



**The Human Rights Office of the Government of  
the RC**

**Working Group for Monitoring Hate Crimes**

**PROTOCOL FOR PROCEDURE IN CASES  
OF HATE CRIMES**

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# PROTOCOL FOR PROCEDURE IN CASES OF HATE CRIMES

The protocol for procedure in cases of hate crimes is based on the obligations stemming for the Republic of Croatia from signing international documents, such as: the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, etc. The adoption of this document is based on the obligations of the Republic of Croatia which stem from the Negotiation Framework of the Republic of Croatia for Chapter 23: "Justice and Fundamental Rights" sub-measure 9.2.1. related to the establishment of records of results in cases of discrimination and hate crimes, is in line with the aims and measures from the National Programme of Protection and Promotion of Human Rights 2008-2011, and relates to the obligation of providing a system of monitoring and keeping statistical indicators on criminal offences of discrimination and criminal offences related to hate crimes.

## I. INTRODUCTION

### Article 1

Hate crimes are monitored with special care in view of the fact that the commission of these criminal offences and other punishable acts is a threat to the fundamental human freedoms and fundamental rights guaranteed by the Constitution of the Republic of Croatia.

### Article 2

The purpose of the *Protocol on Procedure in Cases of Hate Crimes* (hereinafter: the Protocol) is to prescribe the requirements for the effective and comprehensive work of the competent bodies who participate in discovery, proceedings and monitoring the results of proceedings conducted for hate crimes (hereinafter: the competent bodies), in order to improve the system of monitoring hate crimes.

### Article 3

This Protocol seeks to protect the victims of hate crime and their fundamental human rights guaranteed by the Constitution of the Republic of Croatia and international documents.

### Article 4

This Protocol on the procedure of the competent bodies in cases of hate crimes is based on acts and subordinate acts, and contains:

- *the obligations of the competent bodies* who participate in discovery, proceedings and monitoring the results of proceedings conducted for hate crimes,
- *the form and content of cooperation* between the competent bodies who participate in discovery, proceedings and monitoring the results of proceedings conducted for hate crimes,
- *other activities and obligations* of the competent bodies who participate in discovery, proceedings and monitoring the results of proceedings conducted for hate crimes related to training and education in combating hate crimes.

## **II. THE OBLIGATIONS OF THE COMPETENT BODIES**

### **(1) The Ministry of the Interior**

#### Article 5

The Ministry of the Interior shall undertake measures to protect victims of hate crimes, combat hate crimes and prevent the spread of hatred towards persons based on their race, skin colour, gender, sexual orientation, language, religion, political or other conviction, national or social origin, property, birth, education, social status, age, health status or other characteristics.

#### Article 6

The Ministry of the Interior, that is the Police Directorates and police administration, are competent for collecting information, criminal investigation and reporting persons who have committed a criminal offence of a hate crime or a minor offence committed out of hatred.

The Ministry of the Interior shall proceed pursuant to the legislation in force and internal instructions, and shall separately collect data on groups, members of groups and individuals, who by their activities demonstrate a tendency towards commission of criminal offences or minor offences, which may be characterized as hate crimes, in order to prevent and combat hate crimes.

#### Article 7

In the case of receipt of a report of a hate crime or a request for assistance to a person exposed to any form or mode of hate crime, police officers are obliged to proceed as follows:

1. To send police officers immediately and without delay to the scene of the incident, to intervene, that is, to verify the report or request. On the basis of an inspection of the situation as found, immediately to undertake measures and activities to provide immediate protection and necessary health and other assistance to the person who has suffered harm from a hate crime, and to prevent the perpetrator from continuing to commit the hate crime.
2. To collect the information and statements needed in order to clarify and provide evidence for the minor or criminal offence committed from hatred, which is a basis for proceeding ex officio, with special emphasis on establishing the following:
  - (a) the affiliation of the injured party with a group, membership of which is a motive for a hate crime,
  - (b) the motive for commission of the hate crime and the perpetrators membership of a group,
  - (c) the consequences,
  - (d) how it was established that the incident was motivated by hatred,
  - (e) qualification of the incident.
3. In establishing the information referred to above, procedure shall be founded on the protection of the privacy and personal data of those involved in the incident.
4. In order to provide for the best possible prosecution of a specific case, cooperation shall be established with other stakeholders, who in a specific case of hate crime, may provide assistance, for example civil society organizations, religious communities, and experts dealing with this issue.
5. To designate hate crime cases separately.
6. To enter data on the criminal offence or minor offence, the perpetrator and the injured parties, and the motive, in the existing Hate Crime Records.

