

Policing Hate Crime against LGBTI persons:

Training for a Professional Police Response



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Policing Hate Crime against LGBTI persons:

Training for a Professional Police Response

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French edition:

Traiter les crimes de haine commis à l'encontre des membres de la communauté LGBTI : Formation pour une réponse professionnelle des services de police

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Introduction

■ The police are at the frontline of the criminal justice system and the first point of contact for many victims of hate crime.¹ Without the essential skills to identify and investigate hate crimes against LGBTI persons, the police cannot ensure justice and protection for all victims, gain the confidence of LGBTI communities or contribute to the fair and transparent application of national hate crime laws.

■ The Council of Europe has long worked to raise awareness of targeted violence including racist, religious, gender based, and anti-LGBTI crimes. Key Council of Europe resolutions and recommendations by the Committee of Ministers, as well as the Parliamentary Assembly, recognise the specific harm and impact of discrimination and crimes against LGBTI persons, as well as the importance of supporting victims, cooperating with civil society and training law enforcement and other criminal justice practitioners.² Case law of the European Court of Human Rights is unequivocal about the importance of ‘unmasking’ hate motivation and LGBTI-phobic motivation and warns of the consequences of failing to do so: “prejudice-motivated crimes would unavoidably be treated on an equal footing with ordinary cases without such overtones, and the resultant indifference would be tantamount to official acquiescence to or even connivance with hate crimes”³

■ This manual is mainly designed for police trainers, but can also be used by investigators, managers, hate crime officers, frontline police officers and private security personnel operating in countries across the Council of Europe region as a resource for their work. Its purpose is to provide assistance, information and the appropriate tools for conducting trainings on hate crime against LGBTI persons. It builds on Council of Europe standards, especially on the European Convention on Human Rights and the relevant case law from the European Court of Human Rights, as well as other international human rights standards, European Union law and already existing training materials for law enforcement officials. This manual complements the Manual for police education on equality & non-discrimination⁴ and the Intercultural Cities Manual on Community Policing⁵.

■ This manual is based on a human rights approach and informed by expert input. Above all it is victim and community-focused, in recognition that their confidence in law enforcement and cooperation is key to the success of investigations of these crimes.

■ Police training is only one element in a comprehensive approach to tackling hate crime. Police recording systems should allow all aspects of hate crime against LGBTI persons to be recorded, and good investigative practice should be supported by official protocols and guidelines. As a key partner of the police, the prosecution service should also undergo training so that hate crime prosecutions can be prepared and brought forward successfully. Finally, political leadership that recognises the specific harm caused by hate crimes against LGBTI persons and that commits itself to resourcing the full implementation of this training must also be in place.

■ This manual builds on the standards of the Council of Europe on combating hate crime and discrimination, as well as on the work and expertise of the Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) Unit in assisting member states with the implementation of effective policies, legislation and practical measures to identify, investigate and prosecute hate crime against LGBTI persons and protecting the victims of such crimes.

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1. The Council of Europe recognises that the term ‘victim’ is not accepted by many people who have been the target of hate crime. We acknowledge that in many instances people prefer the term ‘survivor’ as it better reflects their lived experience. The term ‘victim’ is used in this manual because it best fits the legal and technical status of a person targeted by hate crime who is in contact with the police and broader criminal justice agencies. As emphasised throughout this manual, the police should take a victim-centred approach and ask the targeted person how they would like to be addressed, and where possible, to follow their wishes.
 2. See in particular Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity; Recommendation CM/Rec(2024)4 of the Committee of Ministers to member States on combating hate crime; Resolution 2048 (2015) of the Parliamentary Assembly of the Council of Europe on Discrimination against transgender people in Europe; Resolution 2191 (2017) of the Parliamentary Assembly of the Council of Europe on Promoting the human rights of and eliminating discrimination against intersex people; and Resolution 2417 (2022) of the Parliamentary Assembly of the Council of Europe on combating rising hate against LGBTI people in Europe.
 3. See *Identoba & Others v Georgia*, 2015.
 4. <https://rm.coe.int/manual-for-police-education-on-equality-and-non-discrimination-final-/1680ad3669>
 5. <https://rm.coe.int/intercultural-cities-manual-on-community-policing/16809390a5>

Overview

This manual comprises five modules and a “going further” section. The modules are composed of diverse, practical activities that are broken down into clear steps, including specific timing indications and instructions about any preparation work that needs to be undertaken.

Module Zero helps participants understand the work of CSOs and how the police can best work with them to improve its response to LGBTI victims. It involves direct input from civil society organisations, who will explain the services they provide, the data they have gathered, and what they have learned about the needs of LGBTI victims. Participants will have a chance to work together with representatives from civil society to identify areas for improvement and opportunities to work together.

Module One focuses on the importance of police leadership and commitment to the success of police training on hate crime, ensures early consideration of the impact of hate crimes on LGBTI persons, and gives participants an opportunity to learn about the broader context of discrimination and prejudice that LGBTI persons experience across the Council of Europe region.

Module Two supports participants in developing an understanding of key concepts, including: sexual orientation; gender identity gender expression and sex characteristics hate crime; and the broader concepts of: homophobia; lesbophobia; biphobia; transphobia; intersexphobia; stereotyping and discrimination. This forms the basis for the more technical focus of investigating hate crime, addressed in Module Four.

Module Three includes exercises that bolster law enforcement officers’ reliance on human rights standards and principles in their efforts to effectively investigate hate crimes against LGBTI persons. Materials include a comprehensive overview and practical applications of the most relevant international standards that should underpin the effective policing of hate crimes against LGBTI persons.

Module Four focuses on a victim-centred approach to investigating hate crimes against LGBTI persons and the key skills needed to gather evidence of bias motivation, the key ingredient differentiating hate crimes from ordinary crimes. The unique needs of transgender victims of crime are specifically explored. Finally, participants are invited to take up the challenge of engaging with the local LGBTI community in the context of their current relationship.

Going Further is an optional, final section which aims to support participants in identifying issues that may hinder the implementation of the training at the national level, and to take a solution-focused approach to addressing such issues. Participants are encouraged to map their own national context, including gaps and opportunities, based on the key elements necessary for a comprehensive approach to hate crime, such as: the legal framework; hate crime recording systems; the availability or lack of guidance and guidelines; training; and specialist victim support services.

A NOTE ABOUT CIVIL SOCIETY ORGANISATIONS (CSOs)

Civil society organisations (CSOs) are a key partner for the police in their efforts to understand and effectively respond to hate crimes against LGBTI persons. Their role is central, not only in monitoring hate crimes and supporting victims but also in building a bridge between the police and the LGBTI community, which too often remains distant from law enforcement institutions due to historical mistrust or cultural barriers. For this reason, the Council of Europe has involved key CSOs in the design and production of this manual, and we deeply appreciate their collaboration and commitment.

CSOs are also a great resource for the police as a support service for victims, a training partner, and a source of data and information about the prevalence and impact of hate crime. Accordingly, each module of the manual includes specific guidance for law enforcement on how to leverage the expertise and insights of civil society organisations. Moreover, Module Zero specifically focuses on learning how best to work with CSOs in effectively identifying and investigating hate crime as well as supporting its victims.

Cultivating a good relationship between the police and CSOs is mutually beneficial. Working closely with them is the best way to gain valuable insights into the needs, concerns, and challenges faced by LGBTI people, which is especially necessary where individuals from the community may feel uncomfortable or unsafe approaching

authorities directly. At the same time, CSOs act as a communication channel that ensures the realities of the community are correctly understood and addressed.

Furthermore, this manual can also be used by CSOs as an advocacy resource to encourage national and local police forces to undertake training sessions on responding to and investigating hate crimes against LGBTI persons. A truly collaborative approach should be pursued to ensure that police responses to hate crimes against LGBTI persons are appropriate, effective, and based on a triangle of mutual trust between law enforcement agencies, CSOs, and the community.

HOW TO USE THIS MANUAL: A TAILORED APPROACH

This manual has been designed to allow maximum flexibility for trainers. It is a guiding tool to structure and adapt sessions according to the specific needs of each context. It is intended primarily for trainers, as its content includes examples, guidelines, and resources aimed at facilitating the preparation, execution, and evaluation of training sessions.

Activities and modules should be selected based on the composition of participants, the needs of the host organization or agency, and other specific requirements, such as time constraints. Additionally, trainers must consider the normative framework applicable in the country where the training will take place. Each Module should be tailored to local regulations, including laws on hate crimes and any administrative frameworks aimed at combating them. This approach ensures that participants gain a comprehensive and context-specific understanding of the legal framework that directly affects the prosecution and prevention of hate crimes in their country as well as the information and support provided to victims.

For ease of reference, a model agenda for a three-day training can be found in Annex One. In order to ensure sufficient time and engagement for the key learning outcomes to be achieved, following the three-day agenda is strongly recommended. It is also recommended that trainers read through the manual before they finalise the agenda in order to ensure that the most appropriate modules and activities are chosen for their local context.

Another key aspect of a successful training is knowing the audience beforehand. The trainer should gather information about participants' prior knowledge, professional experience, and their levels of interaction with the LGBTI community. For instance, training officers with no prior background in working with minorities is not the same as educating professionals who already have that experience. Therefore, it is key to adapt the level and focus of the training to the group's specific needs.

To this end, it is recommended to conduct a preliminary assessment, potentially through an online form, before preparing the training. This assessment will enable trainers to design appropriate and relevant sessions, not only ensuring a more effective learning but also optimising the time and resources allocated to the training. You can find a model of a questionnaire in Annex Two.

In summary, this manual not only provides practical tools for trainers but also establishes a flexible methodology that, when complemented by prior knowledge of the participants' background and consideration for local legislation, allows for a tailored training that maximizes its impact and fosters a more effective and professional response to hate crimes and discrimination.

Module Zero:

Working with civil society organisations (CSOs)

Note for trainers:

This module has been included at the beginning of the Manual as a Module Zero because it can help trainers learn to connect and cooperate with LGBTI civil society organisations (CSOs) in the delivery of the training as well as in their efforts to prevent and respond to hate crime. However, it should not be included in the training's agenda as the first module of the course. Instead, trainers should A) try to incorporate its contents and activities transversally, as most topics of the course benefit greatly from the involvement of CSO representatives, and B) start the course with Module 1, which explains why this training is important for police officers. You will find a suggested agenda for a three-day course at the end of this manual (Annex One).

INTRODUCTION

The Council of Europe has long considered civil society, “a vital component of European society, and an important and indispensable element of democracy.”⁶ In addition to assessing measures to combat racism and xenophobia, the Council and its institutions, including the European Commission against Racism and Intolerance (ECRI) and the Commissioner for Human Rights, specifically monitor progress at the national level to address discrimination on grounds of sexual orientation, gender identity and expression and sex characteristics. They have sought and relied upon data from civil society organisations (CSOs) to prepare their country reports and visits to assess the state of discrimination and human rights at the national level. Data on hate crime collected by civil society are carefully considered as well as CSOs’ assessment of the effectiveness of the police and other agencies in responding to this type of violence.

Civil society organisations (CSOs) are often the first point of contact for victims of hate crime. Many provide essential emotional, practical, legal and, sometimes, medical support. As such, they are a key resource for the police and can help them understand the true impact of hate crime on victims and their communities. Very often, the support provided by CSOs increases the chance that victims will cooperate with the investigation and remain engaged in the criminal justice process.

Working in partnership is not always easy. In some cases, there can be mutual distrust between civil society and the police. Nevertheless, the responsibility to reach out to CSOs and to build trusting relationships with communities at risk lies with the police. While CSOs can, and have often shown to be, pro-active in reaching out to police forces to establish a collaboration, this should not be expected or given for granted. This module helps participants understand the work of CSOs and how the police can best work with them to improve responses to victims. It involves direct input from civil society organisations, who will explain the services they provide, the data they have gathered, and what they have learned about the needs of LGBTI victims. Participants will then have a chance to work with representatives from civil society to identify areas for improvement and opportunities to work together.

It is highly recommended that this module is included in training sessions if civil society has yet to be involved. This module could also be hosted at a civil society organisation venue. This will give participants the chance to get to know an organisation first hand, further underlining the message that CSOs are a key partner in understanding and addressing crime against LGBTI persons, as well as generating new questions and opportunities for engagement.

Strong relationships with civil society can increase the police’s knowledge and understandings of LGBTI communities and the reality of hate crime, improving the police’s ability to work to both investigate and prevent it. At the same time, partnering with CSOs is key to improving the relationships with local communities and their trust in police forces.

