



GOVERNMENT OF THE REPUBLIC OF CROATIA

Office for Human Rights and the Rights of National Minorities

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

PROTOCOL FOR PROCEDURE IN CASES OF HATE CRIME

The Protocol for Procedure in Cases of Hate Crime (hereinafter: the Protocol) is based on international, European and national documents containing obligations, recommendations and guidelines in the field of combatting hate crime. Those are the International Convention on the Elimination of All Forms of Racial Discrimination, Convention for the Protection of Human Rights and Fundamental Freedoms, general policy recommendations of the European Commission against Racism and Intolerance, Decision no. 9 of the Ministerial Council of the Organization for Security and Co-operation in Europe, Charter of Fundamental Rights of the European Union, and recommendations of the European Commission, EU Agency for Fundamental Rights, and other significant institutions in the field of combatting hate crime. The Protocol's provisions have been harmonized with the National Plan for Combatting Discrimination (2017–2022) and the mandate stemming from the Regulation on the Office for Human Rights and the Rights of National Minorities (Official Gazette, no. 6/19).

I. INTRODUCTION

Article 1

- (1) With respect to this Protocol, and for the purpose of statistical monitoring of these punishable acts, the phrase 'hate crime' means criminal offences¹, hate speech² and misdemeanours³ committed because of another person's race, skin colour, religion, national or ethnic origin, language, disability, sex, sexual orientation, gender identity or any other characteristic.
- (2) Hate crimes are monitored with particular attention given that, when committed, such punishable acts threaten human rights and fundamental freedoms guaranteed by the Constitution of the Republic of Croatia and international legal acts.
- (3) Phrases used in this Protocol which have a gender-specific meaning shall apply equally to both male and female genders.

Article 2

The purpose of this Protocol is to ensure conditions for the efficient and comprehensive work of competent bodies that participate in the identification, processing and monitoring of the results of proceedings conducted for hate crimes, with a view to improving the combatting, prosecution and statistical monitoring of hate crimes.

¹ Criminal offences committed on account of characteristics listed in Art. 87(21) of the Criminal Code (Official Gazette, nos. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18 and 126/19).

² Public incitement to violence and hatred, Art. 325 of the Criminal Code.

³ Art. 4(1)(5 and 7) of the Act on Preventing Disorders at Sporting Events (Official Gazette, nos. 117/03, 71/06, 43/09 and 34/11), Art. 25(1 and 2) of the Anti-Discrimination Act (Official Gazette, nos. 85/08 and 112/12), Art. 18(2) of the Public Gathering Act (Official Gazette, nos. 128/99, 90/05, 139/05, 150/05, 82/11 and 78/12), Art. 5 of the Act on Misdemeanours against Public Order and Peace (Official Gazette, no. 5/90 – consolidated text, no 30/90 – corr. 47/90 and 29/94).

Article 3

- (1) With a view to avoiding their secondary victimization, the victims of hate crimes should be treated with care, in a manner that will respect their dignity, and with the obligation of assessing each victim individually.⁴
- (2) The county courts' victim and witness support units⁵ and the Support and Coordination Network for Victims and Witnesses of Crime⁶ shall be involved in the provision of assistance and support for the victims and witnesses in court proceedings.

Article 4

This Protocol contains:

- obligations of the competent bodies participating in the identification, processing and monitoring of the results of proceedings conducted for hate crimes,
- provisions on the composition and competence of the Working Group for Monitoring Hate Crimes,
- form and content of the cooperation among competent bodies participating in the identification, processing and monitoring of the results of proceedings conducted for hate crimes,
- other activities of the competent bodies participating in the identification, processing and monitoring of the results of proceedings conducted for hate crimes, pertaining to training activities focusing on combatting hate crime.

II. OBLIGATIONS OF THE COMPETENT BODIES

(1) Ministry of the Interior

Article 5

The Ministry of the Interior shall undertake measures aimed at protecting victims of hate crime, combatting hate crime and preventing hate crime.

