methods, including the use of monitoring definitions setting out the type of offences and bias motivations that are officially recorded.
 5. Adopt a recommendation for comparable and reliable collection and analysis of disaggregated equality data that obliges Member States to record and publish data on the number of incidents and convictions of racially motivated crime and allow for self-identification of the victims of these crimes through ethnic and racial categories, as dynamic concepts that evolve with changing social realities.
6. In line with the implementation of the Framework Decision 2008/913/JHA, EU agencies should increase their capacity to work with Member States to investigate racist crimes by: coordinating the exchange of data and setting standards on data collection (FRA); providing advice and support to law enforcement and judiciary personnel on specific cases (Europol/Eurojust); providing expertise and training (CEPOL). Cooperation with other intergovernmental organisations, such as the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe is also needed.
 7. The work of the EU Fundamental Rights Agency (FRA) Working Party on hate crime with Member States should foresee systematic and regular consultation of civil society organisations and of different representatives of groups at risk of hate crime, and publish conclusions/reports following their meetings.
 8. Commission research on the use of restorative justice for victims of racist crime, on working with perpetrators and on the specificity of hate crimes committed with multiple bias factors (i.e. sexual orientation, gender, class, age, etc.).

To EU Member States

1. Develop a clear legal framework that recognises and defines racially motivated crimes, provides for clear obligations to investigate the real or supposed racial motivation to reflect the full extent of 'enhanced penalties' (Article 4 of the Framework Decision 2008/913/JHA) and punishes these crimes more severely. More severe punishments send an important message to society and can deter others from carrying out such acts.
2. Develop, in collaboration with civil society organisations, national human rights institutions and equality bodies:

campaigns on the effects of racist crime and victims' rights and by directly engaging with vulnerable minority groups.

12. In line with the implementation of the Directive 2012/29/EU, provide victims with relevant information on their rights and the services available to them in accessible language and format. Appoint a special contact official within each police authority that is responsible for providing information, in sufficient detail, on the current status of any proceedings to ensure that victims can make informed decisions about their case and are treated with respect. Reporting by victims of multiple bias crimes should be facilitated and adequate victim support should be provided.
13. Provide access to free or accessible legal advice, legal aid, psycho-social assistance for all victims of racist crime irrespective of their citizenship status or nationality, through state services or civil society organisations which have developed expertise in that area.
14. Support the development of third-party reporting, where civil society organisations report or facilitate reporting to the police, online and anonymous reporting models through direct funding and better coordination of currently available resources.

15. Provide funding to victim support services, civil society organisations and academics to carry out research, data collection and reporting on the nature and extent of racist crime.

To civil society organisations and professionals working with victims of hate crimes

1. Develop mechanisms to record information on incidents of racist crime and the impact on victims and use that data to advocate for improved legislative frameworks that ensure clear recognition of the racist motivations.
2. Improve data collection mechanisms and reporting by working with other civil society organisations and use a coordinated approach.
3. Where possible work with law enforcement officials by providing training, sharing and exchanging information, data and expertise and also build working relationships with unions of police forces, judiciary and lawyers as they can also be agents of change.
4. Empower communities, by promoting an understanding of racist crime, to hold their governments to account and call for access to free legal advice, legal aid, psycho-social assistance for all victims and trust-building policies that target vulnerable minority groups.

TERMINOLOGY

Racism is an ideological construct that assigns a certain race and/or ethnic group to a position of power over others on the basis of physical and cultural attributes, as well as economic wealth, involving hierarchical relations where the “superior race exercises domination and control over others”.²

Racist crime, racially motivated crime and crime with a racial bias are terms used throughout this report to refer to an offence perpetrated because of the real or perceived ethnic or racial background of the victim. Although in some countries discrimination can be punishable by criminal penalties, in this report a ‘racist crime’ is an act that would always constitute a criminal offence, such as intimidation, threats, property damage, assault or murder, even if it was committed without racist/discriminatory motivation. The term refers to ‘race’ without acknowledging the existence of it.

The **bias indicator** is defined as a negative opinion or assumption, intolerance or hatred against a group sharing common characteristics, or protected characteristics, which can be race or ethnic origin, sexual orientation, gender, age, disability, religion or belief.³

Hate crimes are criminal acts committed with a bias motive. It is this motive that makes hate crimes different from other crimes. The term ‘hate crime’ describes a type of crime, rather than a specific offence within a penal code.⁴

Hate speech is defined as a public expression of hate towards a person or a community because of its race or ethnic origin, sexual orientation, gender, age, disability, religion or belief. There is no common legal definition of it within EU Member States and the prohibited content differs among countries. Some jurisdictions penalise incitement to hate or insult. Others recognise hate speech when it denigrates a person’s dignity or honour. In some jurisdictions, the concept of hate speech is linked to the historical background of the country. For example in Germany, it covers Holocaust denial or Nazi glorification.

Discrimination⁵ describes a situation where an individual is disadvantaged in some way because of protected characteristics.

European law makes the distinction between two types of discrimination: direct and indirect. Direct discrimination occurs where one person is treated less favourably than another, in a comparable situation, on grounds of protected characteristics. For example, an employer would refuse a job to a person because he/she belongs or is perceived as belonging to an ethnic group. Indirect discrimination applies when people belonging to the same groups suffer from different consequences as the result of apparently neutral provisions, criteria or practices.

Official and unofficial data. Official data refer to the data collected on racist crimes by a state authority or service provider. Official data on racist crimes are often collected by the police but can also be collected by agencies within the prosecution service. Unofficial data refer to the data collected by civil society organisations.

Substantive offence.⁶ A substantive offence is when a crime is not dependent on another. It is related to legislation on racist crime when it includes the bias indicator as a full element of the legal definition of the offence. It means that the recognition of the bias⁷ motive of the crime is a key element to judge the offence. This element of bias motive differentiates hate crimes from others and will generally be accompanied by a higher penalty. The consideration of the person targeted is also important. The victim may belong to or be perceived as a member of a group with distinguishing features, also called protected characteristics.

Enhanced penalty.⁸ An enhanced penalty means that the motive will be taken into account in the prosecution of a crime to increase the sanction. It is sometimes referred to as aggravating sentences or circumstances. Concerning racist crimes, it increases the penalty applied if the bias motive of the offence is recognised. For it to be applied, the judge has to sentence the offender by recognising the base crime, and at the same time, by considering and recognising the bias motive of the crime. Two types of penalty enhancement can be found: the general penalty enhancement applies to all crimes defined in the Criminal Code. It is set as a list of bias motives that can lead to an increased penalty. Specific penalty enhancement only applies to precise criminal offence.

2 According to the definition of racism proposed by the United Nations. See <http://www.unesco.org/most/migration/imrdx.pdf>.

3 European Union Agency for Fundamental Rights. 2010. *Handbook on European Non-discrimination Law*. Luxembourg: Publications Office of the European Union. Available at: http://fra.europa.eu/sites/default/files/fra_uploads/1510-FRA-CASE-LAW-HANDBOOK_EN.pdf.

4 According to the definition of the Organization for Security and Cooperation in Europe (OSCE). See OSCE. 2009. *Hate Crime Laws – A Practical Guide*. Warsaw: OSCE/ODIHR. Available at: <http://www.osce.org/odihr/36426?download=true>.

5 According to Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. Available at: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>. Protected characteristics under EU legislation are: race, ethnic origin, age, disability, religion or belief, sexual orientation and gender.

6 OSCE, 2009 and OSCE. 2014. *Prosecuting Hate Crime – A Practical Guide*. Warsaw: OSCE/ODIHR. Available at: <http://www.osce.org/odihr/prosecutorsguide?download=true>.

7 Based on the OSCE’s definition of hate crime. See <http://hatecrime.osce.org/what-hate-crime>.

8 OSCE, 2009 and OSCE, 2014.

1. INTRODUCTION

Over several years ENAR has highlighted racist crimes as a serious and growing problem in its annual Shadow Reports. In 2014 ENAR decided to dedicate the 2013-2014 Shadow Report completely to incidents of racist crime across Europe. Racist crime continues to be a significant problem in all European countries.

In 2013 many EU countries reported that there was a rise in racist crimes. Section 2 of this report presents the number of incidents of racist crimes and discusses which minority groups are most likely to be targeted in the different EU countries. Often the groups targeted by racist crimes reflect wider patterns of racial discrimination. If Roma are particularly discriminated against in schools and employment within a particular Member State, then they are often also the target of racist crimes. This report also includes information and data relating to anti-Semitism and Islamophobia because they are specific forms of discrimination in which attitudes, behaviours, institutional patterns and policies reject, exclude, vilify, or deny equal treatment to people, based on their real or perceived Jewish or Muslim background.

The extent of the problem is yet to be completely uncovered and the picture is very uneven across Europe. As Section 3 discusses, this is due in part to official data collection mechanisms which are very limited in many countries. Civil society organisations also collect and monitor incidents of racist crimes and many of these organisations have contributed to the production of this report with data and their expert opinion in this area.

EU Member States' response to racist crime is explored fully in Section 4. Notably, several Member States do not systematically investigate racially motivated crimes and although most countries recognise racially motivated crime in their legislation, narrow definitions of what constitutes racially motivated crime can result in under-recording of incidents. Under-qualification of racist crimes takes place throughout the justice system, from police reporting to court judgements. The findings included here can be used to inform policy developments at a national and European level.

Section 5 looks at the impact of racist crimes on victims, the support that is available to them and reasons why

victims do not always report racist crimes to the police. The information included in this report is only the tip of the iceberg. The exact nature and implications of racist crimes will only be revealed when data are more comprehensively collected by the authorities and all victims feel able to report these crimes.

1.1 Methodology

This report is based on a collaborative research approach carried out across Europe. ENAR contracted civil society organisations and independent consultants in 26 countries⁹ to carry out research at a national level and respond to a questionnaire developed by the ENAR secretariat. The research at a national and EU level was carried out from June 2014 to March 2015.

The national research involved desk-based research, interviews and meetings. The data collected were then submitted to the ENAR secretariat via an online questionnaire portal, which was then reviewed by ENAR staff.

The data from the questionnaire responses were used as a basis for this ENAR Shadow Report. Civil society organisations involved with the initial research were consulted throughout the drafting of the report to check for accuracy and further information. Follow-up meetings and desk-based research were also carried out at the ENAR Secretariat to support the drafting of the report.

1.2 Background on ethnic and religious minorities in Europe

All EU countries collect some data that may be used to reveal racial or ethnic origin of the data subjects. Some countries use alternative categories or proxies for race or ethnic origin such as citizenship, country of birth, country of birth of parents, language spoken at home, migration background and name. These categories or

⁹ Austria, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Romania, Slovakia, Spain, Sweden and the United Kingdom.

proxies differ significantly across the EU and cannot simply be compared across Member States. If a Member State does not accurately collect data on the race or ethnic origin of its population it then becomes difficult to accurately identify who are victims of racist crimes. In the context of this Shadow Report, collecting data on ethnic and religious minorities enables us to better understand which groups are targeted by racist crimes and in which countries. This information will help policy makers and law enforcement officials to develop a more effective and targeted response to racist crime and ensure that victims are protected.

Despite its relevance, ethnic breakdown is not available in every Member State and can be a scarce source. It is more likely that some surveys are available regarding some minorities such as Roma, whereas data on other groups can be more difficult to find in official statistics. Religion can also challenge the construction of a common ethnic breakdown methodology; for example the Jewish population can be identified as both an ethnic group and a religious group.

Ethnic and religious groups across Europe

Based on a range of sources¹⁰ the following broad groupings of ethnic and religious minorities can be identified in EU countries:

‣ **People of African descent and Black Europeans** seem to be especially present in the north western part of the European Union including around 3% in the United Kingdom.

‣ **Roma** represent 1.73% of the European population and mostly live in the eastern part of the European Union. They represent 10.33% of the inhabitants in Bulgaria, 9.17% in Slovakia, 8.32% in Romania, 7.05% in Hungary – the largest ethnic minority living in Hungary, and 5% in Croatia.

‣ **Asian people** represent 4.5% of the UK population, 2-3% in Denmark, 5% in Sweden and 7% in Cyprus.

‣ There is no complete and official data about **Muslims** in Europe. It is estimated that they represent around 6% of the EU population. They are more present in Bulgaria (around 14%), and in France, Benelux, Germany, the United Kingdom and Spain (between 4 and 6%).

‣ **Jewish people** represent 1% of the Hungarian population, around 0.5% in France and in the United Kingdom, 0.18% in Italy and around 0.12% in Germany.

Rapidly changing demographics can have an impact on the number and nature of racist crimes. Greece, a relatively homogeneous society before the 1990s, had an estimated 98% Christian Orthodox population/ethnic Greek descent population. In two and a half decades the country received approximately 1 million people from the Soviet Union, South Albania, eastern European, Asian and African countries. Together these groups currently account for more than 10% of the population.¹¹ The demographic changes have come at a time when Greece is experiencing one of the worst economic downturns in its history. Racist crimes have sharply increased in Greece partly because of the change in the population but also the hostile environment created by far-right parties that are eager to make links between Greece's falling fortunes and the rising numbers of ethnic minorities.

10 Data sourced from the following websites: <http://ec.europa.eu/eurostat/web/population-and-housing-census/census-data/2011-census>, http://www.enar-eu.org/IMG/pdf/roma_final_pdf.pdf, <http://ec.europa.eu/eurostat/web/population-and-housing-census/census-data/2011-census>, <http://www.globalreligiousfutures.org/religions/muslims>, <http://www.jewishdatabank.org/studies/downloadFile.cfm?FileID=2941>.

11 Minority Rights Group International. 2014. *State of the World's Minorities and Indigenous Peoples 2014*. Available at: www.minorityrights.org/12473/state-of-the-worlds-minorities/mrg-state-of-the-worlds-minorities-2014.pdf.