6. Resolution CM/Rec(2016)3 ‘Participatory status for international non-governmental organisations with the Council of Europe’

LEARNING OUTCOMES

Participants will:

- ▶ understand what civil society can offer to improve hate crime investigation and recording;
- ▶ be able to approach local civil society organisations to work together on addressing hate crimes against LGBTI persons;
- ▶ be able to design cooperative activities with civil society

OVERVIEW OF ACTIVITIES

- ▶ 0.1 What are civil society organisations, how can they help, how can we work together?
- ▶ 0.2 "Walking in their shoes: what do I need and what can I do?"
- ▶ 0.3 Building effective relationships with communities

ACTIVITY 0.1 – WHAT ARE CIVIL SOCIETY ORGANISATIONS (CSOs) AND HOW CAN THEY HELP?

1. Before the activity:

- a. Research the relevant national, regional and local CSOs working on LGBTI hate crimes in the city or country where the training is taking place. Collect names, contact details and a short description about their work and services. Add these to Handout 0.1 (under information about EL*C; IGLYO; ILGA-Europe; OII-Europe; and TGEU).
- b. Identify at least one relevant CSO to carry out the presentation session of this activity. Ideally, the CSOs will have conducted high quality work in the area of hate crime monitoring and/or victim support. You may wish to consult national experts on hate crime or international CSOs (such as EL*C; IGLYO; ILGA-Europe; OII-Europe; and TGEU) to identify an appropriate organisation to contact. Take the time to plan the session with CSOs beforehand. Go over the session plan, agree key messages and identify any sensitive areas that are likely to come up during the training session. For example, there may be a particularly sensitive case where the police are alleged to have mistreated victims and/or their allies. Agree the best way to handle discussions about such cases or issues beforehand. Remember the **overall aim** of this session is to identify directly and honestly any **problems and tensions between CSOs and the police**, yet to remain focused on solutions and ways that the police and CSOs can work together productively in the future.

The presentation should cover the following key points:

- a. the work of the CSOs;
 - b. a mention to other CSOs that work on the issue and could potentially collaborate with the police, e.g. in raising awareness on hate crime and reporting mechanisms; sharing information; or providing legal or psycho-social support to victims;
 - c. the impact of hate crime on victims, perhaps including a case study or personal story;
 - d. thoughts and insights concerning gaps in laws or their implementation;
 - e. data on hate crime affecting LGBTI persons recorded by either the guest CSOs or another partner organisation; some analysis of how they compare to police figures and why there may be differences (e.g. victims may not report to the police, perhaps CSOs and police use different criteria, etc.);
 - f. an overview of their recording methodology, and an assessment about how robust their data on hate crime is;
 - g. reasons why victims do not report crimes to the police;
 - h. recommendations about how the police can best work with and support LGBTI victims;
 - i. suggestions about how CSOs and police might work better together.
2. Start off the activity with a short brainstorming session, asking participants what they know about the work of CSOs internationally, nationally and locally.

During the discussion you **can offer some ideas**:

CSOs may:

- ▶ be large international organisations, working on a range of subjects including hate crime and broader human rights issues, for example Amnesty International or Human Rights Watch

- ▶ specifically focus on LGBTI issues and rights, such as EL*C, IGLYO, ILGA-Europe, OII-Europe and TGEU
 - ▶ engage in a range of activities including monitoring, reporting and raising awareness about hate crime
 - ▶ submit data and information to international organisations, including the Council of Europe, about the national situation on hate crime
 - ▶ provide direct support to victims of hate crime and support them to report offences to the police if victims give their consent
3. Direct participants' attention to Handout 0.1, which lists some relevant international and national CSOs working on issues relating to hate crime against LGBTI persons.
 4. Invite CSO representatives to give their presentation.
 5. After the presentation, facilitate a question-and-answer session.
 6. Share Handout 0.4 with participants. Explain that they can get more information on these topics in the sources listed there.

ACTIVITY 0.2 – WALKING IN THEIR SHOES: WHAT DO I NEED AND WHAT CAN I DO?

This session should be conducted **with CSO involvement**. It can take place directly after the CSOs presentations.

1. Before the session, take five pieces of flipchart paper and write the following:
 - Page one: "What do (LGBTI) victims need?"
 - Page two: "What does the police need?", "What can the police do?"
 - Page three: "What do Civil Society Organisations need?", "What can CSOs do?"
 - Page four: "What do prosecutors need?", "What can prosecutors do?"
 - Page five: "What do government ministries need?", "What can government ministries do?"
2. Put the pages up around the room and make pens available.
3. Introduce the session. Explain that the purpose of this session is for participants to:
 - ▶ understand the perspectives of the range of individuals and organisations that work to address hate crime against LGBTI persons; and
 - ▶ to specifically consider the victim-centred approach
4. Split the group into five smaller groups. Instruct them to spend 5-7 minutes completing the charts in the first person. For example, for the victim chart, they would say, "As a victim (e.g. trans sex worker/disabled lesbian/gay irregular migrant), I need..." / "As the police officer receiving the report/investigating the case/providing support to victims/as a community liaison officer, I can...". Emphasise that, although there are things that victims can do to help improve responses to hate crimes against LGBTI persons (e.g. report and stay engaged in the criminal justice process), they should not be pressured to do anything they are not comfortable with. Point out that in this sense their role is completely different from that of the police, CSOs, and government ministries or equality bodies, who each have responsibilities to take specific action. Explain that this is why the victim page is different from the other pages.
5. Tell them that after the 7 minutes are over, one member of the group will stay and the rest of the group will move on to the next flip chart. The group will spend 5-7 minutes at the next flipchart and the person who remains will explain what their group wrote, staying with the same language. "As a victim I need..." / "As a police officer I can..." etc. The group will then identify anything that is missing, and add it to the list.
6. After the 7 minutes are up, a different person will remain and the rest of the group will move on. The group will spend another 5-7 minutes at the flipchart and listen to the remaining person explain what is written on the chart. The group will add to the list and a different person will remain to explain to the next group. Continue in this way until all groups have visited all flip chart papers.
7. Ask everyone to come back to the large group to debrief. Ask them what they learned from this activity, what surprised them, and what they will take away. Identify and record key actions that can be taken in the near to medium future to meet the needs that have been identified, in partnership between police, CSOs and other agencies.

ACTIVITY 0.3 – BUILDING EFFECTIVE RELATIONSHIPS WITH COMMUNITIES

This activity has two parts. The first one (0.3a) involves reviewing a case study to identify lessons learned and what could be done differently. The second (0.3b) is a brainstorming activity in which participants identify specific actions that can be taken at the national level to improve relations between the police and LGBTI communities. As with the other activities in this module, **it is highly recommended that CSOs take part in these activities.**

Activity 0.3a – Policing International Day Against Homophobia: the European Court of Human Rights case of M.C. and A.C. v Romania

Note for trainers:

Sometimes it is easier to discuss cases that are not related to the country in which the training is taking place, as this generates less resistance and is less likely to be interpreted as a criticism. Nevertheless, if relevant for the training, this activity can be replaced by a similar exercise focused on a case that took place in the country of the training. Inputs from local CSOs should be taken into account.

1. Before the session take two pieces of flipchart paper. On paper number one, write “What went wrong?”. On paper number two, write “What could have been done differently?”
2. Divide the participants into small groups. If civil society organisation representatives are in attendance, ensure that they are mixed with police participants. Ask the participants to read the case study with these questions in mind. Explain that the purpose of the activity is not to allocate blame. Point out that many countries in the Council of Europe region have had similar challenges. Emphasise that the reason that you are focusing on this case is because it actually happened and because it raises common issues facing police and communities.
3. Share Handout 0.2 with participants and allow them some minutes to read the case study. Ask participants to provide short answers to the two questions.
4. Bring participants back into the larger groups to share their answers. When discussing what went wrong, ensure that the following issues are highlighted:
 - ▶ Participants were injured after the march even after following instructions about dress and routes
 - ▶ The response of the police towards the victims was inappropriate (e.g. expressing surprise that the victims were “affluent” and discouraging them from going further with their case)
 - ▶ Poor communication with the victims about the case, which is also likely to damage the confidence of the wider LGBTI community (e.g. ACCEPT having to contact the police on three separate occasions to find out what was happening with the case)
 - ▶ There is evidence of insufficient planning prior to the event in relation to the protection of the participants before, during and after the event
 - ▶ Review of safety procedures before the event to ensure that participants would be safe before, during and after
 - ▶ Training of police about how to sensitively and effectively interview and engage with victims of homophobic attacks
 - ▶ Improved evidence-gathering for potential prosecutions in relation to the attackers.

Note for trainers:

Ensure that this discussion does not go too much into the detail of investigation issues, which are dealt with in Module Four.

- ▶ Improved communication with victims and affected communities following the incidents
- ▶ Stronger cooperation between the police and civil society before and after the incident

Activity 0.3b – Building positive relationships between the police and LGBTI communities

Note for trainers:

Not all of these ideas will be appropriate in every context. It is important to tailor the questions to the context. For example, it may be that there is no LGBTI association within the police and there may be no openly LGBTI police officers. It may be that only very small steps towards improving relationships between the police and civil society are realistic at this stage. This is not a problem. Identifying and implementing even one small step can be a significant achievement and can lay the ground for more significant improvements in the future. Consider the participation of CSO representatives in preparing and conducting this activity to tailor it as needed.

Step one: Assess

1. During this step, participants assess current relationships between the police and LGBTI communities. This is one of the more difficult steps and takes openness and honesty. If the previous two sessions have gone well, then the chance of getting an accurate and constructive assessment of the state of relations between the police and the LGBTI community is higher.

Step two: Plan

2. Ask participants to review Handout 0.3 and agree at least two steps that can be taken in the immediate future.

Step three: Deliver

3. Ask participants to articulate how the steps will be taken and by whom. If participants have identified barriers that are out of their control (e.g. lack of legal framework, insufficient political support) encourage them to identify how they might be overcome and remind them that this is something that will be looked at again in the next module.

HANDOUTS

HANDOUT 0.1 – NATIONAL AND INTERNATIONAL ORGANISATIONS WORKING ON HATE CRIME AGAINST LGBTI PERSONS

Note for trainers:

This handout should be shared with learners at the beginning of the training. They should be encouraged to use this list as a resource in their day-to-day work.

These are **examples** of civil society organisations (CSOs) that work on hate crime internationally and nationally. Take some time to explore their websites. You will learn about hate crime against LGBTI persons in other countries, how it is being addressed and how victims are being supported.

National organisations working on hate crime against LGBTI persons

Note for trainers:

To prepare this handout, research the relevant national and local CSOs working on LGBTI hate crimes in the city or country the training is taking place. Collect their names, contact details and a short description about their work and services using this form. You can reach out to the international organisations listed below or check their websites to find CSOs that operate in your local context.

Name

Website

Contact point

Short description about the organisation's activities (training, monitoring, victim support, etc.)

International civil society organisations working on hate crime

Eurocentralasian Lesbian* Community (EL*C)

lesbiangenius.org

The Eurocentralasian Lesbian* Community – EL*C is a lesbian feminist and intersectional network. It comprises a network of hundreds of individual and organisation members. EL*Cs main goal is to advocate for the multitude of needs surrounding the rights, the visibility and the well-being of lesbians throughout Europe and Central Asia. EL*C recognizes and addresses the necessity to create spaces where lesbians' voices are heard, to include lesbian issues in all conversations and policies which shape their lives and to shine a light on lesbian visibility in impervious waters. As part of their activities to combat gender-based violence and hate crime against lesbians, EL*C has published several reports on lesbophobia. In 2022, EL*C launched an Observatory on Lesbophobia.

European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe)

ilga-europe.org

ILGA-Europe is an independent, international umbrella organisation working for a world in which each and every LGBTI person is free, equal and safe, through resourcing and connecting communities, driving political change, and amplifying voices. ILGA-Europe monitors the way Council of Europe member states implement their various commitments and works with its members at national level to promote evidence-based advocacy that supports the adoption of legislation and policies.

ILGA-Europe works to encourage training of police staff, prosecutors, judges and lawyers, promotes the collection of evidence of hate crimes and incidents by its member organisations and helps members to build their capacities in this respect. Finally, the organisation supports and assists with litigation of cases in the European courts and in the implementation of Court judgements.