⁴ Ordinance on the Implementation of Individual Assessment of Victims (Official Gazette, no. 106/17)

⁵ Victim and witness support units at the Osijek County Court, Rijeka County Court, Sisak County Court, Split County Court, Vukovar County Court, Zadar County Court and Zagreb County Court

⁶ A civil-society network made up of 11 partner organizations that provide support and assistance for victims and witnesses in 13 counties (Bjelovar-Bilogora, Brod-Posavina, Dubrovnik-Neretva, Istria, Karlovac, Koprivnica-Križevci, Krapina-Zagorje, Lika-Senj, Požega-Slavonija, Šibenik-Knin, Virovitica-Posravina, Varaždin and Međimurje)

Article 6

(1) The Ministry of the Interior, that is, the General Police Directorate and police directorates, are in charge of collecting information, criminal investigation and the reporting of perpetrators of hate crimes.

(2) The Ministry of the Interior shall act in keeping with the legislation and internal instructions currently in force, and it shall collect, in particular, information on groups, group members and individuals who have, through their actions, demonstrated a propensity for committing hate crime, with the aim of preventing and suppressing hate crime.

Article 7

(1) If there is a reasonable suspicion that a hate crime has been committed, or a report or information about such a crime has been received, the police shall undertake the following measures and actions:

- urgently send police officers to the scene to establish all the relevant facts,
- on the basis of their insight into the situation at the scene, immediately undertake measures and actions with the aim of offering immediate protection and health and other assistance to the victim of the hate crime and preventing the perpetrator from committing further hate crimes,
- conduct criminal investigation – collect data and information necessary to clarify and prosecute the hate crime for which the investigation is conducted *ex officio*, with particular emphasis on identifying:
 - (a) affiliation, either real or presumed by the perpetrator, of the victim to a group protected under Art. 87(21) of the Criminal Code, or the linking of the victim with a member of a protected group, as the motive for the commission of the hate crime,
 - (b) consequences,
 - (c) method of commission of the offence,
 - (d) qualification of the offence.

(2) When identifying a hate crime, the following indicators can be useful:

- victim's affiliation with a group protected under Art. 1(1) herein, or indications about such an affiliation,
- perpetrator's perception that the victim belongs to a group protected under Art. 1(1) herein,
- link between the victim and a person whose affiliation to a group could have motivated the hate crime,
- link between a damaged or destroyed object and a person whose affiliation to a group could have motivated the hate crime,
- perpetrator's affiliation with a group, or the perpetrator's link with a group, engaged in extremist activities,
- perpetrator's earlier convictions for hate crimes or other punishable acts motivated by hate,
- victim's perception of the motive of the offence,
- witnesses' perception of the motive of the offence,

- racist, extremist, xenophobic and homophobic expressions and any verbal and non-verbal prejudices (gestures, symbols etc.) targeting protected groups used in the context of the commission of the offence,
- presence of banners, flags, leaflets, graffiti, symbols and other materials inciting hatred in the context of the commission of the offence,
- frequency of hate speech used by the perpetrator on the internet, targeting a specific protected group,
- time of commission of the offence in the context of religious, historical or social significance for members of a protected group,
- place of commission of the offence, as a common gathering place of members of a protected group,
- registered similar incidents in the same time period,
- lack of any other evident motive.

(3) When establishing the above-mentioned data, the actions will be based on the protection of the privacy and personal data of persons involved in the concrete case.

(4) With the aim of attaining a high quality of processing of the concrete case, it is necessary to establish cooperation with other factors who could be of assistance in the concrete case of hate crime, for example, with civil-society organizations, religious organizations, and experts dealing with the issues at stake.

(5) As the competent body in charge of keeping records on hate crimes, the Ministry of the Interior shall collect and update the following data, within its existing records:

- case number
- number of perpetrators
- number of victims
- place and time of commission of the offence
- classification of the criminal offence or misdemeanour
- indication of the characteristic referred to in Art. 87(21) of the Criminal Code or Art. 325 of the Criminal Code in relation to which the crime was committed
- indication of the characteristic referred to in Art. 1(1) herein in relation to which the crime was committed.