2. RACIST CRIMES IN 2013

Crimes with a racial motivation occur in all European countries. In some countries the picture is clearer than others simply because there is a culture of reporting and recording these crimes. Official national and international data,¹² as well as civil society data sources have been used in this section to give as full a picture as possible on the patterns of racially motivated crimes, the nature of these crimes, and the victims. This section also discusses the link between racist crime and political organisations and whether political discourse can impact on the prevalence of racist crimes.

It must be noted that as there is no systematic recording of racist offences across EU countries, **it is impossible to compare figures across Europe.** The data and information provided here is a snapshot for racist crimes in 2013 and presents evidence that racially motivated crime continues to be a serious problem across Europe. Information regarding anti-Semitism and Islamophobia is included in this section because they are specific forms of discrimination in which attitudes, behaviours, institutional patterns and policies reject, exclude, vilify, or deny equal treatment to people, based on their real or perceived Jewish or Muslim background.

Table 1 includes data on the number of official recorded crimes and complaints and is in no way fully representative of all racist crimes.

2.1 Rise and fall of racist crimes

ENAR's Shadow Reports over the years have shown an increase in racially motivated crimes. The rise in racist crimes has also been reported by other official and civil society organisations at both national and EU levels. In 2013 the European Union Agency for Fundamental Rights (FRA) stated that there had been an increase, across Europe, of particularly violent racially motivated crime. There are several explanations for the rise in racist crimes and they are often very complex and interlinked.

Many civil society organisations and other institutions have cited the financial crisis as the primary factor for the rising number

of racist crimes in **Greece and Hungary**¹³ and across Europe. During the economic downturn in **Hungary** the myth of a Jewish economic 'conspiracy' was revived and Jewish minorities were particularly targeted.¹⁴ In **Greece** the rise in racism and xenophobia is often linked to the economic crisis; furthermore

Table 1: 2013 official figures on reported racist crimes and complaints¹⁵

Austria	110
Bulgaria	Not available
Croatia	33
Cyprus	8
Czech Republic	186
Denmark	Not available
Estonia	Not available
Finland	833
France	1,376
Germany	5,131
Greece	43
Hungary	3
Iceland	0
Italy	194
Ireland	93
Latvia	22
Lithuania	84
Luxembourg	31
Malta	Not available
Netherlands	Not available
Poland	719
Romania	Not available
Slovakia	Not available
Spain	384
Sweden	1,733
England & Wales	30,788
Scotland	4,735
Northern Ireland	704

Source: OSCE/ODIHR and ENAR questionnaire responses

¹² Official data refer to the data collected on racist crimes by a state authority or service provider.

¹³ Council of Europe Commissioner for Human Rights. 2014. *Report By Nils Muižnieks Commissioner for Human Rights of The Council of Europe Following his visit to Hungary From 1 to 4 July 2014*. Available at: <https://wcd.coe.int/ViewDoc.jsp?Ref=CommDH%282014%2921&Language=lanEnglish>.

¹⁴ Minority Rights Group International. 2014.

¹⁵ These figures include where available incidents of anti-Semitic, Islamophobic and xenophobic bias motivated crime.

FRA fieldwork in that country shows a steep increase in phenomena of racist violence, despite the notable decrease in the overall violent crime rate in the country.¹⁶ There is no doubt that since the economic crisis there has been an increase in scapegoating of migrants and asylum seekers but in order to fully understand the nature of racist crimes it is also necessary to acknowledge the wider problem of racism at an individual or institutional level.

Italy

In 2013 there were 253 reported bias motivated crimes:

- › 57% related to race/ethnicity
- › 27% to sexual orientation
- › 11% to religious beliefs
- › 2% to age
- › 2% to disability

Although there are no official figures for bias motivated crime in **Bulgaria**, civil society organisations have reported a drastic increase in the number of racially motivated crimes. The rise in 2013 is linked to the increase in asylum seekers from Syria. Civil society representatives and the Council of Europe's European Commission against Racism and Intolerance (ECRI) have reported that government officials have made statements that incite violence and hatred directed at incoming migrants and asylum seekers. Following a number of public statements directed at ethnic minorities and asylum seekers, a spate of racially motivated crimes were reported in Sofia. For example, a young man believed to be of Turkish origin was brutally attacked by skinheads in November 2013. The young man was targeted because the perpetrators thought he was a refugee.¹⁷

The rise and fall of reported crimes can also be attributed to changes to the way these crimes are recorded and also

if public campaigns have been launched to encourage victims to report these crimes. The Immigrant Council of Ireland reports an 85% increase in recorded incidents in **Ireland**, with 77 incidents recorded in the first 11 months of 2012 compared with 142 in the same period in 2013.¹⁸ Data gathered by ENAR Ireland for 2012 shows 128 incidents recorded, as compared to 268 for 2013. While this gives an apparent increase of 109%, both figures need to be viewed with caution as much of the increase happened after the re-launch of iReport.ie, an online racist incident reporting system,¹⁹ with a spike in reporting around the time of the launch, suggesting that publicity and public awareness may account for some of the increase. The official data, which record less information on racist crimes, show a decrease in recorded incidents from 97 in 2012 to 93 in 2013.²⁰

› A decrease has also been reported in **Slovakia** of 98 in 2012 to 64 in 2013.

› There was either no change or a very slight change recorded for **Austria, Croatia, Cyprus, the Czech Republic, Latvia and Luxembourg**.

› **Denmark, Germany, the Netherlands and Sweden** saw increases in anti-Semitic crimes.

› **France, England and Wales** saw a rise in Islamophobic crimes.

› Religious crimes fell in **Scotland** by 15% in 2012-13.²¹

2.2 Who are the victims?

Official data are not collected systematically across Europe on the bias motivation, ethnicity, race or religious background of victims of crimes. There appears to be more publicly available information on the number of racist crimes that target religious minorities rather than disaggregated data on the ethnicity of victims of crime.

Tables 2 and 3 show the number of crimes and complaints with an anti-Semitic or Islamophobic bias motivation.

16 European Union Agency for Fundamental Rights. 2014. *Fundamental Rights: Challenges and Achievements in 2013*. Luxembourg: Publications Office of the European Union. Available at: http://fra.europa.eu/sites/default/files/fra-2014-annual-report-2013_en.pdf.

17 European Commission Against Racism and Intolerance. 2014. *ECRI Report on Bulgaria (fifth monitoring cycle)*. Available at: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Bulgaria/BGR-CbC-V-2014-036-ENG.pdf>.

18 Thejournal.ie. 2013. 'Racist incidents up by 85 per cent in 2013 – Immigrant Council'. *Thejournal.ie*, 7 December. Available at: <http://www.thejournal.ie/racism-ireland-3-1210773-Dec2013/>.

19 See ENAR Ireland. 2013. *2011-2012 Shadow Report on the Situation of Racism in Ireland*. Available at: <http://enarireland.org/wp-content/uploads/2013/06/ENAR-Ireland-Shadow-Report-2011-12.pdf>.

20 Ireland questionnaire response.

21 Data has been sourced from the Crown Office and Procurator Fiscal Service.

Anti-Semitic bias crimes

Table 2: Official number of crimes and complaints targeting Jewish people in 2013

Countries	Anti-Semitic bias crimes
Austria	37
Czech Republic	15
Finland	11
France	449
Germany	1,275
Ireland	2
Poland	199
Spain	3
Sweden	193
United Kingdom	318

Source: OSCE/ODIHR and ENAR questionnaire responses

In **Germany**, 1,275 crimes with an anti-Semitic motivation were recorded in 2013.²² This is the highest number recorded and published in Europe. This figure does not mean that Jewish people are targeted more in Germany but because of the country's specific history crimes that target Jewish people are more likely to be reported, recorded and taken seriously by police officials, the prosecution and courts.

According to official data, there were 449 crimes with an anti-Semitic bias motivation in 2013 in **France**. Anti-Semitic crimes are disproportionately represented in French hate crime figures. Again in France there is a long history of groups working to combat anti-Semitism. Part of that work has been to encourage the reporting of anti-Semitic crimes. Jewish people may feel more able to report crimes to the police because they know that their cases will be investigated.

NGOs and civil society organisations report that anti-Semitic crimes have risen in **Bulgaria** and **Hungary**; however there are no official data sources for crimes that target Jewish people. It is reported in Bulgaria that Jewish people are reluctant to report these crimes to officials because the "Jewish community feels that their cases will not be taken seriously by the police and prosecutors".²³

22 OSCE ODIHR. *Hate Crime Reporting: Germany*. Available at: <http://hate-crime.osce.org/germany>.

23 Bulgaria questionnaire response.

Bulgarian civil society organisations also report that many of the anti-Semitic crimes take place online; this specificity of anti-Semitic crime has also been reported by the FRA. In 2013 three quarters (75 %) of respondents to a FRA survey considered online anti-Semitism to be a problem.²⁴ Data provided to ENAR show that vandalism using anti-Semitic symbols or targeting Jewish premises of any sort is prevalent in many European countries and close to one quarter (23%) of the respondents to a FRA survey said that they occasionally avoid visiting Jewish events or sites because they would not feel safe there as a Jew.²⁵

Civil society organisations reported the following anti-Semitic acts:

Lithuania: The Jewish community has suffered acts of vandalism.

The Netherlands: Between 24 and 27 May 2013 a glass panel of the Jewish oriented nursing home 'Beth Shalom' was damaged with a swastika. This case was reported, but no suspects were arrested.

Poland: On 6 August 2013, Radomsko, a local media, reported an anti-Semitic inscription "Jude raus" on the wall of the Jewish cemetery. The District Prosecutor's Office was informed of the incident.

Islamophobic bias crimes

Table 3: Official number of crimes and complaints targeting Muslim people in 2013

Countries	Islamophobic bias crimes
Austria	12
Finland	11
France	301
Poland	95
Sweden	327

Source: OSCE/ODIHR and ENAR questionnaire responses

24 European Union Agency for Fundamental Rights. 2014. *Fundamental Rights: Challenges and Achievements in 2013*.

25 European Union Agency for Fundamental Rights. 2012. *Jewish People's Experience of Discrimination and Hate Crime in European Union Member States*. Available at: <http://fra.europa.eu/en/publication/2012/fra-survey-jewish-peoples-experiences-and-perceptions-antisemitism>.

Officially published data on crimes with an Islamophobic bias are available for **Finland, France, Poland and Sweden**. Although these figures cannot be compared across countries we can see that **France and Sweden** report higher numbers than the other countries. Data from victimisation surveys reported that 1.5% of Muslims were victims of racist crimes in the **United Kingdom** in 2011-2013.²⁶ Evidence suggests that the 2011 ban on the full-face veil in **France** may have contributed to increased hostility and physical attacks against Muslim women who continue to wear a veil.²⁷ In the UK, Tell MAMA, an NGO collecting data on crimes with an Islamophobic bias, reports that female Muslims are those more likely to suffer anti-Muslim hate and intolerance.

All the figures for Islamophobic crimes must be considered in light of research from the United Kingdom that highlights that police officers do not always distinguish between racially motivated crimes and crimes motivated by hostility towards Muslims when recording and investigating these crimes. In some cases it can be difficult to establish the elements of the religious hatred or they may have been ignored in favour of establishing racial motivation, given that the two can overlap.²⁸

The current number of Muslims living in **Sweden** is commonly placed at around 450,000. Many Muslims migrated to Sweden in the 1950s and 60s.²⁹ Despite there being a well-established Muslim community, police reports of crimes with an identified Islamophobic motive have increased by 69% from 2009 to 2013.³⁰ Swedish authorities do not officially collect

disaggregated data on the victims' ethnic group or racial background therefore the data used for Table 3 is based on the number of police complaints and not the crimes themselves.

As with anti-Semitic crimes some countries report a growing number of online Islamophobic crimes. **Austrian** civil society organisations report that these crimes increasingly take place online and 74% of incidents reported to Tell MAMA in the **United Kingdom** were online.

France

A Muslim woman, who was four months pregnant, was attacked for wearing a jilbab in the Paris suburb of Argenteuil. She suffered a miscarriage and lost her baby, according to her lawyer. Two men attacked the 21-year-old woman, trying to remove her headscarf and later cut off her hair, and reportedly shouted anti-Islamic taunts at her. The woman had also been kicked in the stomach.

According to the Collective Against Islamophobia in France (CCIF), 78% of Islamophobia victims were women in 2013.

Recording ethnicity of victims

Some EU countries publish information on the number of racist crimes but not information on the race, ethnicity or nationality of the victims. In **Italy** 57% of bias motivated crimes relate to race or ethnicity but this data is not further disaggregated by ethnic group. It is important to know more information on the specific ethnic groups in order to identify patterns of victimisation and develop policies to combat these crimes.

In previous years the **United Kingdom** published information on the ethnicity of the victims. Although it still records this information it does not publish a full ethnic breakdown of victims of racist crimes. The UK also does not provide this level of detail if it is requested. However the annual Crime Survey for England and Wales shows that people with a mixed ethnic background are most at risk of hate crime, especially male young people aged 16 to 24 years old.

26 The percentage of adults aged 16 and over who were victims of racially motivated hate crime in 2011 - 2013 by ethnic group and also by religion. See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266358/hate-crime-2013.pdf.

27 Minority Rights Group International, 2014.

28 Copsey, Nigel, Dack Janet, Littler, Mark and Feldman Matthew. 2013. *Anti-Muslim Hate Crime and the Far Right*. Teesside University. Available at: https://www.tees.ac.uk/docs/DocRepo/Research/Copsey_report3.pdf.