7. Monitor the situation by case from learning of the incident right up to the conclusion of the proceedings (*track record*), especially in minor offence proceedings where the Ministry of the Interior appears in the position of authorized prosecutor.

## (2) Judicial Bodies

### Article 8

Judicial bodies (criminal and first instance minor offence courts and/or the public prosecution service) shall in cases related to hate crimes, proceed urgently and with special care.

### Article 9

Judicial bodies shall designate cases related to hate crimes separately.

Judicial bodies shall keep records of hate crimes and send them to the Ministry of Justice.

### Article 10

After indictment, the public prosecution service shall proceed pursuant to the obligations stemming from the internal act<sup>1</sup> of the Public Prosecution Service of the Republic of Croatia related to cases of hate crimes.

### Article 11

Since the concept of hate crime is defined in the Criminal Code, the Public Prosecution Service is obliged to keep records of all cases for which hatred, for the reasons mentioned in Article 89, paragraph 36 of the Criminal Code, is the motive.

The Public Prosecution Service, as the competent body for keeping separate records of hate crimes, shall collect the following data:

- The number of cases, the number of suspects and indications of the criminal offence,
- Public prosecution service decisions,
- Final judgements.

### Article 12

In court proceedings, measures shall be provided to protect the physical integrity of the victim and prevent their further victimization.

The departments which provide support for victims and witnesses shall be included in the protection of victims and witnesses in court proceedings.

### Article 13

Criminal and first instance minor offence courts, as the competent bodies for keeping separate records of hate crimes shall collect the following data:

- The number of cases, the number of suspects and indications of the criminal offence or minor offences,
- Final judgements and sanctions.

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<sup>1</sup> Instructions of the Public Prosecution Service of the Republic of Croatia of 9 August 2006, no: O-11/06.

### **(3) The Ministry of Justice**

#### Article 14

The Ministry of Justice will collate the statistical indicators sent by the judicial bodies on hate crimes.

#### Article 15

The Ministry of Justice shall send the data collected every six months to the Human Rights Office of the Government of the Republic of Croatia, by the end of the month for the previous half-year period.

### **(4) The Human Rights Office of the Government of the RC**

#### Article 16

The Human Rights Office is the central body for collecting and publishing data on hate crimes, and cooperation with civil society organizations and international organizations.

The Human Rights Office, as necessary, shall organize preventive campaigns in order to increase public awareness and prevent the spread of hate crimes.

#### Article 17

The Human Rights Office shall coordinate the work of the Working Group for monitoring hate crimes, and promote international cooperation in the system of monitoring hate crimes.

The Human Rights Office is the authorized body for cooperation with the Organization for Security and Cooperation in Europe, and other international organizations, in relation to the question of hate crimes.

## **III. THE FORM AND CONTENT OF COOPERATION**

#### Article 18

Implementation of this Protocol on procedure in cases of hate crimes presumes the urgent establishment of cooperation between the competent bodies which participate in discovery, prosecution and monitoring the results of proceedings conducted for hate crimes, in order to improve the system of monitoring hate crimes.