International Lesbian, Gay, Bisexual, Trans, Queer and Intersex (LGBTQI) Youth & Student Organisation (IGLYO)

iglyo.org

IGLYO is the largest member-based network in the world dedicated to LGBTQI youth and their rights. It comprises a membership of over 120 Organisations in over 40 countries across Europe, and its work focuses on the protection, empowerment, and freedom of LGBTI young people under 30 years old. IGLYO strives to ensure the voices and experiences of LGBTQI young people are present and heard by decision-makers at European and international levels by designing and conducting research, advocacy, and communications on their concerns.

Organisation Intersex International Europe (OI Europe)

oiieurope.org

OII Europe is the umbrella organisation of European human rights-based intersex organisations. It is an excellent resource to find out more about intersex persons and their experiences. OII Europe can also be contacted for further information and when seeking to make contact with national membership organisations.

Transgender EU (TGEU)

[Tgeu.org](https://tgeu.org)

Transgender Europe works with its member organisations and partners to monitor and raise awareness about the serious extent of human rights violations and violence committed against trans persons on a global and European scale. Since 2009, its Trans Murder Monitoring (TMM)⁷ project has served as a systematic collection, monitoring and analysis of reported killings of trans and gender diverse people worldwide.

Amnesty International

[Amnesty.org](https://amnesty.org)

Amnesty International is a **global movement** committed to creating a future where human rights are enjoyed by everyone. Amnesty helps activists around the world by producing resources on various issues that affect LGBTI people. Amnesty has conducted a series of national investigations into hate crime, including against LGBTI persons. Their reports include case studies, an analysis of national legal and policy frameworks, and recommendations for improvements.

Human Rights Watch

hrw.org

Human Rights Watch (HRW) investigates and reports on abuses happening in all corners of the world through country experts, lawyers, journalists, and others who work to protect the most at risk, from vulnerable minorities and civilians in wartime, to refugees and children in need. HRW directs their advocacy towards governments, armed groups and businesses, pushing them to change or enforce their laws, policies and practices. HRW conducts research into hate crime including crimes against LGBTI persons. Their reports include case studies, an analysis of national legal and policy frameworks, and recommendations for improvements.

7. Available at <https://www.tgeu.org/trans-murder-monitoring/>.

HANDOUT 0.2 – OVERVIEW OF ECHR CASE M.C. AND A.C. V. ROMANIA

This hand-out gives an overview of the case of M.C. and A.C. v. Romania for training purposes. For full details of the case, visit the Court's website <https://goo.gl/sHMXb4>.

What happened

On 3 June 2006, the applicants participated in the annual pride march in Bucharest. It was organised by ACCEPT, an LGBTI organisation advocating for legislative changes to uphold the rights of LGBTI people, and providing direct services to the LGBTI community. The march was given police protection. Several individuals who had actively expressed their disapproval concerning the pride march were stopped by the police, their pictures were taken and their identity papers were checked and noted.

At around 7 p.m., at the end of the march, the applicants and four other participants left the area using the routes and means of transport recommended by the authorities in the guidelines prepared by the organisers for participants in the march. As recommended in the same leaflet, they wore no distinctive clothing or badges that would identify them as having participated in the march.

After boarding a metro train, they were attacked by a group of six young men and a woman wearing hooded sweatshirts. The attackers approached the victims directly and started punching them and kicking their heads and faces. They also swung from the metal bars above their heads, kicking the victims. During the attack they kept on shouting: "You poofs go to the Netherlands!" (*Poponarilor, duceți-vă în Olanda!*)

The victims were pushed into a corner of the carriage. One of them tried to protect the others with his body, but the second applicant remained exposed and suffered several blows.

The attack lasted for about two minutes. On their way out of the carriage, the attackers punched the first applicant again in the face.

The other passengers withdrew to the opposite side of the carriage during the attack. Among them was a photographer who had also been at the march. The victims asked him to take pictures of the incident, which he did. The attackers assaulted him as well because of that.

The police investigation

Later that night of the 3rd to 4th June 2006 the victims, including the applicants, and a representative of ACCEPT went to the police. They filed a criminal complaint against the attackers and stated that the assault was based on the victims' sexual orientation. They reiterated that they had not worn any visible signs that could have given away the fact that they were returning from the pride march. They argued that the attackers had identified them at the march (as they had not worn masks) and followed them afterwards, with the intention of harming them. They informed the police about the offensive remarks made during the attack.

According to the applicants, the police officers were surprised when they realised that the applicants and the other victims, although gay, were affluent individuals with regular jobs and positions of responsibility. They tried to dissuade them from pursuing their complaint, warning them that they would have to confront their aggressors in court.

Due to a reorganisation within the police force, the case file was moved from one police station to another, and on 4 April 2007 it was registered at the Metro Police Station.

As it appeared that nothing was happening in the case, the applicants sought information on the progress of the investigation by means of letters sent by ACCEPT on 25 September 2006, 28 March 2007 and 20 July 2011. On 19 March 2007 they also complained to the Ministry of Internal Affairs about the lack of an effective investigation into the case, but to no avail.

On 9 August 2011, in response to a request from the applicants for information, the Metro Police informed them that their intention was not to institute a criminal prosecution as the alleged crimes had become statute-barred. The police explained that the investigation had been rendered more difficult by the fact that the file had arrived at the Metro Police office one year after the events. Moreover, all the actions undertaken by police in order to identify the alleged culprits had failed.

On 4 October 2011, the prosecutor's office attached to the Bucharest District Court of the Fourth Precinct endorsed the police proposal and decided to terminate the investigation. The decision was sent to the first applicant's home on 27 February 2012.

Questions:

What went wrong?

How could the situation have been handled better?

What could have gone better had there been strong cooperation between the police and civil society before and after the incident?

HANDOUT 0.3 – BUILDING RELATIONSHIPS BETWEEN THE POLICE AND LGBTI COMMUNITIES: SOME POSSIBLE PRACTICAL STEPS

Start small

If this is the first time police and CSOs have made contact, start small. For example, arrange an informal meeting so that each side can learn more about the other's work and activities and identify possible ways to work together.

Stay practical and focus on mutually beneficial activities

Agree points of contact from both sides and a short description of what each can do.

Agree CSOs input into police training, focusing on areas of expertise including victim support and understanding the impact of hate crime and victims' needs. CSOs also often have a unique perspective on LGBTI bias indicators that are essential for investigation and evidence gathering.

Visit the offices of national or local CSOs that work with LGBTI communities.

Visit local LGBTI-friendly businesses such as LGBTI-friendly bars and other social venues. Plan the visit beforehand, emphasising that you are interested in finding out how things are going and if there have been issues that have worried the community.

Ask for a meeting to talk about specific incidents that have come up and impressions about whether the frequency of incidents has increased or changed.

Ask for CSOs input into the development of police guidance or protocols. This is an excellent way to improve the relevance and quality of these documents in terms of victims' needs, understanding the impact of hate crime and getting a fresh perspective on bias indicators.

Stay in regular contact

Regular engagement is important and builds strengths in relationships which can be drawn upon during challenging times (see below).

Arrange a debrief after a specific, sensitive or high-profile incident

Mistakes happen and lessons need to be learned. Avoid closing down after a difficult incident such as violence at a Pride event, an incident of poor policing or police violence. Keep the lines of communication open even if there has been tension in relation to specific incidents. Consider holding informal meetings where incidents are discussed in confidence, with the agreement that the press will not be involved in the first instance. Work with CSOs to facilitate victim or family or community support in relation to specific incidents.

Build on your achievements

Although you may have started small, always look for opportunities to build engagement. Perhaps the points-of-contact system is going well. Now may be the time to consider cooperating more closely on discussing incidents and responses. You may be ready to discuss sharing data and information anonymously. Perhaps you can agree on a victim support referral system.

Ensure that this work is properly resourced

For example, CSOs often find that while their work on monitoring and victim support is indispensable, it is also under-resourced. Where possible, it is important for the police to find financial resources for the work that they rely on.

Be clear about what can and cannot be achieved on both sides

For example, a civil society organisation cannot guarantee that a victim will report a crime or take part in the criminal justice process. Equally, the police cannot guarantee that a prosecution will be taken forward.

Stay updated

Draft and keep an updated directory of the relevant CSOs operating in your area that could be contacted if needed to participate in a training activity or assist an LGBTI person, be they a victim, witness, family member, friend or a detainee.

HANDOUT 0.4 – REFERENCES, FURTHER READING AND RESEARCH TIPS

A) Resources by the Council of Europe

- ▶ **European Commission against Racism and Intolerance (ECRI), *General Policy Recommendation No. 17, on preventing and combating intolerance and discrimination against LGBTI persons* (2023)**⁸

The ECRI recommends States to “support training and develop competencies on preventing and combating anti-LGBTI discrimination, including intersectional discrimination, hate speech and hate crimes for law enforcement officials, prosecutors and judges in co-operation and consultation with relevant civil society actors, including LGBTI organisations”.

- ▶ **Steering Committee on Anti-Discrimination, Diversity and Inclusion, *Thematic Report on Hate Crimes and other Hate-motivated Incidents based on Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics in Europe* (2023)**⁹

This report highlights several times the need to involve civil society organisations in trainings and any other public strategy on hate crimes against LGBTI people. Check sections II.B (“Institutional framework for coordination and cooperation”), IV.C (“Awareness-raising and training”) or V.C (“Role of civil society”) for more information.

B) Resources by civil society organisations

- ▶ **ILGA-Europe, *Combatting Hate Crime: How can LGBTI organisations work with authorities?* (2023)**¹⁰

This article discusses the ongoing rise in hate attacks against LGBTI people in Europe and Central Asia, highlighting the crucial role of LGBTI organisations in supporting victims and collecting data. It emphasizes the importance of cooperation between these organisations and law enforcement to effectively combat hate crimes and build trust. It also outlines specific actions LGBTI organisations can take to enhance police efforts and support victims.

- ▶ **TGEU, *A brief guide to monitoring anti-trans violence* (2021)**¹¹

An easy-to-use tool to support organisations and activists in reporting, collecting, and analysing anti-trans violence in their contexts. It includes information on how transgender activists are the best placed to reach out to their communities and accurately monitor the violence they face. TGEU’s expertise can help develop stronger relations with local transgender activists and the communities they work with.

8. <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.-17>

9. <https://rm.coe.int/gt-adi-sogi-2023-3-en-european-report-sogiesc-based-hate-crime-final-t/1680ac3c18>

10. <https://www.ilga-europe.org/blog/combating-hate-crime-lgbti-organisations-work-with-authorities/>

11. https://transrespect.org/wp-content/uploads/2020/09/TvT-PS-Vol21-2020_EN.pdf

Module One:

Why are we here?

INTRODUCTION

This module gives an overview of the training for law enforcement officers, explains why the training is important and what participants will learn from taking part in it. The module starts with a presentation given by an officer in a leadership position who will set the tone of the training course by acknowledging the reasons why correctly understanding and addressing hate crimes against LGBTI persons is essential. The superior shall also voice how participants are expected to commit to the training. To ensure the lessons learned from this training are put into practice, it is vital that officers in leadership roles show their full commitment to effectively investigate hate crimes against LGBTI people. Participants also **need to hear this message directly from their superiors**. There is a big difference between hearing about the importance of the issue from a trainer and from your boss!

The second key part of the module focuses on input from a civil society organisation who will explain the profound impact hate crime can have on individuals and their communities. It is key to bring the victims' perspective to help learners understand the importance of their job in preventing, responding to and investigating hate crimes against LGBTI persons.

Finally, participants will learn more about the broader context of hate crimes against LGBTI persons to be aware of how hate crimes are part of the discrimination and prejudice experienced by LGBTI persons across Europe.