29 Berglund, Jenny. 2015. *Sweden's Protests Against Islamophobia Highlight the Polarised Views of Swedish Citizens Toward Muslims*. Available at: <http://blogs.lse.ac.uk/europpblog/2015/01/07/swedens-protests-against-islamophobia-highlight-the-polarised-views-of-swedish-citizens-toward-muslims/>.

30 Swedish National Council for Crime Prevention (Brå). 2014. *English Summary of Brå Report 2014: Hate Crime 2013 Statistics on Police Reports with Identified Hate Crime Motives and Self-reported Exposure to Hate Crime*. Stockholm: Brottsförebyggande rådet. Available at: http://www.bra.se/download/18.626651b0148b20bd39c87f/1413792518477/2014_hatecrime_2013_summary.pdf.

The Organization for Security and Cooperation in Europe (OSCE/ODIHR) annually publishes official data on hate crimes which include figures on crimes with a racial bias. Based on the ENAR questionnaire responses and the OSCE data only **Croatia, Finland, Poland and Sweden** have published information on racially motivated crimes and complaints disaggregated by ethnic groups (see Section 3 for more details on data collection).

Roma victims of racist crime

Some EU countries record and publish data on crimes that target Roma. Members of the Roma communities have been identified by the FRA, and others, as particularly vulnerable to racist crimes. Almost all ENAR questionnaire responses provided figures or cases of violence, abuse or incitement to violence against Roma. Racist crimes that target this group are more prevalent in EU Member States with a large Roma population. The Council of Europe's Commissioner for Human Rights, Nils Muižnieks, reported that in **Hungary** Roma have mainly borne the brunt of racist violence. According to estimates, Roma represent 7.5% of the total Hungarian population and the largest ethnic minority living in Hungary.³¹

Reported attacks on Roma include:

Italy: On 15 October 2013, in Naples, a woman and her child were attacked with acid by a neighbour. It is not the first time the perpetrator had harassed the Roma family.³²

France: Amnesty International reports that on 16 January 2013, a Roma couple who was sleeping on a mattress in a street of Paris was attacked by a man who poured acid on their belongings and bodies. This was not a first time for the perpetrator and an investigation was launched, but it is unknown whether the bias motive was recognised or whether he was convicted.³³

31 Council of Europe: Commissioner for Human Rights, 2014.

32 Romea.cz. 2013. 'Italy: Romani People Attacked in Naples'. Romea.cz, 16 October. Available at: <http://www.romea.cz/en/news/world/italy-romani-people-attacked-in-naples>.

33 Amnesty International. 2014. "Nous réclamons justice" - L'Europe Doit Protéger Davantage les Roms contre les Violences Racistes. Available at: <https://www.amnesty.org/download/Documents/8000/eur-010072014fr.pdf>.

Other ethnic groups as victims of racist crimes

Sweden is one of the few countries that records and publishes official data on the complaints of crimes with an Afrophobic bias. BRÅ, a Swedish government agency under the Ministry of Justice, has the primary function of crime reduction and improving the level of safety through data collection and dissemination. In 2013, BRÅ published data on reported cases motivated by xenophobia/racism, which totalled 3,999 and of those cases 980 were identified as having an Afrophobic motive.³⁴

Poland's official figures report 95 victims who were Black Europeans/people of African descent.

Official figures in **Finland** report 97 victims who were Black Europeans/people of African descent.

Data collected by Magenta, an NGO in the **Netherlands**, show there were 103 victims who were Black Europeans/people of African descent.

On 30 September 2013, in a **Zagreb** tram, three young men attacked and physically assaulted an asylum seeker from Uganda.

Data collected by the Racist Violence Recording Network in **Greece** documented over 200 racially motivated incidents targeting people with an Asian background in 2013.

In **London**, Asian people (from the Indian sub-continent) experience the highest mean rate of victimisation.

Hungary

On 27 October 2013, two Hungarian men attacked an African refugee with a stick in Bicske, Hungary. They insulted him, saying "Black man go back to Africa, here it is Hungary, not Africa." They hit him on his face and on his arms. The victim escaped and ran away. The perpetrators chased him with a car and when they found him, they hit him again several times.

34 Swedish National Council for Crime Prevention (Brå), 2014.

2.3 Type of crime

There are a range of offences that can be classified as a racist crime. Criminal offences such as assault, harassment and threats, vandalism, theft, homicide can all be racist crimes if there is a racial element, bias or motivation to the crime.

Table 4 includes the number of crimes and complaints with a racial bias for physical assault, incitement to violence and hatred, verbal assault, damage to property and vandalism. The data included in the table are from both official sources and civil society organisations. There is no standard recording of the type of crime or complaints so these figures are not comparable across countries. The United Kingdom has high numbers of

Table 4: Number of crimes and complaints with a racial bias in 2013

	Physical assault	Incitement to violence and hatred / Verbal assault	Damage / vandalism
Austria	11	8	176
Bulgaria	20	8	-
Croatia	4	-	-
Czech Republic	38	13	3
Denmark	4	33	1
Finland	259	256	75
France	58	243	302
Germany	443	2,931	1,016
Greece	133	27	2
Ireland	23	154	9
Italy	68	-	4
Latvia	1	1	-
Lithuania	8	6	3
Luxembourg	8	1	-
Netherlands	925	1,933	243
Poland	176	651	108
Spain	99	-	-
Sweden	834	-	538
United Kingdom	3,988	21,087	1,856

Source: ENAR questionnaire responses. The data included in the table are from both official sources and civil society organisations.

recorded crimes but as explained in more detail in Section 3 this is primarily because the United Kingdom has a more systematic approach to recording racially motivated crimes.

Greece

On 17 January 2013, a 27-year-old Pakistani migrant worker, Sahzat Luqman, was murdered while he was riding his bike to work in the area of Petralona.

According to the prosecutor's judgement, "the defendants carried out homicide in a calm mental state and stabbed the victim seven times. They decided jointly to take the life of an innocent foreign man of Pakistani origin. Which of the blows was lethal is of no importance. What is of importance is that they were determined to kill him from the start".

Complexity of the type of crimes committed

Most racially motivated crimes are not simple to categorise. As reported in Austria, often verbal insults and threats go hand in hand with almost all the other types of crimes.

Although incitement to hatred and verbal assault are two different offences, they are included together in Table 4 because there is not a specific provision that deals with conduct falling under 'incitement to hatred' in all EU countries (see Section 4 for more details on legislation). Some countries use other provisions such as threatening, insulting, abusive language to record complaints and crimes of this nature.

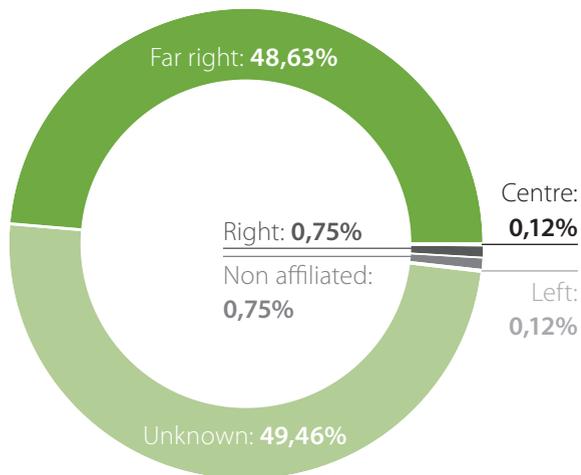
2.4 Racially motivated crime and political parties and groups

Evidence suggests that racist crimes are not predominantly committed by individuals connected to 'far right' or 'extreme right-wing' parties. Although there are markers, symbols and indicators that can link perpetrators of racist crimes to political groups it is not easy to identify the influence of political groups or parties on individual perpetrators. Radio Afrika TV, a civil society organisation based in Austria, highlights

that far-right groups often operate in the shadows and do not necessarily proclaim their links to political groups. It took several years for the German police to identify that the National Socialist Underground, a far-right terrorist group, was behind several brutal racially motivated murders in Germany. The Czech Helsinki Committee also reports that racially motivated crimes perpetrated by members of political groups are not recorded in a way that easily shows links to political groups. There may be many racist crimes committed by individuals that share an ideology with a particular party or group and are inspired to carry out racist crimes but at the time of the crime they did not wear identifiable uniforms or symbols.

Some Member States do record information on the perpetrator and whether they were linked to political groups. As **Figure 1** shows, of those racist crimes reported to ENAR, those perpetrated by members of far-right group are over-represented. However for the majority of cases the exact orientation of the group remains unknown.

Figure 1: Racist crimes and complaints linked to political groups in 2013³⁵



Source: ENAR questionnaire responses

In **France** at least 12 perpetrators of racially motivated crime were linked to political parties. In 15 cases, the victims or witnesses to racially motivated attacks in **Greece** reported that they recognised persons associated to Golden Dawn among the perpetrators because they wore the Golden Dawn insignia, or they were seen participating in Golden Dawn public events or were known as members of the local branch.

A man believed to have links with the small neo-Nazi Democratic Right Movement in **Ireland** was found guilty of assault by Mullingar District Court but in spite of having shouted “Paki” at his victim, the judge said that “this does not make him a racist”.

In **Italy**, 117 far-right groups and 24 Northern League groups committed acts of racial violence and discrimination.

Sweden reports that 32% of racially motivated crimes can be directly linked to far-right organisations.

The **Czech Republic** reports an increased awareness of cybercrime related to far-right groups or sympathisers.

The Institute for Human Rights in **Denmark** reports that eight hate crimes were linked to political groups in 2013.

Germany’s data collection for bias motivated crimes is unique as the whole system is based on the assessment of politically motivated crimes.

EU-wide FRA research has reported that 13% of Turkish victims and 12% of Roma victims of assault or threat, for example, identified perpetrators as members of right-wing extremist groups.³⁶

35 Figure 1 is based on data from Denmark, France, Greece, Italy and Sweden.

36 European Union Agency for Fundamental Rights. 2012. *EU-MIDIS Data in Focus 6: Minorities as victims of crime*. Available at http://fra.europa.eu/sites/default/files/fra-2012-eu-midis-dif6_0.pdf.

Impact of political discourse

Evidence from reports at a national and European level shows that racist crimes do not occur in a vacuum.³⁷ Political discourse which demonises migrants, asylum seekers and minorities creates a climate in which attacks on minorities are legitimate. Civil society organisations across the EU have reported several examples of political representatives publicly inciting violence and hatred.

In **Hungary**, the ultra-nationalist Jobbik party has used anti-Roma and anti-Semitic rhetoric to foster support during their national and European parliamentary election campaigns. In April 2014 Jobbik's share of the national vote rose to over 20%.³⁸ Similarly in **Bulgaria**, the nationalist party Ataka was the fourth strongest party following parliamentary elections in 2013. It is reported that Ataka is an extreme nationalist party that systematically incites to hatred, discrimination and violence against ethnic and religious minorities as well as against asylum seekers. The Bulgarian government relies on Ataka for support of its policies which can hinder progressive laws and directives relating to minority rights. The effect can be seen clearly by the slow response from the government to the increase in asylum seekers from Syria. The situation for asylum seekers and the relationship with other Bulgarian citizens deteriorated significantly before the government took action. In mid-November 2013 'civic patrols' were formed by nationalist parties and movements that, according to Boyan Rasata, leader of National Unity, were "initiated on the grounds of the right of self-defence" and aim at "identifying and reporting suspicious persons" by monitoring the centre of Sofia where immigrants and refugees gather. It took until 25 November 2013 for the public defender's office of the Ministry of Interior to publicly denounce and condemn these patrols.³⁹

The FRA reported that "2013 was marked by steady support for political parties with largely xenophobic anti-foreigner, anti-migrant and anti-Muslim agendas in a number of EU Member States including **Austria, Bulgaria, the Czech Republic, France, Greece,**

Hungary and the Netherlands".⁴⁰ The increase in the share of the power can have a significant impact on political discourse, policies and in some countries incidents of racist crimes.

Bulgaria

The Bulgarian National Movement (VMRO – BNM) and the Association of the Bulgarian Football Fans organised a protest under the motto "March against immigrant invasion". The declarations that were made during the march are discriminatory, incite violence and hatred on the grounds of race, nationality and ethnic background (Article 162 of the Criminal Code):

"We give the Government an ultimatum to clean the city from the criminal contingent illegal immigrants in the next week or we will do it. We refuse to take any responsibility on what may happen to those people in the future if they remain in the vicinity. Thus, I call on everyone: begin organising yourselves and arm yourselves. There is no other way. We must be ready to protect ourselves. The police has been wasting its time over the past eight months guarding this trash rather than protecting the citizens."

As incitement to hatred and violence has been mainstreamed into political and public discourses violent manifestations of racism are no longer confined to marginal and extreme groups and political parties often fail to counter or condemn these events.⁴¹ There are ways in which these acts can be countered in the political sphere. ECRI, for example, has recommended that **Bulgaria** adopts legal provisions that allow the withdrawal of public financing for political parties that promote racism.⁴² In **France**, Gilles Bourdouloux, Member of Parliament and centrist mayor of Cholet, stated about Roma that "Hitler maybe didn't kill enough of them". He was convicted and fined 3000€. This sends a clear message to other political representatives as well as the wider society that these statements are not tolerated. The **Greek** Parliament lifted the immunity of

37 Minority Rights Group International, 2014.

38 Ibid.

39 Bulgaria questionnaire response.

40 European Union Agency for Fundamental Rights, 2014.

41 European Network Against Racism. 2012. *Racism in Europe - ENAR Shadow Report 2010-2011*. Available at: <http://www.cie.ugent.be/documenten/enar2011.pdf>

42 European Commission Against Racism and Intolerance, 2014.

six leading Members of Parliament representing Golden Dawn in October to enable a deeper investigation into their alleged involvement in serious criminal offences. Charges ranged from establishment and participation

in a criminal organisation, murder and grievous bodily harm to money laundering and bribery. In addition, the Parliament voted to suspend state funding for Golden Dawn.⁴³

Case in focus: Greece

Pavlob Fyssas was murdered by a 45 year-old man, Giorgios Roupakias, a self-proclaimed member of Golden Dawn. The victim, also known as rapper Killah P, was a musician and left-wing anti-fascist. Fyssas died within minutes of being stabbed in the chest when he and a group of seven friends were attacked by around 30 black-clad supporters of Golden Dawn in the district of Keratsini on 17 September 2013. Giorgios Roupakias, the alleged perpetrator, was arrested when police arrived at the scene.