#### Article 19

The obligations of the competent bodies who participate in discovery, proceedings and monitoring the results of proceedings conducted for hate crimes are:

1. To hold regular meetings of representatives of the competent bodies in order to monitor and prevent hate crimes and report on achievements in resolving individual cases of hate crimes.
2. To draw up statistical reports on monitoring hate crimes, as follows:

- (a) The Ministry of the Interior shall, every six months, and no later than by the 10th of the following month, send the Public Prosecution Service of the Republic of Croatia a completed template with data on hate crimes for the previous period (*Enclosure 1*).
- (b) The Public Prosecution Service shall supplement the existing template with data from the public prosecution service and forward it by the 20th of the month to the Ministry of Justice, for the previous half-year period.
- (c) The Ministry of Justice shall supplement the existing template with data collected from the courts (court decisions and sanctions) and forward it to the Human Rights Office of the Government of the Republic of Croatia by the end of the month, for the previous half-year period.
- (d) First instance minor offence courts shall send the completed template for statistical monitoring of minor offences designated as related to the motive of hatred to the Ministry of Justice by the 20th of the month, for the previous half-year period. The Ministry of Justice shall forward the template to the Human Rights Office of the Republic of Croatia by the end of the month, for the previous half-year period (*Enclosure 2*).

#### Article 20

On the basis of the data collected from the competent bodies referred to in Article 19 of this Protocol, whose programmes include action in cases of hate crimes, the Human Rights Office of the Government of the Republic of Croatia shall collate the statistical data on hate crimes.

#### Article 21

All the bodies in the procedure are obliged to protect the rights of victims exposed to hate crimes, pursuant to the International Covenant on Civil and Political Rights, the Decision by the Organization for Security and Cooperation in Europe, no. 9/2009 on combating hate crimes, the guidelines of the European Union and other international regulations.

#### Article 22

It is necessary to proceed with care towards victims of hate crimes, in order to avoid secondary victimization, in a manner that respects their dignity.

The competent bodies shall, following a personal request, inform the party who is a victim of a hate crime, of the course and/or outcome of the proceedings.

### **IV. OTHER ACTIVITIES AND OBLIGATIONS**

#### Article 23

In line with the measures prescribed by the National Plan to Combat Discrimination 2008-2013, the National Programme to Protect and Promote Human Rights 2008-2011, and the Memorandum of Understanding with the Organization for Security and Cooperation in Europe, in relation to training of police officers, it is necessary to develop awareness of prevention of the spread of hate crimes and sensitize the public to this issue.

It is important to encourage victims to report cases of hate crimes, with the assurance of safety provided by the competent bodies and civil society organizations.

#### Article 24

Additional education shall be conducted of officials who act in cases of hate crimes.

## **V. CONCLUDING PROVISIONS**

### Article 25

All the competent bodies referred to in this Protocol are obliged to align their subordinate acts with the provisions of this Protocol.

### Article 26

All state bodies who participate in discovery, proceedings and monitoring the results of proceedings conducted for hate crimes are obliged to proceed in line with the provisions of this Protocol.

### Article 27

Those included in this Protocol are obliged to inform all the bodies within their competence of the adoption of this Protocol and undertake measures for its consistent enforcement.

### Article 28

The template for statistical monitoring of criminal offences related to hate crimes (in connection with Article 89 paragraph 36 of the Criminal Code) and the Template for statistical monitoring of minor offences especially designated as related to the motive of hatred, are an integral part of this Protocol.

Enclosure 1

Template for statistical monitoring of criminal offences related to hate crimes (in connection with Article 89 paragraph 36 of the Criminal Code).

<b>Hate Crimes - statistics</b>					
<b>Criminal</b>					
<b>MoI - reported Criminal Offences - Total</b>	<b>MoI - resolved Criminal Offences</b>	<b>PPS - prosecuted in relation to Article 89 paragraph 36.</b>	<b>PPS - prosecuted without Article 89, paragraph 36</b>	<b>PPS - dismissed/withdrawal from prosecution</b>	<b>Final judgements + sanction</b>

Enclosure 2

Template for statistical monitoring of minor offences especially designated as related to the motive of hatred

<b>Hate Crimes - statistics</b>			
<b>Minor Offences especially designated in relation to the motive of hatred</b>			
<b>No. of minor offences - Total:</b>	<b>Motion for indictment dismissed</b>	<b>Number of dismissals on merits or acquittals</b>	<b>Final judgements + sanction</b>