LEARNING OUTCOMES

Participants will:

- ▶ understand why hate crimes and other acts of violence against LGBTI persons require a specific approach
- ▶ acknowledge that improvements in the prevention and response to this violence need to be underpinned by commanding officers
- ▶ understand the prevalence and impact of hate crimes and other acts of violence, including domestic violence, against LGBTI communities
- ▶ recognise the core duty of the police to protect, investigate crimes and provide an equal and respectful service

OVERVIEW OF ACTIVITIES

- ▶ Activity 1.1 – Input from a commanding officer to set the scene for the training
- ▶ Activity 1.2 – Civil society organisation (CSO) session: victims and community's perspective
- ▶ Activity 1.3 – Data on violence against LGBTI people
- ▶ Activity 1.4 – Real-life cases and experiences

ACTIVITY 1.1 – INPUT FROM A COMMANDING OFFICER TO SET THE SCENE FOR THE TRAINING

Before the session, try to meet with the police representative or discuss with them via phone or email to clarify the key points of their intervention. While they will have their own perspective on what to address, you might suggest the following points:

- ▶ stress that the training is designed to enhance learners' skills, better equipping them to handle hate crime investigations and improve their professional capabilities
- ▶ emphasise that the police must provide equal service to all communities, treating all victims with dignity and respect, regardless of their background and how this principle is fundamental to the police service

- ▶ highlight the severe impact hate crimes have on their victims and the importance of thoroughly investigating bias, collaborating with the prosecution to ensure effective legal action, and applying hate crime laws appropriately
- ▶ discuss the intended outcomes of the training: developing skills to investigate hate crimes effectively, enhancing abilities to partner and cooperate with the affected communities, as well as improving crime reporting and victims' trust in cooperating with the police
- ▶ acknowledge that any allegations of police misconduct against LGBTI communities will be fully investigated following clear procedures
- ▶ explain how police leadership will monitor the training outcomes to ensure they are implemented across the service

ACTIVITY 1.2 – CIVIL SOCIETY ORGANISATION (CSO) SESSION: VICTIMS AND COMMUNITY'S PERSPECTIVE

Incorporating LGBTI civil society organisations (CSOs) into police training is crucial for enhancing law enforcement's response to hate crimes. These organisations provide invaluable insights into the emerging trends and pressing issues related to hate crimes, making them indispensable partners in the development and delivery of training programmes

They should be involved from the very start, helping to shape the structure, content, and agenda of training sessions. Their participation as trainers or co-facilitators can significantly boost learners' awareness and empathy, particularly in the appropriate handling of hate crime victims. This is vital for preventing re-victimisation within the justice system. Furthermore, they can provide first-hand testimonies that deepen understanding of the real-world impacts of hate crimes.

If it is not possible for CSOs to be involved in the session, make clear from the beginning that they had a significant role in producing the manual and developing the training. The key message is: "We worked with civil society to develop this training; you need to work with civil society in its implementation".

Before the session, take some time to identify CSOs working on monitoring hate crimes and/or providing direct support to LGBTI victims at the national or local level. Follow the guidelines included in Module Zero. Additionally, several sources can help you find appropriate CSOs:

- ▶ the European LGBT Police Association (EGPA)¹² includes members from many European countries, which could be ideal candidates both to participate in the trainings and to identify other suitable LGBTI organisations
- ▶ other European federations of civil society organisations, such as EL*C¹³, ILGA-Europe¹⁴, IGLYO¹⁵ OII Europe¹⁶, or TGEU¹⁷ have publicly available lists of members in each European country or can be contacted for more information¹⁸
- ▶ the OSCE Hate Crime Report website includes a list of collaborator organisations in each OSCE country¹⁹
- ▶ the Council of Europe's SOGIESC Unit might also assist trainers to be in contact with local CSOs.

Try to meet the CSOs representative or discuss with them over the phone or via email to cover the key points of their intervention. Give them an overview of the training and draw their attention to the fact that cooperation between police and CSOs will be addressed in detail in Module Zero, but they are welcome to attend the other sessions as well. Make sure CSO representatives understands that the learners are police officers with varying levels of understanding regarding sexual, gender and body diversity. For this reason, some may ask 'politically incorrect' or uncomfortable questions as part of their learning process. While it's essential to create

12. You can find a list of EGPA members in the About section of their website, at <https://www.lgbtpolice.eu/about>.

13. <https://lesbiangenius.org/contact/>

14. ILGA-Europe is a federation of over 700 LGBTI groups and organisations. For an updated list of ILGA-Europe's member CSOs, check their website's About Us > Membership section at www.ilga-europe.org/about-us/membership/.

15. You can find a list of IGLYO members at <https://www.iglyo.org/members>

16. You can find a list of OII Europe members at <https://www.oii-europe.org/membership-application/>

17. TGEU represents over 200 organisations focused on the rights of trans people. For a full updated list of their members, check their website's Our Members section at <https://tgeu.org/our-members/>.

18. For more information on these organisations, please see handout 0.1

19. A list of CSOs that cooperated with OSCE in their Hate Crime Report can be found in <https://hatecrime.osce.org/civil-society>.

a safe space for everyone involved, CSO representatives should be prepared for this possibility beforehand. Ideally, they should have experience in addressing common myths, assumptions or prejudice about LGBTI people in a way that allows for learners to improve their knowledge without feeling antagonised.

Encourage the representative to bring along details of their organisation and how police can get in touch and work with them. Inform them that a key goal of their participation is to build trust and foster cooperation between the police and civil society. Although they will most likely have their own ideas concerning what to talk about, you can also make the following suggestions:

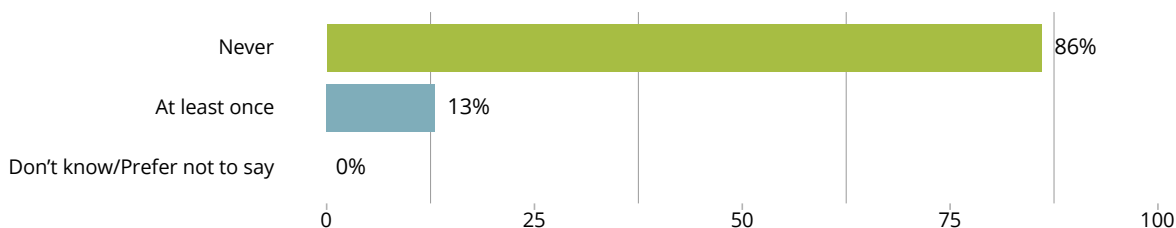
- ▶ welcome the training and the input of the CSOs and highlight the fact that CSO involvement has been incorporated throughout the training. Explain that there will be a session to help participants to strengthen their cooperation with CSOs
- ▶ bring the victims' perspective to the participants through specific experiences of hate crimes against LGBTI persons or provide an overview of the impact of hate crime in the learners' local current and historical context
- ▶ highlight what victims of hate crime need and why it might be particularly difficult for them to report incidents to the police
- ▶ ask them to make some specific and realistic suggestions (even if they are just small steps!) about how the police might improve their relationship with CSOs and the communities concerned

ACTIVITY 1.3 – DATA ON VIOLENCE AGAINST LGBTI PEOPLE

Available data can be a **powerful tool to illustrate the reality of hate crimes** against LGBTI persons. This activity can be done in cooperation with the civil society representative from the previous one, as they can **humanise the statistics and graphics** by explaining their real-life impact. Combining data with personal stories not only makes the information more relatable but also helps learners **understand the profound effects these crimes** have on individuals and communities, thereby fostering a deeper commitment to addressing them.

It's crucial that learners perceive the data used in the training as reliable. A good starting point could be data compiled by relevant public authorities, such as the European Union's Fundamental Rights Agency (FRA). The following figures have been elaborated using data from FRA's report "LGBTIQ Equality at a Crossroads: Progress and Challenges" (2024)²⁰, which presents data compiled by the Agency from a large-scale survey conducted in 2023.

Figure 1 shows how 13% of LGBTI persons in the European Union have reported that they suffered violence for being LGBTI in the past 5 years.



© FRA - All rights reserved - EU LGBTIQ Survey III, 2023 | Violence > Experiences of physical or sexual attacks due to being LGBTIQ in the past 5 years - V1_2 | Location: EU27



Figure 1: Percentage of survey respondents who had suffered at least one episode of physical or sexual violence for being LGBTI in the 5 years before 2023 survey in the EU27, FRA, *LGBTIQ equality at a crossroads – Progress and challenges*, 2024.

20. Available at <https://fra.europa.eu/en/publications-and-resources/data-and-maps/2024/eu-lgbtiq-survey-iii>.

This figure, however, should be put in context by immediately following it up with Figure 2, highlighting **two key ideas**:

- 1) As shown in Figure 2, all communities within the LGBTI acronym report having experienced a physical and/or sexual attack for being LGBTI; however, some reported **higher levels of violence**. In particular, intersex people, trans people and, to a lesser extent, gay men.
- 2) Figure 2 also shows how **violence against LGBTI people has increased** since the previous survey, which was conducted in 2019.

FIGURE 16B: EXPERIENCING A PHYSICAL AND/OR SEXUAL ATTACK FOR BEING LGBTI, IN THE 5 YEARS BEFORE THE 2019 AND 2023 SURVEYS, BY LGBTI CATEGORY (%)

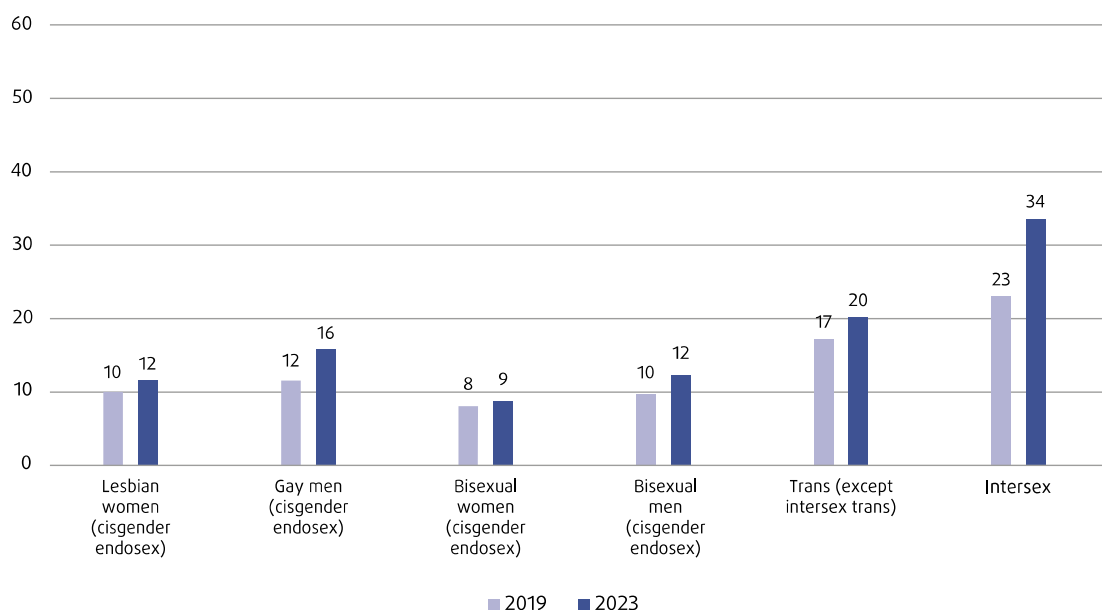


Figure 2: Percentage of respondents who had suffered at least one episode of physical or sexual violence for being LGBTI in the 5 years before the 2019 and 2023 surveys in the EU, depending on their LGBTI identity. FRA, *LGBTIQ equality at a crossroads – Progress and challenges*, p. 56, 2024.

Another essential concept for learners to grasp is that **the majority of hate crimes against LGBTI persons still go unreported**. This point should be emphasised as a key reason why the training will enhance learners' ability to perform their duties effectively and become better professionals.

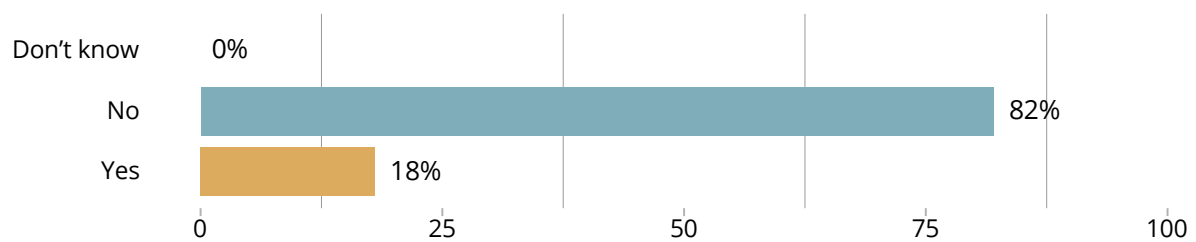
When hate crime victims avoid reporting incidents of violence to the police or other relevant institutions and organisations, they are denied access to protection, support, and justice. Furthermore, **the crimes they suffered are not investigated nor prosecuted**, leading to **impunity** for the perpetrators. This also makes **crime prevention more difficult**, as aggressors feel empowered to reoffend, **eroding the LGBTI communities trust in the police** and discouraging them from reporting.