The leader of Golden Dawn, Nikos Michaloliakos, denied any responsibility or involvement of his party in the crime. A prosecution was launched, not only concerning the murder of Fyssas, but also the involvement of Golden Dawn in different crimes perpetrated against ethnic and sexual minorities and political opponents.

The trial began at the end of 2014 and the public prosecutor called for 50 leaders of the political group to be tried, including 16 Members of Parliament. If convicted, they could be sentenced to 20 years in prison.

3. DATA COLLECTION ON RACIST CRIME

Data collection on racist crime varies significantly; each country has its own systems and categories regarding not only the acts that constitute a racist crime but also the ethnic and racial categories of the victims. The decision to collect information on the nationality, race, ethnicity or religion of the victims of racist crime often reflects a country's history.⁴⁴ The French government, for example, due to its Jacobin tradition does not officially collect data on the ethnic or racial background of its citizens. France does, however, record and regularly publish data relating to anti-Semitic and Islamophobic bias crimes.

Race is a social construct and ethnic groups are not easily classifiable. Race and ethnicity are fluid and dynamic concepts that change over time. It is still, however, possible to develop systems that monitor crimes that target ethnic minorities.

The Council of Europe recognises the clear link between data collection and fighting racist crime, stating that countries should "collect and publish comprehensive and comparable data on hate crimes, as far as possible including the number of such incidents reported by the public and recorded by law enforcement authorities; the number of convictions; the bias motives behind these crimes; and the punishments handed down to offenders".⁴⁵

3.1 Recording of racist crimes

Table 5 presents official data collection and reporting mechanisms. Besides the information presented in the table there is huge variation on the data collected. Sweden, for example, only records the existence of a racial element or bias of complaints made to the police and Poland is one of the few countries that records information on the type of racist crimes and race or ethnicity of the victims. Data collection on the type of crime is limited. The different data collection methods result in data that are not comparable across countries.

Although the **United Kingdom** is often cited as a good example in data collection regarding racially motivated crime, in recent years less detail on the race/ethnicity of victims of racist crime has been published. The British police continue to record information on the ethnicity of victims but the 2004/2005 British Crime Survey is the last report that published the risk of racially motivated victimisation for different ethnic groups.⁴⁶

Several civil society organisations have reported that EU countries indicate that the data are available on request (as included in Table 5) but in reality the data were not always provided when requested by civil society organisations as part of the national research for this report. Some countries state that they publish the data but they are published long after the reporting period. At the time of writing this report only around one third of EU countries, **Austria, Cyprus, Finland, France, Germany, the Netherlands, Poland, Spain, Sweden and the United Kingdom**, recorded and published information on racist crimes for 2013. The consistency and timely release of the data to some extent reflects how seriously a country takes these crimes and how and if they intend to respond to the findings.

Civil society organisations, using the FRA criteria of official data collection mechanisms, assessed the data collection of racially motivated crime in EU countries. The criteria include three levels of data collection quality: limited, good and comprehensive.⁴⁷ **Figure 2** shows that in most cases civil society organisations are in agreement with the FRA assessment apart from Sweden and Finland, which were both downgraded from comprehensive to good data collection for racially motivated crimes.

Public data for **Finland** does not include information on the prosecution and sentencing of racially motivated crimes and **Sweden** does not collect information on the race or ethnicity of the victims of racist crime. There is,

44 European Network Against Racism. 2014. *Measure, Plan, Act: How Data Collection Can Support Racial Equality*. Available at: http://www.enar-eu.org/IMG/pdf/20084_equalitydatacollectionpublication-8-low.pdf.

45 Council of the European Union. 2013. *Council Conclusions on Combating Hate Crime in the European Union, Justice and Home Affairs Council Meeting, Brussels, 5 and 6 December 2013*. Available at: http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/jha/139949.pdf.

46 Isal, Sarah and Schmitz, Klara. 2011. *Racist Violence in the United Kingdom*. Brussels: European Network Against Racism. Available at: http://www.ukren.org/uploads/files/publications/Racist_Violence_in_the_UK.pdf.

47 FRA standards define the three categories as such: In case of *limited data*, data collection is limited to a few incidents and to a limited range of bias motivations. The data are not usually published. For a *good data collection system*, data are recorded on a range of bias motivations and are generally published. Finally, in case of *comprehensive data collection*, a broad range of bias motivations, types of crimes (such as assault, threat, etc.) and characteristics of incidents are recorded. The data are always published. European Union Agency for Fundamental Rights. 2012. *Making Hate Crime Visible in the European Union: Acknowledging Victims' Rights*. Available at: http://fra.europa.eu/sites/default/files/fra-2012_hate-crime.pdf.

however, detailed data published on racially motivated complaints made to the Swedish police. As reported by Centrum Mot Rasism, an NGO in Sweden, the recording of racist crimes is intent oriented and not victim centred. The police make the judgement on what constitutes a

racially motivated crime and when they record the data the police focus on the perpetrator's intentions rather than the victim's perception of the motivation. There is also no self-identification of race or ethnicity and so it is the police alone that identify the markers.

Table 5: Official data collection relating to racially motivated crimes across European countries⁴⁸

Countries	Record racist crime	Access to the data	Disaggregated information on			
			Ethnic groups	Nationality	Islamophobic bias	Anti-Semitic bias
Austria	yes	Public	no	yes	no	no
Bulgaria	yes	On request	yes	yes	yes	yes
Croatia	yes	On request	yes	no	no	no
Cyprus	yes	Public	no	no	no	no
Czech Republic	yes	Public with some information available on request and restricted to authorities	yes	no	no	yes
Denmark	yes	Public	yes	yes	no	yes
Estonia	yes	On request	no	no	no	no
Finland	yes	Public	no	yes	yes	yes
France	yes	Public	no	no	yes	yes
Germany	*	Public	no	no	no	yes
Greece	yes	On request	no	no	no	no
Hungary	yes	Public with some information available on request	no	no	no	no
Iceland	yes	Public with some information available on request	no	no	no	no
Ireland	yes	Public with some information available on request	no	no	no	no
Italy	yes	Public	no	no	no	no
Latvia	yes	Public with some information available on request	no	no	no	no
Lithuania	yes	Public with some information available on request	yes	yes	no	no
Luxembourg	yes	On request	no	yes	no	no
Malta	no	no	no	no	no	no
Netherlands	yes	Public	yes	yes	yes	yes
Poland	yes	Public with some information available on request and restricted to authorities	yes	yes	yes	yes
Romania	/	/	/	/	/	/
Slovakia	yes	Public	no	no	no	no
Spain	yes	Public	no	no	no	yes
Sweden	yes	Public	yes	no	yes	yes
United Kingdom	yes	Public	no	no	no	yes

* Germany records politically motivated crimes

Source: ENAR questionnaire responses

48 Anti-Semitic and Islamophobic bias is included here because they are specific forms of discrimination in which attitudes, behaviours, institutional patterns and policies reject, exclude, vilify, or deny equal treatment to people, based on their real or perceived Jewish or Muslim background. The list of countries includes Iceland and all EU Member States except Belgium, Portugal and Slovenia, for which there was no ENAR questionnaire response. The information for Romania remained inconsistent and so has not been included here.

Figure 3: Victimisation surveys



Source: ENAR questionnaire responses

3.3 NGO recording and reporting

Many civil society organisations working with victims of racially motivated crime are under-funded. Their capacity to record and monitor racist crimes and support victims can be limited. Often organisations will focus more on victim support and carry out data collection to support their work with victims. Civil society organisations in the **Czech Republic, Denmark, Estonia and Romania** make a clear link between government funding and NGOs' ability to record and monitor cases of racist crime. There is often no central organisation helping to coordinate the data collection or support the analysis at a local or regional level, which results in patchy data collection.

NGO data collection may not be as consistent as official mechanisms in some countries and we can see that in the United Kingdom there is a huge disparity between the number of official recorded racist crimes and those recorded by NGOs. These data are nevertheless still useful. In many EU countries the reality is that NGOs are the only

organisations collecting any significant data. For several years there were no convictions of racist attacks in Greece and official reporting of racist crimes was irregular and showed very few numbers. Organisations and networks such as the Racist Violence Recording Network⁴⁹ were able to gather evidence and figures that revealed that racist attacks were a serious problem in Greece. Civil society data were instrumental in shining a light on the government's failure to address racist crime and in some cases mistreatment by officials themselves.

The work that NGOs do in this area is more than simply data collection. Organisations that work with victims of racist crime, in whatever capacity, gain a greater understanding of the nature of racist crime and build expertise. For example, organisations that work with particular groups such as Muslim or Jewish people are able to identify, at times, the subtle differences between religious bias crime and racial bias crime. These insights can be shared with other institutions such as the police in order to better work with the victims and address their needs.

Several EU countries report that certain victims will prefer to report racist crimes to civil society organisations rather than the police. Victims with an irregular migration status are reluctant to report racist crimes to the police for fear of deportation or even violence. Many NGOs across Europe report crimes to the police on behalf of victims, provide legal assistance and also act as witnesses in court cases and can be critically involved in the pre-trial phase.

In **Cyprus**, NGOs work as important intermediaries between migrant communities and the police. The Community Security Trust (CST) in the **United Kingdom** collects and publishes data on anti-Semitic incidents and also works closely with the police. CST and the police will share anonymous data to ensure all anti-Semitic crimes are reported and monitored. **Denmark, Latvia and the United Kingdom** report strong working relationships between Jewish civil society organisations and the police. A list of organisations that are recording and monitoring racist crimes are listed in the Appendix.

49 The Racist Violence Recording Network was set up in 2011 by the office of United Nations Refugee Agency in Greece, in cooperation with the Greek Commission for Human Rights, other institutional organisations and NGOs. See <http://www.unhcr.gr/1againstracism/en/category/racist-violence-recording-network/>.

4. EU MEMBER STATES' RESPONSE TO RACIST CRIME

EU Member States respond differently to racist crime and there are various legal frameworks in place. However, there is some commonality across the board with regard to the wider concept of hate crime as most policy makers and legislators agree that what sets a hate crime apart is the message that is sent through the crime. The message of hate is not only communicated through the crime to the victim but also to the targeted communities and the wider society.

A fundamental rights approach to racist crime suggests that these offences violate what is known as the equality norm. Racist crimes therefore call for particular attention from the authorities partly because of the message the perpetrators are sending through their actions.⁵⁰

EU Member States must investigate, prosecute and punish racially motivated crimes appropriately precisely because of the message the crime sends and the implications that go beyond the incident between the victim and the offender. If Member States do not adequately investigate, prosecute and sentence racist crimes they run the risk of creating a sense of impunity, encouraging others to commit similar crimes and providing further reasons for minorities to not trust law enforcement officials and authorities.⁵¹

Human rights standards require states to exercise due diligence to protect everyone against racist crimes. As these crimes are also acts of discrimination, state responses should form part of broader policies aimed at eliminating discrimination and promoting equality.⁵²

4.1 Legislating racist crime

EU legal framework

The EU Framework Decision 2008/913/JHA aims to combat certain forms and expressions of racism and xenophobia through a common EU-wide criminal law. The Framework Decision defines a common criminal-law approach to two types of offences, commonly known as racist and

xenophobic hate speech and hate crime.⁵³ The aim of the Framework Decision is to combat impunity and ensure consistency across EU Member States regarding what constitutes an offence and encourage a common approach to investigating, prosecuting and punishing racist offences.⁵⁴

The Framework Decision requires EU Member States to specifically address racist and xenophobic motivation in their criminal codes or, alternatively, such motivation may be taken into account by the courts in determining the applicable penalties. The Decision sets the bar very low and observers state that it allows for too much diversity at a national level, leaving open options for how law makers within Member States develop their individual criminal codes.⁵⁵ Furthermore, the Decision does not provide an accurate and consistent definition of racist activities and behaviours;⁵⁶ and the transposition of the Decision at a national level has not resulted in the prohibition of all types of racially motivated crime. However, it has encouraged Member States to include racist motivation in their criminal codes which is an important first step.

Case law of the European Court of Human Rights

European Court of Human Rights (ECtHR) case law has reinforced the principle that Member States are obliged to carry out a prompt and effective investigation into the alleged racial motivation associated with a crime.⁵⁷ Under Article 14, the principle of non-discrimination read in conjunction with other articles of the European Convention on Human Rights (ECHR),⁵⁸ Article 2, the right to life and Article 3, the right to be free from inhuman or degrading

50 OSCE, 2009.

51 İtir Tanı Cömert, Emel Hülya Yükseloğlu, İtir Erkan, Mehmet Kostek, Ahme Serkan Emekli, Melek Özlem Kulusayın Ozar. 2014. 'A General Outlook on Hate Crimes in Turkey'. *European Journal of Research on Education*. Available at: <http://iassr.org/rs/020313.pdf>.

52 Amnesty International. 2013. *Amnesty International Submission to the European Commission and the Council of the European Union on the Framework Decision 2008/913/JHA*. Available at: <https://www.amnesty.org/en/documents/IOR52/001/2013/en/>.