(2) Judicial Bodies

Article 8

In cases relating to hate crimes, judicial bodies (courts and State Attorney's Office) shall proceed with urgency and special attention.

Article 9

- (1) The State Attorney's Office shall keep records on hate crimes.
- (2) The courts shall mark cases relating to hate crimes and update them in the case-management IT system.

Article 10

As the competent body in charge of keeping records on hate crimes, the State Attorney's Office shall register the following data:

- case number
- number of suspects
- number of victims
- place and time of commission of the offence
- classification of the criminal offence, or misdemeanour after a decision has been adopted to drop the criminal charges for a criminal offence
- indication of the characteristic referred to in Art. 87(21) of the Criminal Code or Art. 325 of the Criminal Code in relation to which the crime was committed
- indication of the characteristic referred to in Art. 1(1) herein in relation to which the crime was committed,
- decision of the State Attorney.

Article 11

(1) For cases relating to hate crimes, the courts shall enter and update the following data:

- case number
- number of persons accused
- number of victims
- place and time of commission of the offence
- classification of the criminal offence or misdemeanour
- indication of the characteristic referred to in Art. 87(21) of the Criminal Code or Art. 325 of the Criminal Code in relation to which the crime was committed
- indication of the characteristic referred to in Art. 1(1) herein in relation to which the crime was committed,
- first-instance and second-instance decisions and sanctions.
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(2) The courts shall forward their final decisions in cases relating to hate crimes, in anonymized form, to the Office for Human Rights and the Rights of National Minorities of the Government of the RoC, which will analyse them with the aim of planning and implementing an efficient policy of combatting hate crime.

(3) The courts are encouraged to publish their final decisions in cases relating to hate crime on the case-law portal.

(3) Ministry of Justice and Public Administration

Article 12

The Ministry of Justice and Public Administration shall consolidate data on cases relating to hate crime on the basis of data contained in the case-management IT system.

Article 13

The Ministry of Justice and Public Administration shall submit the collected data to the Office for Human Rights and the Rights of National Minorities of the Government of the RoC periodically, for the previous six-month period, that is, by 1 September for the period between January and June of the current year, and by 1 March for the period between July and December of the previous year.

(4) Office for Human Rights and the Rights of National Minorities of the Government of the Republic of Croatia

Article 14

(1) The Office for Human Rights and the Rights of National Minorities of the Government of the RoC is the central body in charge of collecting and publishing data pertaining to hate crimes, the body in charge of strengthening the system of combatting hate crime and cooperating with civil-society organizations and international organizations.

(2) The Office for Human Rights and the Rights of National Minorities of the Government of the RoC shall organize preventive campaigns, as necessary, aimed at raising awareness and preventing the spread of hate crimes.

Article 15

(1) The Office for Human Rights and the Rights of National Minorities of the Government of the RoC shall coordinate the work of the Working Group for Monitoring Hate Crimes, and promote international and intersectorial cooperation in the hate-crime monitoring system.

(2) The Office for Human Rights and the Rights of National Minorities of the Government of the RoC is the body authorized to cooperate with the Organization for Security and Cooperation in Europe and other international and regional organizations on issues pertaining to hate crimes.

III. WORKING GROUP FOR MONITORING HATE CRIMES AND THE METHOD AND CONTENT OF COOPERATION OF COMPETENT BODIES

Article 16

(1) The Working Group for Monitoring Hate Crimes at the Office for Human Rights and the Rights of National Minorities of the Government of the RoC shall consist of representatives of bodies in charge of combatting hate crimes, representatives of academia, and representatives of civil society from the ranks of NGOs active in the field of monitoring and combatting hate crimes, as elected by the Council for Civil Society Development.

(2) The composition of the Working Group for Monitoring Hate Crimes shall be stipulated by the Director of the Office for Human Rights and the Rights of National Minorities of the Government of the RoC in a Decision on setting up the Working Group for Monitoring Hate Crimes.