According to Recommendation CM/Rec(2010)5 of the Committee of Ministers:

"3. Member states should take appropriate measures to ensure that victims and witnesses of sexual orientation or gender identity related "hate crimes" and other hate-motivated incidents are encouraged to report these crimes and incidents; for this purpose, member states should take all necessary steps to ensure that law enforcement structures, including the judiciary, have the necessary knowledge and skills to identify such crimes and incidents and provide adequate assistance and support to victims and witnesses."²¹

Using Figure 3, the trainer should note how less than 1 in 5 incidents of hate-motivated violence suffered by LGBTI people are reported. **Reported hate crimes are the tip of the iceberg of the violence suffered by LGBTI individuals**. For this reason, learners should understand that even if they never or hardly ever receive a report on hate crimes against LGBTI persons in their daily work, it does not mean such crimes are not occurring.

21. Committee of Ministers Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, available at: <https://search.coe.int/cm/?i=09000016805cf40a>

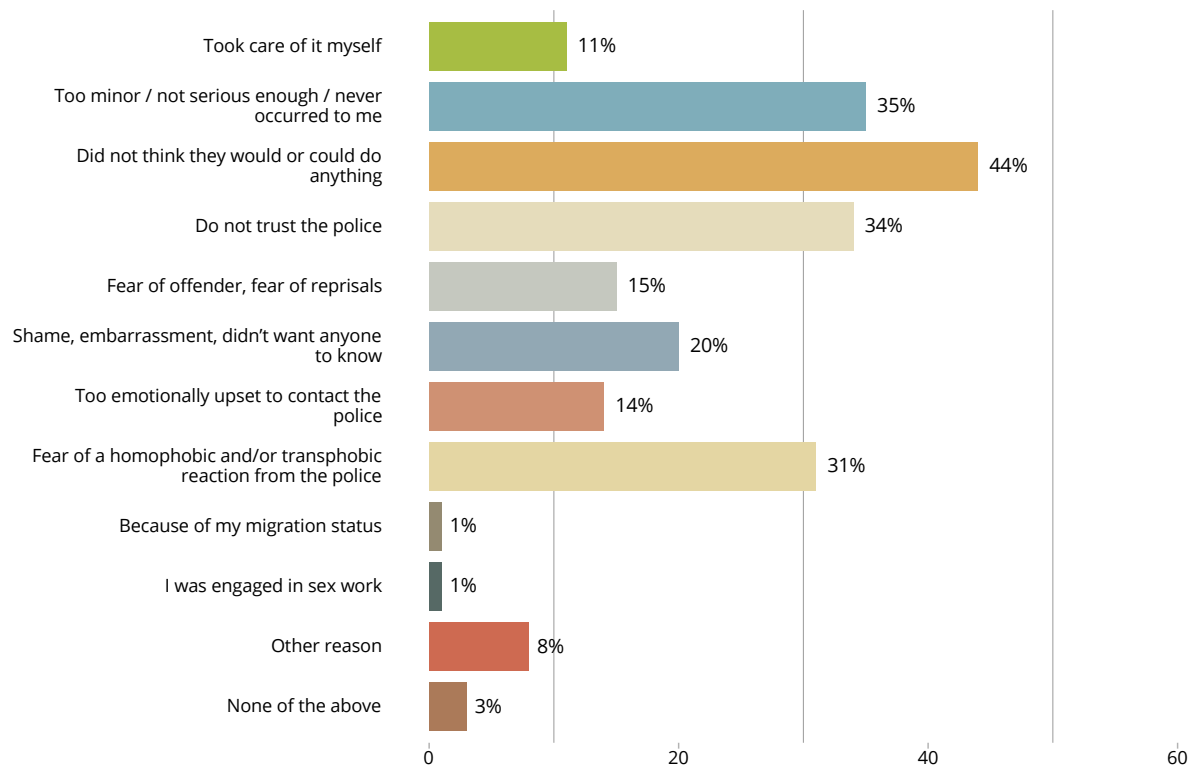


© FRA - All rights reserved - EU LGBTIQ Survey III, 2023 | Most recent violent incident and reporting > Reporting the most recent incident of hate-motivated physical or sexual attack to the police, or any organisation or institution – V6_1 | Location: EU27



Figure 3: Percentage of respondents who did and did not report the last incident of hate-motivated violence they suffered, FRA, *LGBTIQ equality at a crossroads – Progress and challenges, 2024*.

In fact, of those victims who did not report the crimes they experienced, at least 30% avoided doing so because **they believed the police could not help, they did not trust the police, or they even feared a homophobic and/or transphobic reaction from the police.**



© FRA - All rights reserved - EU LGBTIQ Survey III, 2023 | Most recent violent incident and reporting > Reasons for not reporting the most recent incident of hate-motivated physical or sexual attack to the police – E9 | Location: EU27



Figure 4: Reasons why respondents who had suffered anti-LGBTI violence did not report it to the police, FRA, *LGBTIQ equality at a crossroads – Progress and challenges, 2024*.

After showing and explaining these graphs, learners can be **asked their thoughts on them**. Some possible guiding questions could be:

- ▶ what do they think about 4 in 5 hate crimes not being reported?
- ▶ why do they think so many LGBTI victims of hate-motivated violence mistrust the police or, even, fear them?
- ▶ how can trust in the police among LGBTI people who have been victims of a hate crime be improved?

Additionally, national reports on hate crime should be incorporated into the training, as they provide a more specific understanding of the context in which the learners will operate. The website of the Organisation for Security and Cooperation in Europe (OSCE)'s Hate Crime Report offers **data compiled by OSCE Member States on hate crimes**, including those committed against LGBTI persons²².

Finally, data compiled by CSOs can also be useful, particularly when done by local organisations. To improve the learners' trust on this kind of data, they should be reminded that most hate crimes are not reported to the police or any other authority, so it is likely that CSOs **can provide a more accurate picture of the real situation**.

Building **trust between law enforcement and CSOs is crucial** for encouraging the reporting of hate crimes. Enhanced cooperation with CSOs helps authorities better understand why victims avoid reporting incidents of violence. Moreover, data by CSOs can help foster the creation of effective **referral mechanisms between police and CSOs**. Module Zero includes more information on how learners can build partnerships with civil society organisations.

At the end of this activity, share Handout 1.2 with the learners. Explain that they can get more information on these topics in the sources listed there.

22. Available at <https://hatecrime.osce.org/anti-lgbti-hate-crime>.

HANDOUTS

HANDOUT 1.1 – REAL-LIFE CASES AND EXPERIENCES

The participation of at least a CSO representative in the trainings is a great opportunity to learn about the personal stories behind the statistics. They are in the best position to explain real examples of violence against LGBTI persons from the context in which participants operate. For this reason, **it is strongly preferable** to incorporate their expertise and the cases they know in the training. However, where that is not an option, the examples listed below can be useful to the trainer to illustrate the contents of this manual or serve as the basis for group discussions.

Beaten to death

In 2021 a group assaulted a 24-year-old man in Spain. According to witnesses, the victim had had an argument with a man and his girlfriend, who mistakenly thought he was recording them. The couple then attacked him while shouting homophobic slurs, but the victim and his friend managed to break up the fight. Several minutes later, the attackers returned with twelve other persons, and they all beat the victim for 15 minutes. He died in the hospital. Four men were sentenced, but only one of them had an aggravated sentencing for committing a murder for homophobic reasons.²³

Harassment both in school and at home

A bisexual man from Portugal tells that the “worst part of my life was when I was a teenager, I was humiliated, insulted and beaten up every day, I was insulted with the most offensive names ... I suffered from bullying throughout my school life, I was always alone, I ended up with huge traumas, which are now ingrained in me, I have a phobia of socializing, I can’t be the centre of attention, I get anxiety attacks, at home my older brother didn’t accept me either, he beat me up and made fun of me”.²⁴

In 2023, a 13-year-old boy who was bullied in school for his alleged sexual orientation committed suicide in Italy.²⁵

Afraid to express themselves freely in public

A 22-year-old bisexual man from Czechia explains how he and his partner “constantly deal with when, where, and under what circumstances it is appropriate to be affectionate in public, such as hugging, kissing, or holding hands”, fearing a violent reaction.²⁶

A 24-year-old lesbian woman from Greece recounts a similar experience: “I don’t express my sexual orientation in public and in places with strangers because I am afraid”.²⁷

A man from Switzerland laments that he no longer holds his husband’s hand in public, as he fears suffering a hate crime.²⁸

23. FELGTBI, La Federación Estatal LGTBI+ denuncia que negar el delito de odio en el juicio de Samuel Luiz invisibiliza la violencia contra el colectivo, 28 October 2024, available at <https://felgtbi.org/blog/2024/10/28/la-federacion-estatal-lgtbi-denuncia-que-negar-el-delito-de-odio-en-el-juicio-de-samuel-luiz-invisibiliza-la-violencia-contra-el-colectivo/>; Pink Times, Justice Served: Four Sentenced in Homophobic Murder of Samuel Luiz, 14 January 2024, available at <https://thepinktimes.com/justice-served-four-sentenced-in-homophobic-murder-of-samuel-luiz>

24. FRA, FRA, LGBTIQ equality at a crossroads – Progress and challenges, p. 58, 2024.

25. ILGA-Europe, Annual Review 2023 – Italy, available at <https://rainbowmap.ilga-europe.org/countries/italy/>.

26. FRA, FRA, LGBTIQ equality at a crossroads – Progress and challenges, pp. 60-61, 2024.

27. Ibid.

28. Pink Cross, Hate Crimes an LGBTQ-Menschen in der Schweiz, 2020, available at <https://www.pinkcross.ch/unser-einsatz/politik/hate-crime/hatecrime-bericht-2020.pdf>.

HANDOUT 1.2 – REFERENCES, FURTHER READING AND RESEARCH TIPS

A) Resources by the Council of Europe

- ▶ **Sexual Orientation, Gender Identity and Expression and Sex Characteristics Unit's website**²⁹

The SOGIESC Unit's website has a section (Resources) with dozens of documents, including texts adopted by the Council of Europe, thematic reports, videos and relevant links.

- ▶ **Steering Committee on Anti-Discrimination, Diversity and Inclusion, *Thematic Report on Hate Crimes and other Hate-motivated Incidents based on Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics in Europe* (2023)**³⁰

Chapter III of this report provides an overview of the most relevant sources for international and national data on anti-LGBTI hate crimes while also addressing the difficulties in gathering data. Chapter IV offer examples of good practices to tackle underreporting of hate crimes by building trust between the LGBTI community and police forces.

- ▶ **European Commission against Racism and Intolerance (ECRI), *General Policy Recommendation No. 17, on preventing and combating intolerance and discrimination against LGBTI persons* (2023)**³¹

This authoritative document explains why hate crime trainings are important. Moreover, it starts with a summary of the historical context surrounding this violence, which can be quite useful for trainers to raise awareness on why the relations between the LGBTI community and police officers are not the easiest (and why it is important to foster trust between them).

- ▶ **ECRI's Country Reports**³²

ECRI regularly schedules country visits to member states of the Council of Europe, resulting in detailed consideration of issues affecting LGBTI persons. Their country monitoring reports include detailed overviews of official and civil society data on hate crime, a critical review of hate crime laws and policy, and specific recommendations for improvement, as well as the official response of the relevant state to ECRI's observations and recommendations. They can be useful to gain an insight into the local context.

- ▶ **ECRI, *Factsheet on LGBTI issues* (2021)**³³

This factsheet summarises recommendations made by ECRI to safeguard and protect LGBTI persons' rights as a result of ECRI's monitoring visits to Council of Europe member states from 2013 to 2021. It includes specific recommendations on data collection and training of law enforcement officers.

- ▶ **Thematic and country work and reports by the Council of Europe Commissioner for Human Rights**

The Commissioner has undertaken a wide range of activities with either a thematic or a country focus, seeking to understand and respond to issues affecting LGBTI persons.³⁴

B) Resources by other international organisations

- ▶ **FRA, *LGBTIQ equality at a crossroads: progress and challenges* (2024)**³⁵

This report brings together data and information on hate crimes in the European Union.

29. <https://www.coe.int/en/web/sogi/>

30. <https://rm.coe.int/gt-adi-sogi-2023-3-en-european-report-sogiesc-based-hate-crime-final-t/1680ac3c18>

31. <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.-17>

32. <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/country-monitoring>

33. <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/factsheet-lgbti>

34. <http://www.coe.int/en/web/commissioner/thematic-work/lgbti>

35. <https://fra.europa.eu/en/publication/2024/lgbtiq-crossroads-progress-and-challenges>

► **OSCE's Annual Hate Crime Reporting Data**³⁶

The Organisation for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights' hate crime reporting website details official and civil society data, offering an overview of the situation in the country in which participants in the training operate.