53 European Commission. 2014. *Report from the Commission to the European Parliament and the Council on the Implementation of Council Framework Decision 2008/913/JHA on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law*. Available at: http://ec.europa.eu/justice/fundamental-rights/files/com_2014_27_en.pdf.

54 Council Framework Decision 2008/913/JHA of 28 November 2008 on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:328:0055:0058:en:PDF>.

55 European Union Agency for Fundamental Rights. 2012. *Making Hate Crime Visible in the European Union: Acknowledging Victims' Rights*.

56 Fernandez, Claire. 2013. 'Racist violence: What impact for the EU Framework Decision on Racism and Xenophobia?'. *ENARgy webzine*. Available at: <http://www.enargywebzine.eu/spip.php?article305>.

57 In the case of *Angelova and Iliev v. Bulgaria*, the applicants alleged that the state had failed in its obligation to conduct an effective and prompt investigation into the death of a Roma man, and that the lack of legislation for racially motivated murder failed to provide adequate legal protection against such crimes. OSCE, 2014.

58 Article 14 of the European Convention on Human Rights contains the principle of non-discrimination but can only be invoked if another, substantive right under the Convention is in issue.

treatment, the ECtHR has found that Member States have a 'positive obligation' to undertake effective investigations that interfere with those rights and within a reasonable timeframe.⁵⁹ This obligation to investigate also applies where the perpetrator is a law enforcement agent. Overlooking or failing to 'unmask' the bias motivation constitutes a violation of the non-discrimination provision of the ECHR.⁶⁰

Incitement to violence and immediate threats

The large majority of EU Member States have implemented the 2008 EU Framework Decision requirement that makes incitement to violence or hatred punishable by criminal penalties of a maximum of at least between one and three years of imprisonment.⁶¹ The Decision applies to incitement targeting "a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin".⁶² However the prohibited content differs widely depending on the countries. For example, the Decision itself provides possibilities to limit the definition of religion to cases where faith is only a pretext to target a group defined by reference to race, descent or national or ethnic origin.⁶³ More generally, the level of precision of the relevant national provisions on hate speech varies a great deal, both as regards the forms of bias covered, the nature of the sanctions and the practical aspects of the law's enforcement.

Despite these discrepancies, the Decision has ensured that all Member States have prohibitions on speech that constitutes an immediate threat or incitement to violence. In contrast to classic hate speech offences, these prohibitions include both elements of the OSCE definition of a hate crime: regardless of motive, such speech is a basic criminal offence and, when committed with a bias motivation, both elements of hate crime are present.⁶⁴

Online racist crime

The EU defines cybercrime as criminal acts committed online through electronic communication networks or information systems.⁶⁵ Three types of online offences are

identified as: crime specific to internet, online fraud and illegal content online. The overlap between online racist crime and cybercrime falls under the scope of this last category. Online racist crime is an offence based on racial bias motive committed on the internet.

In 2001, the Council of Europe published the Convention of Cybercrime.⁶⁶ The additional protocol,⁶⁷ which was published in 2003, deals specifically with the criminalisation of acts of a racist and xenophobic nature committed through computer systems. It condemns the racist and xenophobic dissemination of material, threats and insults. It also targets the denial, gross minimisation, approval or justification of genocide or crimes against humanity. It is based on the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Online racial abuse, harassment, incitement to violence or immediate threats is one of the most prevalent manifestations of racist and xenophobic attitudes and it is also one of the least researched areas. A crucial dimension of this crime is the incredible capacity of the internet to replicate and disseminate racist messages at high speed.

National legal frameworks

There are various legislative options and choices that Member States can make when drafting laws to combat and prosecute racist crimes. The United Kingdom, used here as an illustrative example, includes the three main legislative provisions in its criminal law: aggravated offences, enhanced sentencing and substantive offences. Firstly, there are a number of pieces of legislation that have introduced specific racial and/or religious aggravated offences, which grant the courts increased powers to punish those perpetrators more harshly. The aggravated offences carry longer maximum sentences than the underlying or 'basic' offences they relate to. Enhanced sentencing, under sections 145-146 of the Criminal Justice Act 2003, can be given if an offence has been committed and the defendant demonstrated, or was motivated by hostility on the grounds of any of the five protected characteristics including race and religion. Lastly, it is a substantive offence to stir up racial hatred under the Public Order Act 1986.⁶⁸

59 OSCE, 2014.

60 European Union Agency for Fundamental Rights. 2012. Making Hate Crime Visible in the European Union: Acknowledging Victims' Rights.

61 European Commission, 2014.

62 Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.

63 OSCE, 2009.

64 OSCE, 2014.

65 See http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/cybercrime/index_en.htm.

66 See <http://conventions.coe.int/Treaty/en/Treaties/Html/185.htm>.

67 See <http://conventions.coe.int/Treaty/en/Treaties/Html/189.htm>.

68 United Kingdom questionnaire response.

Narrow legal frameworks

Several Member States have particularly narrow legislative definitions as to what constitutes a hate crime or a racist crime. If definitions of racist crimes are too narrow, it is more likely that racist crimes are not recorded, investigated or prosecuted in a way that recognises the seriousness of these incidents or provides effective protection for ethnic and religious minorities.

Germany has a narrow legal apparatus that only recognises politically motivated crimes⁶⁹ which takes into account the motivation of the alleged offender based on the victim's "political opinion, nationality, ethnicity, race, skin colour, religion, belief, origin, sexual orientation, disability, appearance or social status". In response to the discovery of the 'National Socialist Underground'⁷⁰ in November 2011, the German government changed its legislative approach to racially motivated crimes and the penal code (§ 46.2.2 StGB) was extended to not only recognise the motives and aims of the perpetrator in deciding on the penalty, but also to take crimes committed with "racist, xenophobic and other anti-human motives" into account in a more severe manner. The new regulation is criticised as victim groups get treated in a selective manner and people with disabilities, religious minorities, lesbians, gays and transsexual people are not included in this law.

Hungary's criminal code extending provisions against hate motivated assaults came into force on 1 July 2013 but there are concerns that the current criminal code does not include clear and express provisions under which the bias motive has to be taken into account as part of the investigation or prosecution of other crimes, including murder.⁷¹

In **Estonia** there were no investigations into the racial bias of crimes and no recorded cases of racist crime in 2013 partly due to the very limited legislation. Although Estonia's Criminal Code contains a substantive offence provision relating to incitement to hatred, violence and

69 Including crimes like hate speech (§130StGB), propaganda offences (§§ 86,86a StGB), creation of a terrorist group treason (§129 StGB) and other crimes that are targeted against the Federal constitution, the security or foreign relations of the country or aim to achieve or block certain political aims, as well as hate crimes.

70 So far the NSU are reported to be responsible for a series of murders of nine immigrants (eight Turks and one Greek) between 9 September 2000 and 6 April 2006; the murder of a policewoman and attempted murder of her colleague; the 2001 and 2004 Cologne bombings; and a series of 14 bank robberies.

71 Council of Europe Commissioner for Human Rights, 2014.

Table 6: Legislation regarding racially motivated crimes

Countries	Racially motivated crimes	Substantive offences	Penalty enhancements/Aggravating circumstance
Austria	Yes	✓ (incitement to hatred and violence)	✓
Bulgaria	Yes	✓ (incitement to hatred and violence)	✓
Croatia	Yes		✓
Cyprus	Yes	✓	✓
Czech Republic	Yes	✓ (incitement to hatred and violence)	✓
Denmark	Yes		✓
Estonia	yes	✓ (incitement to hatred and violence)	✓
Finland	Yes		✓
France	Yes		✓
Germany	*		
Greece	Yes	✓ (incitement to hatred and violence)	✓
Hungary	Yes	✓	
Ireland	**		
Iceland	Yes	✓ (incitement to hatred and violence)	
Italy	Yes		✓
Latvia	Yes	✓ (incitement to hatred and violence)	
Lithuania	Yes	✓ (incitement to hatred and violence)	✓
Luxembourg	Yes	✓ (incitement to hatred and violence)	✓
Malta	Yes	✓ (incitement to hatred and violence)	✓
Netherlands	Yes	✓ (incitement to hatred and violence)	✓
Poland	Yes	✓ (incitement to hatred and violence)	✓
Romania	Yes	✓	✓
Slovakia	Yes	✓ (incitement to hatred)	✓
Spain	Yes	✓ (incitement to hatred and violence)	✓
Sweden	Yes	✓	✓
England and Wales	Yes	✓ (incitement to racial hatred)	✓
Scotland	Yes	✓	✓

* Germany records politically motivated crimes.

** The information for Ireland remained inconsistent and so has not been included here.

Source: ENAR questionnaire responses

discrimination,⁷² it requires severe damage made to life, health or property of the victim in order to be prosecuted, which is a very high threshold. Estonia has no legislation regarding enhanced penalties or aggravating factors for racist crimes. In its 2010 report, ECRI highlighted its concerns regarding the use of loopholes for the registration of racially motivated crimes.⁷³

In **Greece**, the anti-racism bill, which foresees tougher penalties for hate speech and incitement to violence, was adopted by the Greek Parliament in September 2014. Greece amended its Criminal Code so that committing an act with a racist motivation now constitutes an aggravating circumstance, and the sentence for such a crime cannot be suspended.⁷⁴ However activists have criticised the limited focus of the law and its failure to mention issues such as improving victim reporting and police procedures.⁷⁵

4.2 Investigation of racist crimes by the police

Member States are obliged by EU law to carry out a thorough and timely investigation of racist crimes and ensure that the perpetrators of racist crimes are brought to justice. It is crucial that the police take complaints of racist crimes seriously and ensure that they collect and uncover any evidence relating to racist crimes. If the evidence is not gathered appropriately during the investigation it can have a detrimental impact on the outcome of court cases.

Civil society organisations report that in the majority of Member States the bias motivation is not adequately or systematically investigated. ENAR questionnaire respondents in the **Czech Republic and Italy** estimate that 40-60% of reported racist crimes are not fully investigated.⁷⁶ One reason given for the failure of the police to investigate the racial element of these crimes is inadequate police training. Police should be trained to

72 OSCE/ODIHR. *Hate Crime Reporting: Estonia*. Available at: <http://hate-crime.osce.org/estonia?year=2010>.

73 European Commission Against Racism and Intolerance. 2010. *Report on Estonia - Fourth Monitoring Cycle*. Available at: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Estonia/EST-CbC-IV-2010-003-ENG.pdf>.

74 European Union Agency for Fundamental Rights. 2014. *Fundamental Rights: Challenges and Achievements in 2013*.

75 Minority Rights Group International, 2014.

76 The questionnaire respondents are experts in anti-racism and based their estimations on their experience in this area.

List of indicators of racist crimes (non-exhaustive)

- › The conduct of the offender
- › The characteristics of the victim and the perpetrator
- › The type of property targeted
- › Organised hate group involved
- › When and where did the incident happen
- › Previous hate crimes or incidents

identify specific indicators⁷⁷ of racist crimes, such as the use of racist language, links between the perpetrator(s) and far-right parties or the lack of any other motive for the crime.

Questionnaire respondents state that even when witnesses and victims report the use of racist words at the time of the crime, the police do not necessarily investigate the potential racist element of the crime. There are examples of such cases in **Bulgaria, Cyprus, Denmark, Estonia, France, Greece, Germany, Luxembourg, Iceland, Italy and the Netherlands** where the police failed to 'unmask' the racist bias of crimes even when racist language had been used at the time of the crime. It is also reported that the police can be reluctant to gather evidence of racial bias if they do not believe it will be used by the prosecution (see Section 4.3 Racist crimes and the judiciary).

Training

Police training or understanding of the language of racist crime and in particular anti-Muslim hatred is limited. The UK police do receive training on investigating racist crimes, however they still need more understanding on how to tackle anti-religious hatred and their investigations may miss out one vital component. Evidence from the organisation Tell MAMA shows that anti-Muslim and other forms of racist rhetoric is, on many occasions, mixed together. There is evidence that UK front-line police officers in contact with victims of anti-Muslim hate crime classify these cases as racist and not Islamophobic and do not fully unmask the bias motivation of the hate crime.⁷⁸

77 See full details on indicators here: <http://www.osce.org/odihhr/39821?download=true>.

78 Minority Rights Group International, 2014.

Figure 4 shows that the police are most likely to receive some kind of training on dealing with racist crimes. However there are other factors that result in a reluctance by the police to fully investigate the racist elements of crimes. In response to our questions in this area NGOs in the **Czech Republic, France, Finland and Hungary** all report the difficulty of successfully investigating and prosecuting racist crimes as a reason for not investigating these crimes. In Finland, following a report of a racist assault on an African man the police's advice was: "I have been on the force for 35 years and my advice is to walk away... It's not worth (reporting the crime) because we'll never catch the person".

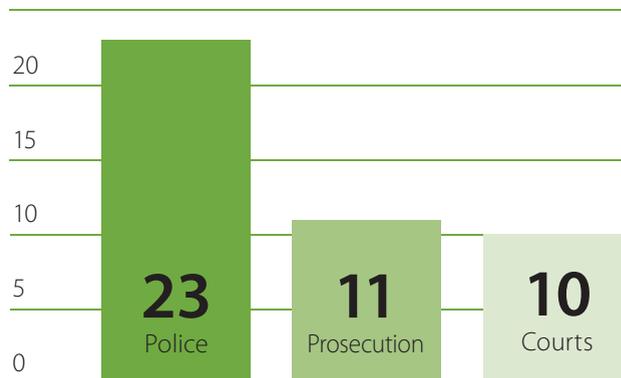
Under-qualification of racially motivated crimes

Under-qualification of racist acts occurs in many countries including **Austria, Bulgaria, Cyprus, Estonia, France and Germany**. Under-qualification refers to the prosecution of a crime motivated by hate as a less severe crime or as a crime committed without a bias motive, for example, murder and not racist murder.⁷⁹ The **Greek** police do not systematically record the racist bias especially if the crime involves mixed motives or has more than one element to the crime such as racist verbal abuse and theft. The example below demonstrates how the police fail to record and investigate the racist element of the crime.