(3) The Working Group for Monitoring Hate Crimes shall be tasked with coordinating the collection of data on hate crimes, monitoring and analysing the manifestation of hate crimes, coordination of intersectorial cooperation in combatting hate crime, and developing recommendations for improving the system of combatting hate crime.

(4) The Working Group for Monitoring Hate Crimes shall meet twice a year, and more frequently should the need arise, and it can also operate using e-communication (e-mail, videoconferencing, etc.). Minutes shall be drawn up of the meetings of the Working Group.

Article 17

The implementation of this Protocol is based on the assumption of cooperation among the competent bodies participating in the identification, processing and monitoring of the results of proceedings conducted for hate crimes, with the aim of improving the hate-crime monitoring system.

Article 18

The obligations of the competent bodies participating in the identification, processing and monitoring of the results of proceedings conducted for hate crimes are:

- to hold meetings of representatives of the competent bodies as necessary,
- to participate regularly in the meetings of the Working Group for Monitoring Hate Crimes with the aim of monitoring and preventing hate crimes,
- to compile a statistical report on monitoring hate crimes, in keeping with the following method:
 - (a) the Ministry of the Interior shall, every six months, and no later than the 20th of the month following a semester, submit to the State Attorney's Office of the RoC a filled-in template for data on hate crimes relating to Art. 87(21) of the Criminal Code (*Annexe 1*), filled-in template for data on hate speech (*Annexe 2*), and a filled-in template for data on hatred-motivated misdemeanours (*Annexe 3*), for the previous semester;
 - (b) the State Attorney's Office of the RoC shall complete the template containing data on criminal offences relating to Art. 87(21) of the Criminal Code (*Annexe 1*), the template containing data on hate speech (*Annexe 2*) and the template containing data on hatred-motivated misdemeanours (*Annexe 3*) with the State Attorney's data for the previous semester, and it shall forward them to the Ministry of Justice and Public Administration: by 15 August for the period between January and June of the current year, and by 15 February for the period between July and December of the previous year;
 - (c) the Ministry of Justice and Public Administration shall complete the templates (*Annexe 1, Annexe 2 and Annexe 3*) with data collected by the courts during the previous semester, and it shall forward them to the Office for Human Rights and the Rights of National Minorities of the Government of the RoC, in keeping with Art. 13 herein.

Article 19

(1) On the basis of the data collected by the competent bodies referred to in Art. 18 herein, which act programmatically in cases of hate crime, the Office for Human Rights and the Rights of National Minorities of the Government of the RoC shall monitor the course of procedure in each single case, consolidate statistical data relating to hate crime, and publish them on its web page.

(2) The published statistical data referred to in paragraph 1 herein shall include the motive (indication of the protected characteristic) and legal qualification of the criminal offence or misdemeanour by all the competent bodies that have taken part in the case.

(3) The Office for Human Rights and the Rights of National Minorities of the Government of the RoC shall submit, periodically, statistical data on hate crimes committed in the Republic of Croatia to the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR).

IV. OTHER ACTIVITIES AND OBLIGATIONS

Article 20

(1) The competent bodies shall organize professional training on hate crimes, regularly and as needed.

(2) The bodies charged with combatting hate crimes shall encourage victims to report cases of hate crime, while their security will be ensured by competent bodies and civil-society organizations.

(3) With a view to raising public awareness of urgent and thorough processing, by competent bodies, of cases of hate crime, and strengthening the public's confidence in institutions, the Ministry of the Interior and the State Attorney's Office of the RoC are encouraged to report on important proceedings or cases relating to hate crime, as far as legally possible, through communications published on their web pages.

V. FINAL PROVISIONS

Article 21

Each competent body participating in the identification, processing and monitoring of the results of proceedings conducted for hate crimes shall act in keeping with the provisions of this Protocol.

Article 22

After the adoption of this Protocol, all the competent bodies referred to herein shall inform other bodies within their remit about its adoption, ensure its accessibility, and undertake all the measures necessary for its consistent implementation.