C) Resources by civil society organisations

► **EL*C's Observatory on Lesbophobia**³⁷

Launched in February 2022, EL*C's Observatory on Lesbophobia collects cases of lesbophobic violence and raises awareness on the particularities of that specific kind of bias. Its reports also include recommendations to policymakers and public authorities.

► **ILGA-Europe, *Anti-LGBTI violence in Europe and Central Asia: The Numbers (2023)***³⁸

This resource compiles all the hate crime cases that were incorporated into the 2023 edition of ILGA-Europe's Annual Review. It highlights a rise of violence against LGBTI people in Europe and Central Asia during that year.

► **ILGA-Europe, *ILGA-Europe toolkit for training police officers on tackling LGBTI-phobic crime (2022)***

A useful resource to complement trainings prepared with this manual.

► **TGEU, *Trans Murder Monitoring (2023)***³⁹

The Trans Murder Monitoring (TMM) research project by TGEU systematically monitors, collects, and analyses reports of homicides of trans and gender diverse people worldwide.

► **OII Europe, *Protecting Intersex People in Europe: A toolkit for law and policymakers (2023)***⁴⁰

The section dedicated to "Hate crimes and hate speech" helps to understand the violence faced by intersex people and why it is important for law enforcement authorities to learn about it.

36. <https://hatecrime.osce.org/anti-lgbti-hate-crime>

37. <https://lesbiangenius.org/its-2024-and-lesbophobia-is-still-raging/>

38. <https://www.ilga-europe.org/blog/anti-lgbti-violence-europe-central-asia-numbers/>

39. <https://transrespect.org/en/research/tmm>

40. <https://www.oiiueurope.org/protecting-intersex-people-in-europe-a-toolkit-for-law-and-policy-makers/>

Module Two:

Key concepts and definitions – The LGBTI community – Stereotyping and prejudice

INTRODUCTION

As outlined in Module One and as will become more apparent throughout this programme, LGBTI persons are disproportionately selected by offenders to be the victims of crime. LGBTI persons are hesitant to report hate crimes to the police and when they do report them, the police might fail to record these crimes adequately or even to record them at all.

In order for the police to respond professionally to the needs of LGBTI victims of hate crime, they have to be able to understand LGBTI persons and the terminology they use to describe themselves.

In this module, participants will develop an understanding of who the LGBTI community is and will be introduced to the concepts of sexual orientation, gender identity, gender expression and sex characteristics.

Participants will move on to develop an understanding of the concepts associated with negative or discriminatory thinking and behaviour towards LGBTI persons. Homophobia, lesbophobia, biphobia, transphobia, intersexphobia and stereotypes on LGBTI persons fuel the homophobic, lesbophobic, biphobic, transphobic or intersexphobic prejudices that constitute the foundation of most hate crimes against LGBTI persons.

LEARNING OUTCOMES

Participants will:

- ▶ understand the key concepts of sexual orientation, gender identity, gender expression and sex characteristics
- ▶ understand the concepts of stereotypes and prejudice and how they relate to the role of a police officer
- ▶ be able to apply the terminology throughout the training session and in their work

OVERVIEW OF ACTIVITIES

- ▶ Activity 2.1 – Understanding the key terminology: Plenary presentation by course facilitators
- ▶ Activity 2.2 – Understanding Stereotypes 1: Individual work followed by discussion
- ▶ Activity 2.3 – Understanding Stereotypes 2: Group work followed by plenary presentation and discussion
- ▶ Activity 2.4 – Definition Quiz

ACTIVITY 2.1 – UNDERSTANDING THE KEY TERMINOLOGY RELEVANT TO THE LGBTI COMMUNITY AND PLENARY PRESENTATION BY COURSE FACILITATORS

Key concepts and definitions - Presentation

Materials needed: Flipchart paper, pens

Optional: Handouts 2.1 & 2.2

Notes for Trainers:

The glossary presented in Handout 2.1 can either be handed out at the start of the training or in this session, for learners to use in the activities, or at the end, so they can use it as a cheat sheet in their day-to-day work. It can also be used to incorporate additional concepts to those in the main explanation.

Before the session, it is recommended to review it with CSO collaborators so it can be adapted to the local context and terminology.

The Genderbread Person presented in Handout 2.2, is an aid for identifying and understanding the main LGBTI concepts discussed so far in the module, particularly if learners had no previous experience or knowledge of them. However, it should be noted that this is a simplification for training purposes. It is a reductive depiction of SOGIESC, so it should be used with caution and avoided when learners already have some knowledge of these realities. As a general rule, refer to the language used in Activity 2.1 and Handout 2.1.

Ideally, this module would be **facilitated by a representative of an LGBTI civil society organisation alongside the trainer**. They will introduce the following key concepts to the group in a plenary session:

- ▶ sexual orientation, gender identity, gender expression and sex characteristics
- ▶ stereotyping and prejudice, including homophobia, lesbophobia, biphobia transphobia, and intersexphobia

The group should be instructed to take notes about what they understand from the presentation and about the key concepts. Handouts 2.1 and 2.2 may be used to further facilitate understanding of this area.

This learning can be tested at a later stage in the module during activity 2.4, using Handout 2.3a and 2.3b.

Note for Trainers:

The following pages provide information which should be tailored to local training sessions with the collaboration of a civil society representative. Adaptations should be based on existing knowledge of the target audience and the level of detail that is required, in accordance with both time considerations and the depth of the training to be provided. Review the material and choose those parts that are most relevant for facilitating an improved understanding by the police officers concerned.

Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics (SOGIESC)

a. Sexual Orientation:

Sexual orientation refers to each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.⁴¹

The following words are commonly used by people to describe their sexual orientation:

- ▶ **Lesbian:** A woman who sexually, physically, and romantically feels attracted to individuals of the same gender. Some lesbians may prefer to identify as gay (adj.) or as gay women⁴²
- ▶ **Gay:** A man who sexually, physically and romantically feels attracted to individuals of the same gender.⁴³
- ▶ **Bisexual:** Individuals who sexually, physically and romantically feel attracted to individuals of more than one gender.⁴⁴ Some may use other terms to refer to themselves, such as pansexual
- ▶ **Asexual:** a person who does not experience sexual attraction
- ▶ **Heterosexual:** a person who is emotionally, romantically, or sexually attracted to members of a different gender

However, people might use other words or expressions to describe how they experience attraction to other individuals. Some might even refer to themselves by using words considered by some to be slurs or offensive terms. Although both trainers and learners need to avoid them to refer to another person, an LGBTI person's account of the events should not be seen as less credible or less serious for using those terms to describe themselves.

41. ECRI Glossary: <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/ecri-glossary>.

42. UNCHR glossary of Key SOGIESC terms, Annex III to Discussion Paper "LGBTIQ+ persons in forced displacement and statelessness: protection and solutions", available at <https://www.unhcr.org/media/2021-global-roundtable-lgbtiq-persons-forced-displacement-and-statelessness-protection-and>.

43. *Ibid.*

44. *Ibid.*

Each one of us has a sexual orientation. The exact percentage of the population which is lesbian, gay or bisexual is unclear. Percentages vary from study to study, and people report having had same-sex encounters in higher percentages than they define themselves as being lesbian, gay or bisexual. Across all continents, lesbian, gay and bisexual persons represent a very sizable minority group.

Note for trainers:

Some countries have incorporated SOGIESC topics in their census and other public statistics, offering an estimate of the number of persons that form the local LGBTI community. Prior to this session, it could be a good idea to review if that data exists for the country where participants operate and insert it in this part of the training.

b. Gender Identity

When somebody is born, they are classified as male or female, an assignment mostly based on the appearance of their external anatomy. That quality assigned at birth is the **sex**.

Each assigned sex has a **gender** associated to it, that is, socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men.⁴⁵ Historically, it has been understood that gender divides individuals in two groups: men, with a male sex, and women, with a female sex. However, humanity is more complex than that.

Gender identity refers to a person's deeply felt individual experience of gender. It may or may not correspond with the sex assigned at birth, and it includes the personal sense of the body (which may involve, if freely chosen, modifications of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerism.⁴⁶ Like sexual orientation, each one of us has a gender identity, even if most people feel their gender identity and their sex assigned at birth are aligned.

Transgender people are individuals whose gender identity is different from the sex assigned to them at birth. Therefore, a transgender woman is a woman who was not assigned the female sex at birth, but whose gender identity is female. Likewise, a transgender man is a man who was not assigned the male sex at birth but whose gender identity is male.⁴⁷ Many transgender people use the term "trans" instead of transgender to refer to themselves and/or their community.

Transgender is also an umbrella term that includes many other terms that might be used by a person to refer to themselves, such as transsexual, nonbinary, transvestite, agender, multigender, genderqueer and gender diverse people.⁴⁸ However, as a general rule the terms transsexual and transvestite should be avoided unless someone **expressly requires to be addressed as such**, since they have historically been used to discriminate against transgender persons. The key is to always respect the way someone wishes to be addressed.

Conversely, a **cisgender person** would be someone whose gender identity aligns with the sex they were assigned at birth. It is used to describe **someone who is not trans**. Sometimes it might be shortened to "cis person".

Some persons might not identify as men or women. They might use the term **nonbinary** to describe their gender identity, or with another term. Some nonbinary persons might not consider themselves as part of the trans community, while others do.

Regardless of the term they use to describe themselves, everybody, and especially those reporting a hate crime, **must be respected in their gender identity**. It should be stressed to learners that, in personal interactions, transgender persons must be addressed with the name, gender, term and pronouns they prefer or have requested, irrespective of what is on their identity documents.

Many transgender persons **change their appearance** to align it with their internal self-perception. However, **not all do**. No one should be expected, requested or forced to prove their gender identity by showing in any way that they have undergone any kind of medical treatment or aim to do so or to dress in a particular manner.

Likewise, many transgender persons have changed their **gender markers**, where this possibility is available to them, but not all have. A gender marker is a **gendered designator** on, for example, **an identity document** (passports). The most obvious gender markers are designations such as male/female or Mr/Mrs/Ms/Miss. They

45. ECRI Glossary: <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/ecri-glossary>.

46. Ibid.

47. Ibid.

48. TGEU, Trans Media Guide: A Community-informed, Inclusive Guide for Journalists, Editors & Content Creators, available at <https://tgeu.org/trans-media-guide-for-journalists-and-editors/>

can also be professional titles or personal pronouns, or coded numbers, such as social security numbers and tax numbers which may use certain combinations for men and for women (for example, even/odd numbers). Gender markers are often embedded in ID cards or personal certificates such as passports, birth certificates, school diplomas, and employers' reference letters.⁴⁹

Their purpose is indicating the person's gender, and they are often found on personal documents such as national identity cards, driving licences and passports. Nonetheless, changing gender markers on identity documents **can be difficult, if not impossible, in many countries**, and this is even more so for nonbinary people. This causes challenges for transgender persons in situations where documentation is required for interaction with public authorities, such as the police, as they will reflect a marker that does not align with their gender identity. Moreover, some transgender persons might have no intention to change their gender marker.

It is also key to **differentiate between gender identity and sexual orientation**. Transgender persons may be heterosexual, bisexual, gay, lesbian, etc.

c. Gender Expression

Gender expression refers to the external manifestations of gender, expressed through a variety of externally perceptible indicators, such as a person's name, pronouns, clothing, behaviour, etc. Society identifies these cues as masculine or feminine, although what is considered masculine and feminine changes over time and varies by culture.⁵⁰

As with sexual orientation and gender identity, **everybody has a gender expression**. For instance, many men prefer to keep their hair short because it is seen as an indicator of masculinity, while many women prefer to have long hair because it is considered a feminine trait. Many others express themselves in ways that are less aligned with what it is expected of them. For example, some men wear make-up, nail polish or skirts, while some women would rather wear a buzzcut or not wear any make-up at all.

Although people's gender expression is often influenced by their sexual orientation or gender identity, that is not always the case. For example, a gay or a trans man might have a typically masculine appearance. However, it should be noted that LGBTI people can be victims of a hate crime even when their gender expression is conforming to gender norms.