A Nigerian migrant residing in Greece for the last 22 years was attacked by a group of three people in Attica Square on 16 May 2013. A squad car happened to be close to the incident at that time and two of the perpetrators (17-year-old minors) were arrested immediately, while the third person managed to escape. Golden Dawn leaflets and other Nazi symbols were found in their possession. The victim accused them of racist crime at the police station. However, the police officer documenting the complaint considered this criminal act only as a robbery since the minors also stole 300 euros.

Another example of under-qualification was provided by **France**, where police refused to take into account the bias motivated nature of the offence.

Figure 4: Number of countries where criminal justice and law enforcement officials receive training on racist crimes



Source: ENAR questionnaire responses

A married Muslim couple were attacked by a person on public transport. This attack was accompanied by Islamophobic verbal assault including: "You are devils", "I will shave your beard", "We are in a jihad territory". Despite requests, the aggravating sentencing clause on religious bias was rejected. This complaint led to a sentence that did not take into account the bias motivated element of the crime.

In some Member States under-qualification of racist crimes can occur because the police are unwilling to record and investigate the racist elements; in other countries the legal framework encourages under-qualification. If the law foresees that a racial bias is an aggravated circumstance only, the police are less likely to investigate the racial bias, because they are often less concerned about circumstances that would impact on sentencing only.⁸⁰ In **Germany**, it is up to the individual policeman to judge if a crime has been racially motivated. In practice however, as racially motivated crimes are seen through the lens of politically motivated crimes and right-wing extremism, racist crimes may not be recorded or investigated as such.⁸¹ The problematic way of conceptualising racist violence as right-wing extremism is illustrated by the Islamophobic murder of Marwa El-Sherbini in 2009.⁸² The

79 Council of Europe Commissioner for Human Rights, 2014.

80 See FRA Opinion – 2/2013 – on the Framework Decision on Racism and Xenophobia with Special Attention to the Rights of Victims of Crime.

81 Human Rights Watch. 2011. *The State Response to "Hate Crimes" in Germany – A Human Rights Watch Briefing Paper*. Available at: <http://www.hrw.org/news/2011/12/09/state-response-hate-crimes-germany>.

82 Institut für Migrations- und Rassismusforschung. 2011. *ENAR Shadow Report 2009-2010: Racism and Discrimination in Germany*. Brussels: European Network Against Racism. Available at: <http://www.enar-eu.org/IMG/pdf/germany-3.pdf>.

perpetrator, Alex W. was indicted for murder and attempted murder. He admitted to the crime but denied that it was bias motivated. As he was not linked to a political group, the bias motivation was not taken into account by the judge.

Quality of investigations

Many questionnaire respondents stated that if a racist crime is reported as such then it is likely to be investigated as a racist crime because the police have a duty to investigate these crimes. However, the standard of these investigations may not be very high. Bias motivated violence and intimidation reported to the police is often not taken very seriously and the police frequently fail to take basic investigative steps. In **Cyprus, Germany and Hungary**, there are examples of the police actively discouraging victims of racist crime from pursuing their complaints and seeking justice. The Bulgarian Helsinki Committee has stated that there is a huge issue with crimes against ethnic minorities that are not adequately investigated, including murder of Roma.⁸³ It is reported that the Greek police have failed to take preventive action or respond adequately to reports of xenophobic attacks, have discouraged victims from filing official complaints, and have threatened undocumented migrants with

detention if they persist in seeking justice. Perpetrators are rarely arrested or prosecuted; to date there has been only one known conviction of racially aggravated crime under a 2008 law provision.⁸⁴

Victims of hate crime and victim support groups have reported cases in which the police focused their questions on the victim at the crime scene rather than the alleged perpetrator, all of which undermine confidence in the police. **Cyprus, Denmark, Estonia and Germany** all report cases of victims being treated as perpetrators.

A young person of foreign origin was in a MacDonald's on 8 September 2013 at the Central Station in Copenhagen, Denmark, with his friend when they were attacked without provocation by a 'native' Dane, who also made racist remarks. After a struggle the guard at the station and the young person who was attacked held back the attacker and waited until the Copenhagen police arrived. After the primary investigation of the incident, the police decided to hand him a fine of DKK 3000.00 for disorderly conduct even though he was in fact the victim of a hate crime.

Although the police may record and investigate racist crimes they do not always treat victims with respect and dignity during the investigation. In the **United Kingdom**, the police are likely to take a complaint of a racist crime seriously, however the Crime Survey for England and Wales does show a lower rate of satisfaction by victims of hate crime with police treating them fairly or with respect, than all crime victims (59% of hate crime victims felt fairly treated compared with 80% of all victims, and 76% of hate crime victims felt treated with respect compared with 88% of all victims).⁸⁵

84 Platform for International Cooperation on Undocumented Migrants. 2014. *Recommendations to the European Union to Urgently Address Criminalisation and Violence Against Migrants in Greece*. Available at: http://picum.org/uploads/publication/Recommendations%20to%20address%20criminalisation%20and%20violence%20against%20migrants%20in%20Greece_Reprint%20May%202014_2.pdf.

85 Home Office, Office for National Statistics and Ministry of Justice. 2013. *An Overview of Hate Crime in England and Wales*. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266358/hate-crime-2013.pdf.

Good practice in Sweden

The Pan African Movement for Justice initiated a pilot project in which they work closely with the hate crimes unit of the police in Malmö in order to foster better understanding between the Afro-Swedish community and the local police. They have had several meetings where they discussed the community's perception of the police and their treatment of the community, but also how to develop a better understanding of how the police work. Within a short period the project has opened up possibilities for members of the community to have a direct dialogue with the police and has increased the competence of the police on racially motivated crimes and Afrophobia. This 'partnership' also enables the Pan African Movement for Justice to directly contact the hate crimes unit and inform them of any reported racially motivated crimes in order to help facilitate the investigation process.

83 Minority Rights Group International, 2014.

Netherlands

Dutch criminal law does not include racial motivation as such as a separate aggravating factor to a general crime. The motive is seen as an integral element of all definitions. The Public Prosecution's service has issued detailed instructions stating that prosecutors must request that the sentence be increased by 50% to 100% in case of racist motivation or discrimination. ECRI reports that these instructions have not been complied with.

Institutional racism and racist violence perpetrated by law enforcement officials

Entrenched prejudice against ethnic and religious minorities is a significant factor that inhibits effective investigations.⁸⁶ Several Member States also reported that the police perpetrate racist crimes.

Greece set up an office for arbitrary incidents within the Greek police to investigate cases of abuse of powers by the police. However, this office has not started its work yet. ECRI's delegation was informed by the authorities that in 2013, 109 complaints of racist acts committed by police officers were lodged. While it is a positive step that such a body has been created, it is unfortunate that it is not fully independent, but remains part of the police force.

Three murders of Roma by police were reported in 2013 as well as police violence in detention centres in **Bulgaria** where foreign detainees were beaten.

In Moldava nad Bodvou, in **Slovakia**, several Roma suffered injuries after the police arrested 15 of them during an intervention in a camp. Policemen stated that they did not enter people's houses, however because of the aggression of citizens they had to use coercive measures. Some citizens are convinced that it was a revenge for an incident from a previous weekend, when Roma attacked police forces and broke windows on police cars. A prosecution

of suspected offences of abuse of authority, assault and violation of the right to privacy was launched.

In **Cyprus**, a refugee from Ivory Coast was injured by the police while they were asking for his identification papers, which he did not have. He was pushed and his leg was broken.

Law enforcement officials working with NGOs

NGOs can have a positive impact on the investigation of racist crimes. In **Bulgaria, the Czech Republic, Hungary and Sweden**, there are examples of how NGOs have supported victims to lodge a complaint or have put pressure on the police to investigate the complaint as a racist crime. For example, following a racist attack in **Bulgaria** in September 2013, the victim continues to receive hospital treatment for his injuries. The victim had still not reported the attack to the police because he is unfamiliar with the Bulgarian legislation and does not know the language. With the support of an NGO, this incident has now been raised with the Deputy Director of Sofia Directorate of Internal Affairs Ministry who have started an investigation of the case as a hate crime. In **Lithuania**, NGOs cooperate with the police by providing additional data on committed criminal offences, during the pre-trial investigation process, and by giving evidence as witnesses. Police and NGOs also cooperate closely before major but sensitive human rights events such as the Baltic Pride.

4.3 Racist crimes and the judiciary

There are very limited data regarding prosecution and judgements of crimes with a racial bias. It is very difficult to estimate the number of cases where the prosecution filed charges that specify a racist bias or where the court had provided sentences that recognised the racial motivation. As the FRA has reported, the prosecution service and the courts often record the number of persons against whom proceedings have been concluded without reference to the number of cases or to the nature of the criminal offences.⁸⁷

⁸⁶ Amnesty International. 2015. *Missing the Point – Lack of Adequate Investigation of Hate Crimes in Bulgaria*. Available at: http://www.amnesty.eu/content/assets/Reports/Missing_the_point_-_FINAL_version_EN_for_print.pdf.

⁸⁷ European Union Agency for Fundamental Rights. 2012. *Making Hate Crime Visible in the European Union: Acknowledging Victims' Rights*.

The prosecution

The likelihood that the prosecution will take forward racist crimes relies heavily on the quality of the police investigation. The two are inextricably linked. Our research shows that in most EU Member States the racial bias or motivation is investigated by the police at a higher rate than they are prosecuted so there will be cases that the prosecution decides not to pursue because of lack of evidence. However, it is for the prosecutor to determine if the racial elements of the crime should be taken into consideration and if any additional evidence is needed to prove the elements of the crime and the bias motivation.⁸⁸

France, Germany, Hungary and Latvia have reported that the failures to implement the law through the judiciary system will continue due to a lack of appropriate police expertise and procedures in the investigation and prosecution of these crimes.⁸⁹

It is reported in **Hungary** that prosecutors are reluctant to pursue prosecutions for the racial element because they see these crimes as difficult to prosecute, often due to the lack of evidence, and they do not want to bring down their prosecution success rates. Across the EU there is a strong perception within the prosecution profession that the racial element or bias motivations of crimes are difficult to prove. Member States with aggravating circumstances laws relating to racist crimes provide the prosecution with an option to legitimately drop the racial element of the case if they feel there is more chance of getting a conviction without it. Offenders can also plead guilty to the base offence in order to avoid being found guilty of racially motivated crimes which often carry harsher sentences.⁹⁰ This leads to 'under-qualification' of these racist crimes and is in itself problematic for data collection. For racist crimes that carry a substantive offence the prosecution may simply not pursue the case at all if the evidence is not strong enough. The OSCE have said the reluctance to prosecute racist crimes could be remedied by better training for prosecution personnel.

In **Germany**, it was also reported that the "federal and state authorities do not publish statistics that would allow an analysis of the proportion of reported hate crimes

resulting in successful prosecutions, the level of sentences handed down in such cases, or the proportion of those successful prosecutions in which hate motivation is taken into account in sentencing as aggravated circumstances".⁹¹

Crimes that target individuals, not because of their race, ethnicity or religion but because of their association with someone from an ethnic minority group, are still recognised as hate crimes by the OSCE.⁹² However, there are reports that this is not always taken into account by the judiciary. In **Croatia**, a racist crime went unprosecuted due to the victim not belonging to an ethnic minority. The case followed an incident in Zagreb on 6 September 2013, where a Roma man and his extramarital partner were physically and verbally assaulted by an unknown person. Both victims filed a criminal complaint against the attackers. The State Attorney's Office in Zagreb filed an ex officio indictment for the criminal hate crime act against the Roma man but filed no charges in the case of his extramarital partner because she is a non-Roma and this could not be prosecuted as a hate crime.

Cyprus

There is no evidence of the number of racially motivated crimes prosecuted, of offenders sentenced, of victims awarded compensation or of cases resolved outside of the Court as there are no official data available. In fact, there is no known conviction, where the court took into account a racial or xenophobic bias during sentencing.

Prosecuting ethnic minorities using hate crime provisions

It is reported that in **Hungary and Slovakia**, hate crime provisions are being used, without real justification, to prosecute ethnic minorities. Members of the Roma community in Hungary violently reacted to an extremist group 'patrolling' a Roma neighbourhood during a period when serious racially motivated attacks against Roma were taking place across the country. The actions of the Roma community were classified as motivated by a bias against 'members of the Hungarian community'. Following a visit to Hungary, Nils Muižnieks, Council of

88 OSCE, 2014

89 Minority Rights Group International, 2014.

90 OSCE, 2009.

91 Human Rights Watch, 2011.

92 OSCE, 2014.

Europe Commissioner for Human Rights, stated that he shares the concerns expressed by civil society about double standards whereby Roma are not sufficiently protected against hate crimes committed against them by members of extremist groups and are disproportionately sanctioned instead for offences committed in reaction to these attacks.⁹³

The courts

Courts rendering judgments should address the bias motivations publicly; making it clear that these crimes lead to harsher sentences.⁹⁴ The courts have an important function not only to determine cases, but also to raise awareness of racist crimes through their judgments. Addressing the bias motivations and awarding stiffer sentences to perpetrators of these crimes sends an important and clear

message that racist crimes are not to be tolerated.⁹⁵ The courts' consideration of the racial bias sends a message to the victims and those vulnerable to racist crimes that their rights will be effectively protected. The message that these cases will be taken seriously is also sent to the police and the prosecution. If the prosecution has not called for the racial bias or motivation to be taken into account during sentencing, for perhaps the reasons stated above, then it is unlikely that the courts will then make a judgement which acknowledges the racial motivation or bias. In **Germany**, the bias motivation for a hate crime needs to be recorded by the police and public prosecution beforehand in order to be taken into account in court.