Article 23

The template for statistical monitoring of criminal offences relating to Art. 87(21) of the Criminal Code, the template for statistical monitoring of hate speech, and the template for statistical monitoring of hatred-motivated misdemeanours are integral parts of this Protocol.

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In Zagreb, 8 April 2021

Annexe 1

Template for statistical monitoring of criminal offences relating to Art. 87(21) of the Criminal Code¹

Data of the Ministry of the Interior												Data of the State Attorney's Office			Data of the Ministry of Justice and Public Administration		
No.	Responsible PD	Case number	Perpetrator (name, family name and ID no.)	Perpetrator's age and sex	Victim	Victim's age and sex	Criminal offence and Art. in the CC	Motive (indication of characteristic from Art. 87(21) of the CC)	Place of commission of crime	Time of commission of crime	Criminal charge (date of submission, to which state attorney's office)	Case number	State Attorney's decision	Case status	Case number	Court decision	Criminal sanction
CASES TRANSFERRED FROM THE PREVIOUS PERIOD																	
Data of the Ministry of the Interior												Data of the State Attorney's Office			Data of the Ministry of Justice and Public Administration		
No.	Responsible PD	Case number	Perpetrator (name, family name and ID no.)	Perpetrator's age and sex	Victim	Victim's age and sex	Criminal offence and Art. in the CC	Motive (indication of characteristic from Art. 87(21) of the CC)	Place of commission of crime	Time of commission of crime	Criminal charge (date of submission, to which state attorney's office)	Case number	State Attorney's decision	Case status	Case number	Court decision	Criminal sanction

¹ Abbreviations used in the Template: PD (Police Directorate), ID no. (personal identification number, OIB), CC (Criminal Code)

Annexe 2

Template for statistical monitoring of hate speech (Art. 325 of the Criminal Code)²

Data of the Ministry of the Interior											Data of the State Attorney's Office			Data of the Ministry of Justice and Public Administration		
No.	Responsible PD	Case number	Perpetrator (name, family name and ID no.)	Perpetrator's age and sex	Victim	Victim's age and sex	Motive (indication of characteristic from Art. 325 of the CC)	Place of commission	Time of commission	Criminal charge (date of submission, to which state attorney's office)	Case number	State Attorney's decision	Case status	Case number	Court decision	Criminal sanction
CASES TRANSFERRED FROM THE PREVIOUS PERIOD																
Data of the Ministry of the Interior											Data of the State Attorney's Office			Data of the Ministry of Justice and Public Administration		
No.	Responsible PD	Case number	Perpetrator (name, family name and ID no.)	Perpetrator's age and sex	Victim	Victim's age and sex	Motive (indication of characteristic from Art. 325 of the CC)	Place of commission	Time of commission	Criminal charge (date of submission, to which state attorney's office)	Case number	State Attorney's decision	Case status	Case number	Court decision	Criminal sanction

² Abbreviations used in the Template: PD (Police Directorate), ID no. (personal identification number, OIB), CC (Criminal Code)

Annexe 3

Template for statistical monitoring of hatred-motivated misdemeanours³

Data of the Ministry of the Interior / State Attorney's Office												Data of the Ministry of Justice and Public Administration		
No.	Responsible PD / responsible SAO	Case number	Perpetrator (name and family name, ID no.)	Perpetrator's age and sex	Victim	Victim's age and sex	Indication of legal act and relevant article	Motive	Place of commission	Time of commission	Date of submission of motion to indict / to which body	Case number	Court decision	Misdemeanour sanction
CASES TRANSFERRED FROM THE PREVIOUS PERIOD														
Data of the Ministry of the Interior / State Attorney's Office												Data of the Ministry of Justice and Public		
No.	Responsible PD / responsible SAO	Case number	Perpetrator (name and family name, ID no.)	Perpetrator's age and sex	Victim	Victim's age and sex	Indication of legal act and relevant article	Motive	Place of commission	Time of commission	Date of submission of motion to indict / to which body	Case number	Court decision	Misdemeanour sanction

³ Abbreviations used in the Template: PD (Police Directorate), SAO (State Attorney's Office), ID no. (personal identification number, OIB)