Individuals whose gender expression departs from expectations might be victims of a hate crime regardless of their actual sexual orientation, gender identity or sex characteristics. It is key that learners understand that nobody should be asked or recommended to change their gender expression to avoid being a victim of a hate crime. **Gender expression is an integral part of a person's identity**.

d. Sex Characteristics

Sex characteristics refers to the chromosomal, gonadal and anatomical features of a person, which include primary characteristics such as reproductive organs and genitalia and/or in chromosomal structures and hormones; and secondary characteristics such as muscle mass, hair distribution, breasts and/or structure.⁵¹

Everybody has a specific set of sex characteristics. When a person is born, some of those traits are used to assign them a sex. **Intersex** individuals are born with sex characteristics that do not fit the typical definition of how a male or female body should be.⁵²

The term "intersex" is an umbrella term for the wide diversity of variations of sex characteristics that naturally occur within the human species. The term intersex acknowledges the fact that physically, sex is a spectrum and that people with variations of sex characteristics other than male or female exist.⁵³

Sex characteristics are independent from sexual orientation, gender identity and gender expression. An intersex person might be straight, lesbian, gay, bisexual, etc. as well as transgender or cisgender. Likewise, they might present themselves with any gender expression.

49. ECRI Glossary: <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/ecri-glossary>.

50. TGEU, Trans Media Guide: A Community-informed, Inclusive Guide for Journalists, Editors & Content Creators, available at <https://tgeu.org/trans-media-guide-for-journalists-and-editors/>; UNCHR glossary of Key SOGIESC terms, Annex III to Discussion Paper "LGBTIQ+ persons in forced displacement and statelessness: protection and solutions", available at <https://www.unhcr.org/media/2021-global-roundtable-lgbtqi-persons-forced-displacement-and-statelessness-protection-and>.

51. ECRI Glossary: <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/ecri-glossary>.

52. Dan Christian Gattas (OII Europe), Protecting intersex people in Europe: a toolkit for law and policymakers, p. 9, available at <https://www.oiiurope.org/protecting-intersex-people-in-europe-a-toolkit-for-law-and-policy-makers/>

53. Ibid.

Intersex people are vulnerable to discrimination and abuse in all spheres of life,⁵⁴ in particular, when their appearance does not conform to stereotypical notions of male and female.⁵⁵

Key Definitions - Stereotypes and prejudices

A **stereotype** is an oversimplified and generalised belief or assumption about a group of people. Stereotypes reduce members of that group to a set of expected traits or behaviours, ignoring the individual differences of the members of the group.

Examples of stereotypes are:

- ▶ All lesbians are masculine
- ▶ All African immigrants are criminals
- ▶ All police officers abuse their power
- ▶ All Muslims are religious extremists

Stereotyping involves simplifying the complex diversity of individuals into rigid categories. This categorization is often based on incomplete or biased information, which **ignores personal differences and reduces people to mere traits** or labels. This oversimplification affects our decision-making, even without us noticing it, and can lead us to incorrect judgments on individuals and groups.

Though often negative, stereotypes can also appear complimentary. Positive stereotypes might still have a negative impact, however, simply because they involve broad generalisations that ignore individual realities. An example of this would be that women are better at looking after children than men. This stereotype may undermine how their competence for other, less stereotyped roles is perceived, or how child caring duties should be divided in heterosexual relationships, while it also ignores the reality that there are women who are abusive to children.

You can use the following infographic to explain this concept:

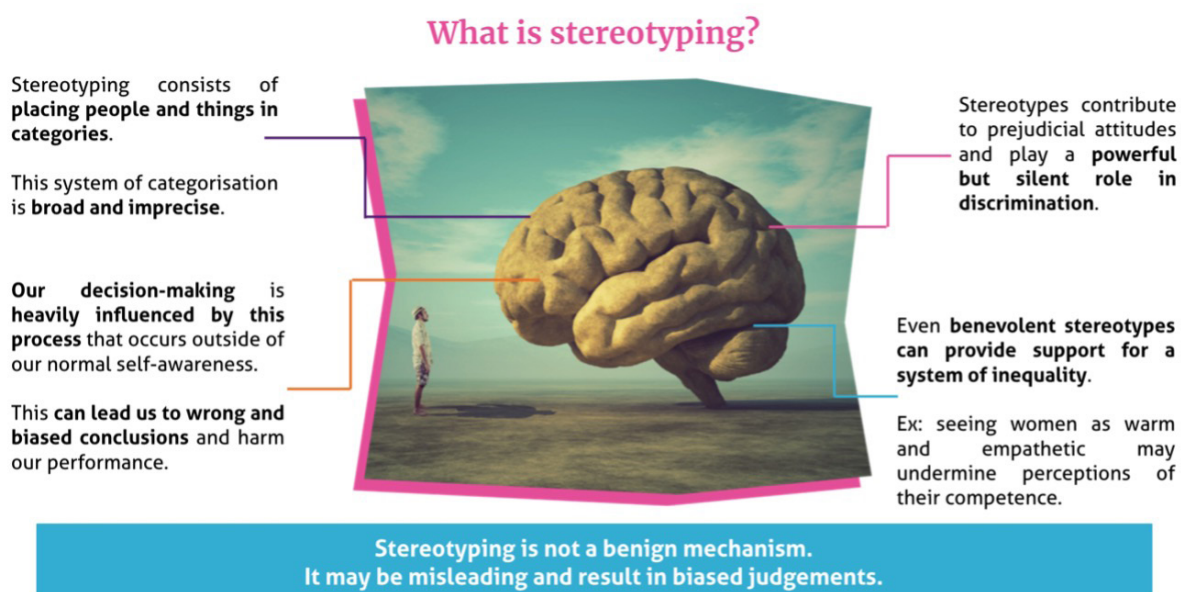


Figure 1: Infographic from the Council of Europe's HELP Course Fight against racism, xenophobia, homophobia and transphobia, available at <https://help.elearning.ext.coe.int/mod/scorm/view.php?id=112019>

Stereotypes shape how we view people by promoting **fixed and oversimplified ideas about certain groups**. When we rely on these generalizations, we stop seeing individuals for who they are and instead judge them based on assumptions. Over time, these distorted perceptions can turn into **prejudice**.

A **prejudice** is a preconceived opinion about or attitude towards a person or a group based on a personal trait, such as age, race, disability, religion as well as sexual orientation, gender identity, gender expression or sex

54. Council of Europe, Human rights and intersex people, 2015, available at <https://rm.coe.int/16806da5d4>

55. Dan Christian Gattas (OII Europe), Protecting intersex people in Europe: a toolkit for law and policymakers, p. 43.

characteristics. Prejudices are often negative and are typically grounded on rumours, assumptions, feelings and beliefs rather than on knowledge and facts. Prejudice influences both our actions and our interpretations of the acts of others. They are **harmful biases** and might affect how victims of hate crimes are treated by authorities and society at large.

For instance, homophobia, lesbophobia, biphobia, transphobia and intersexphobia (LGBTI-phobia) are forms of prejudice that manifest socially as exclusion, discrimination, abusive behaviour, assault, sexual violence and even murder.

ACTIVITY 2.2A – UNDERSTANDING STEREOTYPES 1: INDIVIDUAL WORK FOLLOWED BY DISCUSSION

Materials needed:

Flip chart paper, paper, pens

1. Have participants work on their own, asking them to think of a time that they or a member of their family was stereotyped. Have them record what the impact of that stereotyping was.
2. After a few minutes, ask some participants to outline their experience.

ACTIVITY 2.2B – UNDERSTANDING STEREOTYPES 1: GROUP DISCUSSION

Based on the above discussion, ask the group the following questions, placing their ideas on the flip chart:

- ▶ Given your understanding of stereotyping, what are the risks to individuals, families and communities if stereotyping is not challenged?
- ▶ What are the risks if police officers engage in such stereotyping?

ACTIVITY 2.3 – UNDERSTANDING STEREOTYPES 2: GROUP WORK FOLLOWED BY PLENARY PRESENTATION AND DISCUSSION⁵⁶

Note for Trainers:

This exercise needs to be facilitated carefully to ensure that the collection of negative stereotypes against LGBTI persons is not used as an opportunity for prejudice. The participation of CSO representatives as facilitators might help, although they must be carefully informed about the nature of this activity before. This exercise might not be appropriate in very challenging work environments or when the facilitator is not experienced in managing controversial discussions. Remember to assess the previous knowledge on and experience with LGBTI issues of learners before initiating the course (see Annex II at the end of the Manual).

Materials needed:

Flipchart paper, pens

Breakout rooms or space within the training room

Handout 2.4

1. Divide participants into four groups.
2. Task each group with collecting as many stereotypes as possible in the following areas:
 - ▶ the first group is asked to collect negative stereotypes about LGBTI persons
 - ▶ the second group is asked to collect negative stereotypes about the police
 - ▶ the third group is asked to collect positive stereotypes about LGBTI persons
 - ▶ the fourth group is asked to collect positive stereotypes about the police

56. ILGA-Europe, ILGA-Europe Toolkit for training police officers on tackling homophobic crime, 2010, available at <https://www.ilga-europe.org/report/toolkit-for-training-police-officers-on-tackling-lgbti-phobic-crime/>

3. Give the groups some minutes to identify the relevant stereotypes. Then bring the participants back together and ask the groups to outline their findings. Place the results on four flip chart sheets.
4. Through general discussion, ask the following questions:
 - ▶ Do stereotypes provide an accurate description of the individual groups?
 - ▶ What harm can stereotypes do to members of the two groups concerned?

The exercise should expose prejudices and show that all groups suffer from stereotyping. The parallel examination of LGBTI persons and the police should build a connection between the police and the LGBTI community.

5. At the end of this activity, share Handout 2.4 with the learners. Explain that they can get more information on these topics in the sources listed there.

ACTIVITY 2.4 – DEFINITION QUIZ

Materials needed:

Pens

Handout 2.3a (quiz) and 2.3b (answers)

Distribute Handout 2.3a to each participant. Inform them that the goal of the exercise is to match the key concept to the definition provided. At the end of the five minutes, provide the answers and ask participants to add up their scores. Consider giving a small prize to the person with the highest score.

Note for trainers:

Adapt the quiz as needed considering the concepts explained in the session.

HANDOUTS

HANDOUT 2.1 – GLOSSARY

- ▶ **Asexual:** a person who does not experience sexual attraction.
- ▶ **Bisexual:** individuals who sexually, physically and romantically feel attracted to individuals of more than one gender.⁵⁷
- ▶ **Biphobia:** prejudice against, hatred towards, or fear of bisexuality or of people who are identified or perceived as bisexual.
- ▶ **Cisgender person:** people who are not transgender/trans persons. Cisgender persons' gender identity corresponds with the sex that was assigned to them at birth. Sometimes it might be shortened to "cis person".
- ▶ **Gay:** a man who sexually, physically and romantically feels attracted to individuals of the same gender.⁵⁸
- ▶ **Gender:** a set of roles, behaviours, activities and attributes that society expects from women and men.
- ▶ **Gender expression:** external manifestations of gender, expressed through a variety of externally perceptible indicators, such as a person's name, pronouns, clothing, behaviour, etc. Society identifies these cues as masculine or feminine, although what is considered masculine and feminine changes over time and varies by culture.
- ▶ **Gender identity:** a person's deeply felt individual experience of gender. It may or may not correspond with the sex assigned at birth, and it includes the personal sense of the body (which may involve, if freely chosen, modifications of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerism.⁵⁹
- ▶ **Gender marker:** gendered designators, often found on documents such as national identity cards, driving licences and passports. The most common gender markers are designations such as male/female or Mr/Mrs. They can also be professional titles or coded numbers, such as social security numbers and tax numbers, which may use certain combinations for men and for women.⁶⁰
- ▶ **Heteronormativity:** institutions, structures of understanding and practical orientations that make heterosexuality seem coherent, natural and privileged. It involves the assumption that everyone is heterosexual, and that heterosexuality is the ideal and superior to homosexuality or bisexuality. Heteronormativity also includes the privileging of normative expressions of gender – what is required or imposed on individuals in order for them to be perceived or accepted as "a real man" or "a real woman" as the only available categories.⁶¹
- ▶ **Heterosexual:** a person who is emotionally, romantically, or sexually attracted or committed to members of a different gender.
- ▶ **Homophobia:** prejudice against, hatred towards, or fear of homosexuality or of people who are identified or perceived as being gay, lesbian or bisexual.⁶²
- ▶ **Intersex:** a person born with biological sex characteristics that do not fit societal norms or medical definitions of what makes a person male or female.⁶³
- ▶ **LGBTI:** an acronym referring to "Lesbian, Gay, Bisexual, Transgender and Intersex" persons. Sometimes LGBTI is extended to include Queer persons (LGBTIQ). LGBTI and LGBTIQ are umbrella terms, under which a heterogeneous group of people is bundled together.⁶⁴
- ▶ **Lesbian:** a woman who sexually, physically, and romantically feels attracted to individuals of the same gender. Some lesbians may prefer to identify as gay (adj.) or as gay women.⁶⁵

57. UNCHR glossary of Key SOGIESC terms, Annex III to Discussion Paper "LGBTIQ+ persons in forced displacement and statelessness: protection and solutions", available at <https://www.unhcr.org/media/2021-global-roundtable-lgbtq-persons-forced-displacement-and-statelessness-protection-and>.