Greek legislation has allowed for judges to impose the maximum penalties for perpetrators of racist crimes,

Case in focus: Sweden

On 26 September 2013, a 36-year-old man of African descent, Yusupha Sallah, was brutally attacked by 10 assailants in a suburb of the city of Malmö. He and his one-year-old son were on their way to the nearby playground when they met four women and a teenage boy walking towards them on a pedestrian bridge. Unprovoked the teenage boy kicked Yusupha's son's toy. Yusupha confronted the boy by asking why he had to kick the toy and if that was necessary. This according to Yusupha triggered a series of insults, threats and racist comments such as "you fucking N...er, we will kill you and your son if you do not go away". The insults turned to physical assaults by the four women and the teenage boy. Within a short space of time after the physical assault started, six other grown men joined the assault rendering the victim helpless and in a fatal position. There were countless punches, grabbing and kicking of the victim's entire body. He was then lifted up and thrown off a bridge four meters high and with traffic below. However, he managed to hang on and not fall off the bridge.

Eventually the police came to his rescue and he was transported to hospital for medical care. The case was classified as a hate crime and aggravated assault by the police but later changed by the prosecutor as only aggravated assault and not a hate crime because of the lack of witnesses and evidence of hate crime motives. According to the police records there were close to 100 witnesses when they arrived at the crime scene but none of them had seen or heard anything (out of fear). It took more than six months before a witness decided to contact the police and pointed out one assailant as a suspect. This suspect, a 21-year-old man, was taken to court and found guilty of aggravated assault and sentenced to two years in jail. This sentence was appealed and the sentence was upheld by the appeals court as well.

93 Council of Europe Commissioner for Human Rights, 2014.

94 European Union Agency for Fundamental Rights, 2012.

95 European Union Agency for Fundamental Rights. *Hate Crime in the European Union*. Available at: http://fra.europa.eu/sites/default/files/fra-factsheet_hatecrime_en_final_0.pdf.

however it took five years for this power to be used. It was only in November 2013 that two alleged members of Golden Dawn were sentenced by an Athens court to three years and five months in prison for firebombing a Tanzanian man's store.⁹⁶

In **Austria**, a case of incitement to hatred and violence was brought before the courts regarding a conversation between four young adults on Facebook. The conversation was about migrants. The comments exchanged throughout the conversation concerned 'foreigners' but especially people of Turkish origin. Anti-Semitic and neo-Nazi phrases were also used during the conversation. In front of the judge they stated that they were just joking and sharing something they had heard in public, however they were convicted to 60-80 hours of social work, which three of the four accused accepted. The fourth was also handed a fine of 480 Euros. He refused to pay this amount and his defender appealed against the judgement. The Higher Regional Court of Innsbruck acquitted him with the justification that he typed a smiling face [;)] after his 'joke', which "signalled" that his words were not to be taken seriously. The judgement of this case sends the wrong message, trivialises online racism and legitimises racism if it is done as a 'joke'. Civil society organisations in Austria report that many cases of online abuse are directed at Muslims, especially people of Turkish origin. The insults are not limited to the internet; they also take place in public.

Some Member States are responding to racially motivated online incitement to violence, abuse and harassment with significant court judgements and sentences. In 2013 the Court of First instance in Paris, **France**, held that Twitter should provide information to the plaintiffs enabling them to identify the authors of tweets posted under anti-Semitic hashtags. The Court's judgement also required Twitter to make available a system on its French platform which enables users to report content that falls under the category of crimes against humanity and incitement to racial hatred. Guidance for investigators and prosecutors is also being produced. Prosecutors in **Belgium** and the **United Kingdom** can call upon specific guidelines relating to how to prosecute online content of a racist nature. The guidance provided by

the Crown Prosecution states that the first stage of prosecution requires sufficient evidence.⁹⁷

OSCE/ODIHR data shows there has been an increase in the number of hate crimes prosecuted in **Bulgaria, Croatia, Poland and the United Kingdom** over the last five years but there are very few countries where the outcomes of the prosecution of racially motivated crimes have been consistently recorded. The United Kingdom has detailed information on the percentage of total proceedings that have racial aggravation, which shows that prosecution figures have increased nearly every year for the past 10 years. These figures are consistently increasing, which suggests that a rising number of racist crimes are occurring and being prosecuted.

Czech Republic

The Czech Republic is one Member State that systematically collects data regarding the judgements and sentencing of racially motivated crimes. In 2013, the courts in the Czech Republic sentenced 71 individuals convicted of 75 criminal offenses with a racial bias. This number represents only 0.1% of the total amount of convicted individuals of that year.

Reports of positive developments regarding EU Member States' response to racist crime

» In **Finland**, the National Police Board has established a group called "Cooperation and Dialogue Forum of Police and Ethnic Communities" (Poliisin ja etnisten yhteisöjen yhteistyöfoorum). It consists of representatives of the largest ethnic minority groups in Finland and some NGOs. The aim is to promote dialogue between the police and ethnic minorities and discuss issues of concern. A dedicated police officer is responsible for issues concerning hate crimes, xenophobia and intolerance and has direct and regular contacts with representatives of ethnic minority communities and NGOs.

96 Minority Rights Group International, 2014.

97 European Union Agency for Fundamental Rights. 2014. Fundamental Rights: Challenges and Achievements in 2013.

- } In **Northern Ireland**, the DVD “Racism ruins lives” is used to tackle the issue of racist crime. It was produced in partnership by Craigavon police, Craigavon Community Safety Partnership, the District Policing Partnership and Craigavon Borough Council. It helps police officers and professionals in community safety and youth services, by educating and informing young people and community groups in an effective manner about hate crime.⁹⁸
- } In the **United Kingdom**, an online platform was set up in order to allow victims to report racist crimes. This is a free, independent and confidential service which is available for victims of hate crime who want to access support, or who want to report an incident but do not want to go directly to the police. Stop Hate UK is a national charity and provides the service in different areas of the UK. Information about hate crime and how to report it is available in over 40 languages. Victims can report online at www.stophateuk.org, by SMS, email and web-chat, as well as via a 24-hour telephone helpline.
- } In **Spain**, a prosecutor’s office was set up in each of the 50 provinces to investigate offences with a discriminatory or racist motivation. The activities of these offices are coordinated by a national delegate appointed by the state’s general attorney.⁹⁹ Spain has
- } trained almost 200,000 law enforcement professionals to better record racist crimes and the country now has special prosecutors that are equipped to deal with these types of cases.
- } In **France**, the organisation Stop le Contrôle au Faciès, which is campaigning against police racial profiling, works closely with the Rights Defender (Défenseur des Droits) in order to provide them cases of police profiling victims. The Rights Defender is a State institution in charge of tackling discrimination and ensuring citizens’ equality before the law. This cooperation led the organisation to advise it on how to improve their alerts website interface, especially for police profiling victims.
- } In **Germany**, while there are still concerns regarding police performance in responding to racist attacks, there have been some improvements. In some security forces there are dedicated community liaison officers. In Berlin and parts of Saxony and Brandenburg, there are designated officers (known as ‘state security officers’) in the state police office for criminal investigations with specific responsibility for politically motivated crimes.
- } In **Slovakia**, the diversity of the police force is improving. There are at least two Roma women working on hate crime and one Roma person in the department investigating criminal cases.

98 For more information, see http://www.psnipolice.uk/cc_annual_report_2008.pdf

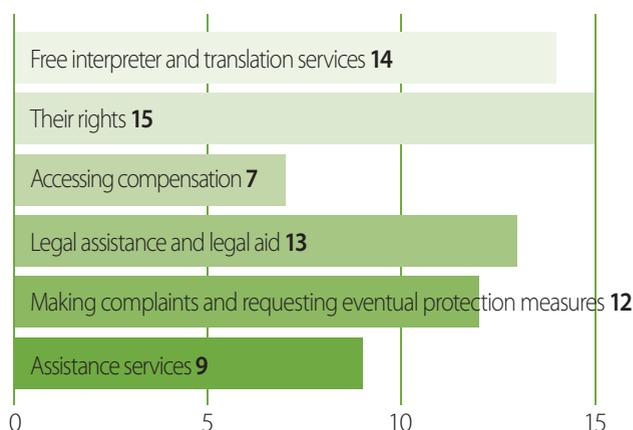
99 For more information, see http://fra.europa.eu/sites/default/files/annual-report-2013-chapter-6_en.pdf.

5. VICTIM SUPPORT AND REPORTING OF RACIST CRIMES

Victims of racist crime often have specific psychological needs because they are targeted on the basis of their real or perceived ethnicity or race. Once targeted in this way, victims may feel vulnerable to repeat attacks and suffer from not only psychological but also physical consequences. Victims of these crimes need specialist support services at the time of the crime and a victim centred approach is crucial to identifying their specific needs.

How victims perceive they will be treated by authorities will inform their decision on whether to come forward and report these crimes. The following section discusses victim support and the reasons for not reporting racist crimes to illustrate the particular difficulties that may be encountered and the areas that the authorities could improve to better support victims.

Figure 5: How many countries provide victims with information about:



Source: ENAR questionnaire responses

The quality of the victim support provided by countries can be assessed by reviewing the different services available. Only five countries¹⁰¹ provide victims with simple and accessible information on the victim support services included in **Figure 5**. For example, in **France**, victims do not have access to the information in a simple and accessible language.

In most countries, information is only available in the national language and, when translated, may not be complete. For instance, in **Austria**, the homepage of the civilian service, which provides victims with some information, is accessible in German and in English. However, the two versions are not identical and the English one has less content.

The EU Victims Directive¹⁰² was adopted in 2012 to reinforce existing national and EU measures on victims' rights. It establishes minimum standards on the rights, support and protection of victims of crime, including victims of hate crime. This Directive is a crucial piece of legislation with detailed provisions on the rights of victims. As these rights are not part of the Framework Decision on Racism and Xenophobia, it is important that Member States implement the two instruments jointly. EU Member States must transpose the provisions of this Directive into their national laws by 16 November 2015.

101 Estonia, Finland, the Netherlands, Romania and the United Kingdom.

102 Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=EN>.

Good practice in the United Kingdom: Trackmycrime

A new tool developed by the Ministry of Justice of the United Kingdom is now available for victims of crimes. The online service, called Trackmycrime, will allow victims to follow the steps of investigation and to exchange with the officer in charge of their case. This tool is developed to help people having more control over their complaint and navigating through the criminal justice system. It will still be possible to meet in person with the investigation officer.

5.1 Victim support

A number of actors, including the state and NGOs, are involved in victim support. The services available are often wide ranging such as legal aid, victim protection, health or psychological counselling. Provisions for victim support are partly enshrined in law but they also include 'soft laws' that encompass police and court policies and practices that are not legally binding but still support victims. The FRA has identified that most EU countries have insufficiently developed support services for victims of hate crimes. Only six EU countries, Germany, Denmark, France, Hungary, the Netherlands and the United Kingdom, have specific support services for these victims.¹⁰⁰

100 European Union Agency for Fundamental Rights. 2014. *Victims of Crime in the EU: The Extent and Nature of Support for Victims*. Available at: http://fra.europa.eu/sites/default/files/fra-2015-victims-crime-eu-support_en_0.pdf.

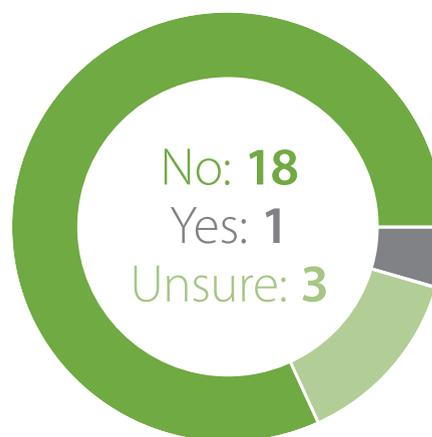
Under Article 22 of the Directive, victims should be assessed individually in the light of their personal characteristics and the nature and circumstances of the crime committed against them and they should get specialist support services such as legal advice.¹⁰³ As **Figure 6** shows, most countries do not currently carry out an individual assessment of the victims of racially motivated crimes. The **United Kingdom** is the only country identified as carrying out an individual victim's assessment. The UK Code of Practice for Victims of Crime entitles all crime victims to a needs assessment, carried out by police, to ascertain the support the victim requires. The assessment takes into account the victim's personal characteristics, the nature and circumstances of the crime and the victim's views. Enhanced entitlements to protection, such as keeping victims' details private, protection against threats or harassment, are available to all victims of hate crime.¹⁰⁴

5.2 Non-reporting of racist crimes

A large proportion of racist crimes go unreported every year. It is estimated that up to 86% of racist crimes went unreported in 2013 in the United Kingdom.¹⁰⁵ This figure is significantly high given that the United Kingdom has well developed reporting mechanisms and public campaigns delivered to promote awareness of racist crimes and victims' rights. All EU countries will encounter under-reporting of racist crimes to some degree, however there is no official EU-wide estimate of this figure.

There are some known explanations for non-reporting of racist crimes. **Figure 7** shows civil society organisations' assessments of the common reasons given by victims for not reporting racist crimes. Lack of trust in the police and a lack of confidence that their case will result in any real impact are the most commonly reported reasons. A lack of awareness of victims' rights is also identified as a factor in non-reporting. Awareness of victims' rights is understandably low for certain groups. If they are asylum seekers, refugees or migrants it is likely that they have a limited understanding of victims' rights and legal processes

Figure 6: Countries that carry out individual assessment of victims to identify specific protection needs



Source: ENAR questionnaire responses

of their host community. Some civil society organisations reported that professionals working with victims also have a lack of awareness of victims' rights and in some cases disregard these rights and the proper legal process.

Apart from the most common reasons for non-reporting outlined in Figure 7, other factors were identified by civil society organisations. The Lithuanian Centre for Human Rights (LCHR) has evidence that suggests victims do not want to waste time reporting crimes that may be seen as insignificant. Victims of racist crime do make judgements on the nature of the crime and whether it will be a case worth pursuing. Verbal racist abuse or harassment can be difficult to prove. If there is a general lack of evidence or no witnesses, victims of these types of crimes may decide not to report them.

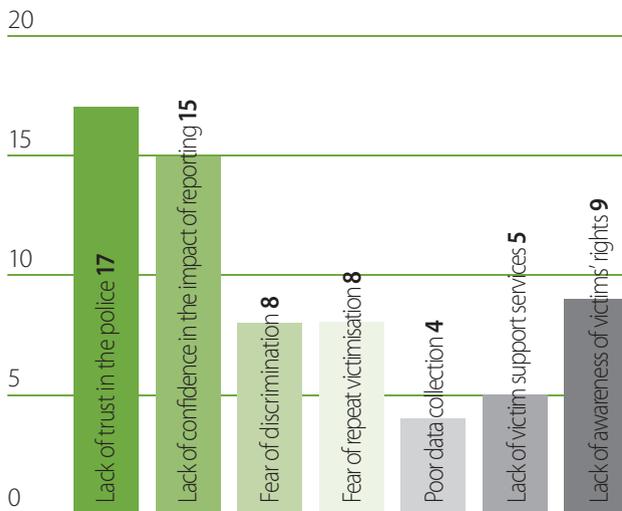
This is only reinforced by the fact that victims feel an immense sense of shame and vulnerability and if they believe the police will not take their report seriously or treat them with due care and respect then it is unlikely victims will report these crimes. As highlighted in **Sweden**, one of the reasons for not reporting these crimes is that the victim lacks the possibility to define the nature of the crime as a racist crime. In **Austria**, the lenient penalties and sentences given to perpetrators of racist crimes not only reduces any confidence that reporting the crime will have an impact but also makes the victim fearful of repeat or secondary victimisation by the perpetrator or retaliation in some way.

¹⁰³ Ibid.

¹⁰⁴ Ministry of Justice. 2013. *Code of Practice for Victims of Crime*. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254459/code-of-practice-victims-of-crime.pdf.

¹⁰⁵ United Kingdom questionnaire response.

Figure 7: Reasons for not reporting racist crimes



Source: ENAR questionnaire responses

In many EU countries, Roma are identified as the least likely to report racist crimes specifically because they do not trust the police. There is a long history of police abuse, mistreatment and violence targeted at Roma communities. There have been recent incidents of police abuse of this group in Slovakia for example, which further reinforces a lack of trust in the police.

In **Germany, Greece, Ireland and Latvia**, asylum seekers, migrants, refugees and students are the groups cited as most reluctant to report crimes for fear of deportation or unfair treatment because of their migration status. In 2013, civil society organisations in **Greece** reported that people without legal residence permits were known to be automatically detained upon their arrival at the police station, and issued with detention and deportation orders. The EU Victims' Directive states that "Member States should take the necessary measures to ensure that the rights set out in this Directive are not made conditional on the victim's residence status in their territory or on the victim's citizenship or nationality".¹⁰⁶ This means that regardless of residence status, victims of racist crimes are entitled to "receive appropriate information, support and protection and are able to participate in criminal proceedings".¹⁰⁷

¹⁰⁶ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012.

¹⁰⁷ Ibid.

Legal aid can include free legal advice and representation in court. In some EU countries legal aid is restricted to EU nationals only. This may further discourage asylum seekers, migrants and refugees to pursue justice as they are unable to access free legal support. The Victims' Directive does not raise EU Member State obligations to provide legal aid and the Directive guidance states: "Member States may define the conditions and procedures for ensuring victims' access to legal aid".¹⁰⁸

Roma reluctant to report racist crimes

"Information provided by the Ombudsman's Office shows that Roma do not report racially motivated crimes due to lack of trust in the police." **Latvia**

"Roma are reluctant to disclose their ethnicity when reporting crimes." **Czech Republic**

"Roma said they face discrimination from the police when reporting a racist crime, one reported being arrested; others were asked to present their documents to the police officers." **Lithuania**

A **UK** government report stated that "all the available research and testimonies from voluntary organisations suggests that hate crime is hugely under-reported". The report goes on to say that under-reporting is a significant issue among new migrant communities, including asylum and refugee communities, and Gypsy, Traveller and Roma communities.

¹⁰⁸ European Commission. 2013. *DG Justice Guidance Document Related to the Transposition and Implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime, and Replacing Council Framework Decision 2001/220/JHA*. Available at: http://ec.europa.eu/justice/criminal/files/victims/guidance_victims_rights_directive_en.pdf.

6. CONCLUSIONS

All human beings are entitled to feel safe and free from harm in the European Union. Human rights laws and standards place a positive obligation on EU Member States to take the necessary measures to prevent private persons or entities from committing acts that impair the enjoyment of the human rights of others. But as this report shows, racially motivated crimes do take place in all EU countries. These crimes impact not only on the victims, and the minority communities targeted, but the whole society.

EU-wide research has shown that visible minorities are the main victims of racially motivated crimes. Civil society organisations, responding to the ENAR questionnaire, echoed these findings for 2013. Muslim women, people of African descent/Black Europeans and Roma are reported to be most at risk of racially motivated crimes.

The legal definition of what constitutes a racially motivated crime varies significantly across Member States but the most prevalent reported crimes in 2013 fell into three main categories of crime: physical assault, incitement to violence/threats and vandalism. Some minority groups are targeted more through certain types of crimes and there appears to be a growing number of anti-Semitic and Islamophobic crimes that take place online rather than in the physical world.

Civil society organisations have reported rising levels of racist crimes across the EU. However the picture is unclear and uneven as each EU country collects different types of data relating to racially motivated crimes. In some countries there is no official or systematic data collection of crimes with a racial bias. In others, information on the ethnic or religious background of the victims is recorded but it is not always disaggregated or published. Therefore the figures and numbers included in this report are only the tip of the iceberg.

As highlighted throughout this report, data collection of racist crimes varies and even the countries with more comprehensive data collection mechanisms could improve. What is needed for a clear picture of the crimes and the state's response to emerge is systematic recording of the racial bias and motivation of crimes by the police and tracking of these elements throughout the judicial system. Comprehensive data collection is key to understanding the patterns of racist crimes and therefore developing relevant

policies to combat them. EU institutions would also be better able to monitor Member States' implementation of their obligations under EU law and international standards.

Victimisation surveys and data collected by civil society organisations can be important tools for better understanding the patterns of racist crime as victims do not always report the crimes to the police. NGOs fill an important gap in the data collection and in some EU countries can be the only data publicly available. A multidimensional approach to recording and reporting on racially motivated crimes is the only way to ensure that all victims of racially motivated crimes are revealed.

Case law of the European Court of Human Rights has made clear that Member States must recognise and give additional weight to racially motivated crimes so that investigators and prosecutors take all reasonable steps to collect evidence of motive and bring offenders to justice. The findings included in this report highlight that the investigation and prosecution of racist crimes often fall short of European standards. What is perhaps most concerning is that even though many Member States have some form of relevant legislation in place, guidance has been written and training, albeit basic, has been provided, racially motivated crimes still go unrecorded, un-investigated and under-prosecuted.

Many improvements can be made to the investigation and prosecution phases of a racist crime case by adopting a victim's centred approach that takes into account the specific needs of victims of racist crimes. Improved victim support services could also encourage more victims to report their crimes to the authorities. Universal legal aid, as well as other victim support services, would make a significant difference when a complaint is made and also in the treatment of the victim through to the judgement.

Member States not only have a duty to protect people from racist crime committed by individuals but should also be aware that these crimes are increasing at a time when there is rising support for parties promoting xenophobic or racist ideas, laws, policies and practices. Political hate discourse can create a sense of impunity and lead to violence. Political parties and governments must develop ways to tackle racist crime rather than promoting divisions within communities and legitimating the targeting of minorities on the basis of race, ethnic origin or religion.

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Council Framework Decision 2008/913/JHA of 28 November 2008 on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law.

Council of Europe Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems

Council of Europe Convention on Cybercrime

Websites

Berman Institute, World Jewish Population 2012: www.jewishdatabank.org/studies/downloadFile.cfm?FileID=2941

European Commission, Cybercrime: www.ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/cybercrime/index_en.htm

Eurostat, 2011 Census: www.ec.europa.eu/eurostat/web/population-and-housing-census/census-data/2011-census

OSCE/ODIHR Hate Crime Reporting: www.hatecrime.osce.org

Pew Center, Global Religious Futures: <http://www.globalreligiousfutures.org/religions/muslims>

The International Network Against Cyberhate: www.inach.net

APPENDIX: LIST OF CIVIL SOCIETY ORGANISATIONS AND NETWORKS COLLECTING DATA ON RACIST CRIMES

The following list is by no means exhaustive and only includes those organisations identified through our research.

Austria

- › Zivilcourage und Anti-Rassismus Arbeit (ZARA) www.zara.or.at

Bulgaria

- › Justice 21 www.justice21.posterous.com
- › Grand Mufti's Office www.grandmufti.bg
- › Bilitis Resource Centre www.bilitis.org/english

Croatia

- › Centre for Peace Studies www.cms.hr

Cyprus

- › KISA www.kisa.org.cy

France

- › Ligue internationale contre le racisme et l'antisémitisme (LICRA) www.licra.org
- › Collectif contre l'islamophobie en France (CCIF) www.islamophobie.net

Germany

- › ReachOut www.reachoutberlin.de
- › Opferperspektive Brandenburg www.opferperspektive.de
- › Beratung für Betroffene rechter Gewalt www.lobbi-mv.de
- › Mobile Beratung für Opfer rechtsextremer Gewalt www.mobile-opferberatung.de
- › Thüringer Hilfsdienst für Opfer rechtsextremer Gewalt www.opferhilfsdienst.de
- › RAA Opferberatung - Hilfe für Betroffene rechtsextremer und fremdenfeindlicher Gewalt www.raa-sachsen.de
- › AMAL - Hilfe für Betroffene rechter Gewalt www.amal-sachsen.de

Greece

- › RacistViolenceRecordingNetwork www.unhcr.gr/tagainstracism/en/category/racist-violence-recording-network

Ireland

- › ENAR Ireland and the Irish Traveller Movement, the Irish Immigrant Support Centre (NASC), Doras Luimni, Migrants Rights Centre Ireland, the Irish Refugee Council, Crosscare, the Canal Communities Regional Youth Service, Cultúr, Pavee Point, Sport Against Racism Ireland, Show Racism the Red Card, the Integration Centre collect data via the website www.iReport.ie
- › Immigrant Council of Ireland www.immigrantcouncil.ie

- › Sligo Racist Incident Referral and Support Service www.racistincidentsrecording.com

Italy

- › Associazione Ricreativa e Culturale Italian (ARCI) www.arci.it
- › Associazione per gli Studi Giuridici sull'immigrazione (ASGI) www.asgi.it
- › Centro Studi sull'immigrazione www.cestim.it
- › Cooperazione allo Sviluppo dei Paesi Emergenti (COSPE) www.cospe.org
- › Lunaria www.cronachediordinariorazzismo.org

Latvia

- › Latvian Center for Human Rights www.cilvektiesibas.org.lv

Lithuania

- › European Human Rights Foundation www.en.efhr.eu

Luxembourg

- › Asti www.asti.lu

Malta

- › People for Change Foundation www.pfcmalta.org

Netherlands

- › CIDI www.cidi.nl
- › Magenta www.magenta.nl
- › Verwey-Jonker Instituut www.verwey-jonker.nl

Poland

- › "Never Again" Association www.nigdywiecej.org

Spain

- › Asociación Comisión Católica Española de Migraciones (ACCEM) www.accem.es
- › Comisión Española de Ayuda al Refugiado (CEAR) www.cear.es
- › Cruz Roja Española www.cruzroja.es
- › Fundación CEPAIM www.cepaim.org
- › Fundación Secretariado Gitano www.gitanos.org
- › Movimiento contra la Intolerancia movimientocontraintolerancia.com
- › Movimiento por la Paz www.mpd.l.org
- › SOS Racismo www.sosracismo.org

United Kingdom

- › Institute of Race Relations www.irr.org.uk
- › Faith Matters www.fait-matters.org/projects/mama
- › Community Security Trust (CST) www.cst.org.uk
- › Stop Hate UK www.stophateuk.org

RACIST CRIME IN EUROPE

ENAR Shadow Report 2013-2014

ENAR's Shadow Report on racism in Europe provides a unique monitoring tool bringing together facts and developments from across Europe on racism and related discrimination. The 2013-2014 report focuses on racist crime in Europe and is based on 26 national questionnaire responses from EU Member States and Iceland. It does not base itself solely on hard data but builds on the compilation of the experiences and analysis of those experiencing racism on the ground.

The report presents patterns of racist crimes, which groups are targeted, the nature of these crimes and the effects on victims. It also examines official and unofficial mechanisms for data collection of racist crimes, as well as EU Member States' response to racist crime and victim support.

The information included in this report is only the tip of the iceberg. The exact nature and implications of racist crimes will only be revealed when data are more comprehensively collected by the authorities and all victims feel able to report these crimes.

The European Network Against Racism (ENAR) stands against racism and discrimination and advocates for equality and solidarity for all in Europe. We connect local and national anti-racist NGOs throughout Europe and act as an interface between our member organisations and the European institutions. We voice the concerns of ethnic and religious minorities in European and national policy debates.



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