58. *Ibid.*

59. ECRI Glossary: <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/ecri-glossary>.

60. *Ibid.*

61. *Ibid.*

62. *Ibid.*

63. *Ibid.*

64. *Ibid.*

65. UNCHR glossary of Key SOGIESC terms, Annex III to Discussion Paper "LGBTIQ+ persons in forced displacement and statelessness: protection and solutions", available at <https://www.unhcr.org/media/2021-global-roundtable-lgbtq-persons-forced-displacement-and-statelessness-protection-and>.

- ▶ **Non-binary:** an umbrella term that encompasses a variety of gender experiences, including people with a specific gender identity other than man or woman, people who identify as two or more genders (bigender or pan/polygender) and people who do not identify with any gender (agender).⁶⁶
- ▶ **Pronouns:** words that can be used to refer to an individual in place of their name. Common pronouns include I, you, he, she, they or we, as well as me, you, him, her, them or us. They are a normal element in many languages' grammar, and, depending on the language, they might or might not show the gender of the noun they are referring to. When a language has gendered pronouns, such as in English, it is basic courtesy to address people using the pronouns that correctly reflect their gender identity. In English, men would commonly prefer to be addressed as "he" and women as "her", while nonbinary people might use "they" or be comfortable with one or any of the other options too. Treating victims of hate crimes with respect, including by using their preferred pronouns, is essential to build trust with them.
- ▶ **Sex characteristics:** chromosomal, gonadal and anatomical features of a person, which include primary characteristics such as reproductive organs and genitalia and/or chromosomal structures and hormones; and secondary characteristics such as muscle mass, hair distribution, breasts and/or structure.⁶⁷
- ▶ **SOGIESC:** acronym for sexual orientation, gender identity, gender expression and sex characteristics.
- ▶ **Transgender person:** individuals who have a gender identity that is different from the gender assigned to them at birth and those persons who wish to portray their gender identity in a different way from the gender assigned at birth.⁶⁸
- ▶ **Transitioning:** the social, legal, and/or medical process of aligning one's life with one's gender. This can (but does not always) include changing one's name and pronouns; altering dress, speech, and mannerisms; updating documents and legal registries; and seeking medical treatment to change physical characteristics. To come out as trans can be a part of, but is not the same as, transitioning.⁶⁹
- ▶ **Transphobia:** prejudice against, hatred towards, or fear of transgender people, based on the expression of their internal gender identity.⁷⁰
- ▶ **Queer:** is a term laden with various meanings and a long history, but currently often denotes persons who do not wish to be identified with reference to traditional notions of gender and sexual orientation and eschew heterosexual, heteronormative and gender-binary categorisations.⁷¹ Occasionally it is used as an umbrella term for everything related to SOGIESC diversity and as a synonym to LGBTI people.

66. Council of Europe Commissioner for Human Rights, *Human rights and gender identity and expression* (2024), available at <https://rm.coe.int/issue-paper-on-human-rights-and-gender-identity-and-expression-by-dunj/1680aed541>

67. ECRI Glossary.

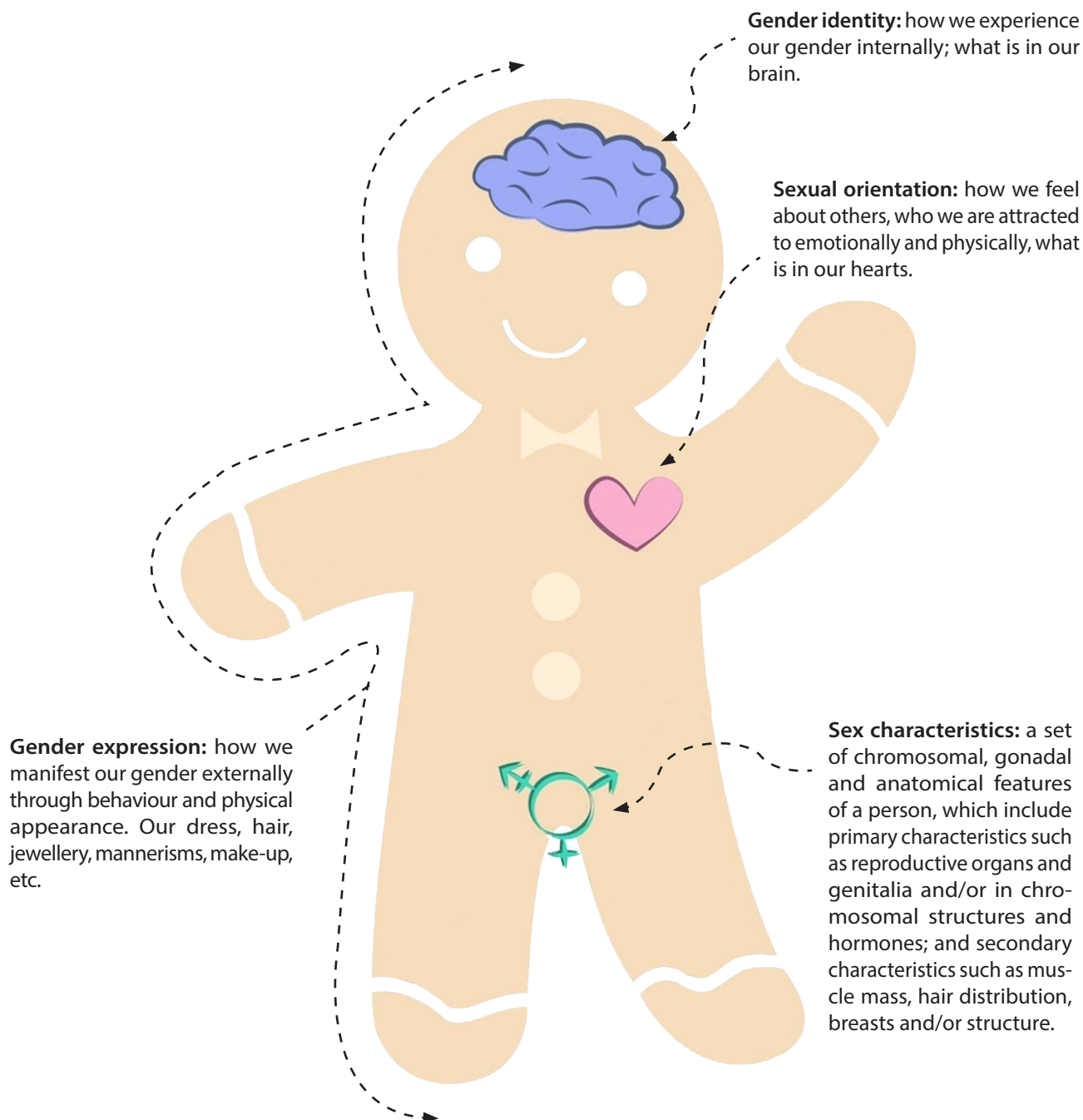
68. *Ibid.*

69. TGEU, *Trans Media Guide: A Community-informed, Inclusive Guide for Journalists, Editors & Content Creators* (2023), available at <https://tgeu.org/trans-media-guide-for-journalists-and-editors/>

70. ECRI Glossary.

71. *Ibid.*

HANDOUT 2.2 – KEY CONCEPT HAND-OUT



HANDOUT 2.3A – DEFINITION QUIZ

Key Concept	Insert Letter		Definition
Sex characteristics		A	Someone who is not transgender
Homophobia		B	A person's capacity for profound emotional, affectional and sexual attraction to and intimate and sexual relations with others
Transgender person		C	Hatred or aversion to homosexuality based on prejudice
Intersex		D	Preconceived and harmful opinion on a person or a group that is not based in fact.
Nonbinary		E	A man whose primary romantic, emotional, physical and sexual attractions are to men
Stereotype		F	How we manifest our gender externally through behaviour and physical appearance
Gender identity		G	Chromosomal, gonadal and anatomical features of a person, both primary characteristics (reproductive organs and genitalia and/or chromosomal structures and hormones); and secondary characteristics (muscle mass, hair distribution...)
Bisexual		H	A person whose gender identity is neither man nor woman
Lesbian		I	A person who is emotionally, romantically, or sexually attracted/committed to members of a different gender
Cisgender		J	Prejudice against, hatred towards, or fear of transgender people
Prejudice		K	An umbrella term including everybody whose gender identity differs from the sex they were assigned at birth
Sexual orientation		L	A person's deeply felt individual experience of gender, i.e., of being a man, a woman or another gender
Heterosexual		M	A person who has significant romantic, emotional, physical and sexual attractions to people of different genders
Transphobia		N	A preconceived or oversimplified generalisation about an entire group of persons regardless of their individual differences
Gender expression		O	A woman whose primary romantic, emotional, physical and sexual attractions are to women
Gay		P	Designations such as male/female or Mr/Mrs which are found regularly on ID documents
Gender marker		Q	Umbrella term to refer to persons whose sex characteristics do not fit the typical definition of how a male or female body is

HANDOUT 2.3B – DEFINITION QUIZ ANSWERS

Key Concept	Insert Letter		Definition
Sex characteristics	G	A	Someone who is not transgender
Homophobia	C	B	A person's capacity for profound emotional, affectional and sexual attraction to and intimate and sexual relations with others
Transgender persons	K	C	Hatred or aversion to homosexuality based on prejudice
Intersex	Q	D	Preconceived and harmful opinion on a person or a group that is not based in fact
Nonbinary person	H	E	A man whose primary romantic, emotional, physical and sexual attractions are to men
Stereotype	N	F	How we manifest our gender externally through behaviour and physical appearance
Gender identity	L	G	Chromosomal, gonadal and anatomical features of a person, both primary characteristics (reproductive organs and genitalia and/or chromosomal structures and hormones); and secondary characteristics (muscle mass, hair distribution...)
Bisexual	M	H	A person whose gender identity is neither man nor woman.
Lesbian	O	I	A person who is emotionally, romantically, or sexually attracted/committed to members of a different gender
Cisgender	A	J	Prejudice against, hatred towards, or fear of transgender people
Prejudice	D	K	An umbrella term including everybody whose gender identity differs from the sex they were assigned at birth
Sexual orientation	B	L	A person's deeply felt individual experience of gender, i.e., of being a man, a woman or another gender
Heterosexual	I	M	A person who has significant romantic, emotional, physical and sexual attractions to people of different genders
Transphobia	J	N	A preconceived or oversimplified generalisation about an entire group of persons regardless of their individual differences
Gender expression	F	O	A woman whose primary romantic, emotional, physical and sexual attractions are to women
Gay	E	P	Designations such as male/female or Mr/Mrs which are found regularly on ID documents
Gender marker	P	Q	Umbrella term to refer to persons whose sex characteristics do not fit the typical definition of how a male or female body is

HANDOUT 2.4 – REFERENCES, FURTHER READING AND RESEARCH TIPS

A) Resources by the Council of Europe

► ECRI's Glossary⁷²

ECRI elaborates a glossary which compiles the terms described in its General Policy Recommendations (GPRs) and/or their Explanatory Memorandums (EM). It has been used as the primary source for the definitions explained in this Module.

B) Resources by other international organisations

► United Nations High Commissioner for Refugees, *Glossary of Key SOGIESC terms, Annex III to Discussion Paper LGBTIQ+ persons in forced displacement and statelessness: protection and solutions (2021)*⁷³

Another useful resource for definitions, particularly those not included in the ECRI Glossary.

C) Resources by civil society organisations

► TGEU, *Trans Media Guide: A Community-informed, Inclusive Guide for Journalists, Editors & Content Creators (2023)*⁷⁴

This resource offers clear explanations and definitions on concepts related to transgender persons and gender identity and expression issues.

► OII Europe, *Protecting Intersex People in Europe: A toolkit for law and policymakers (2023)*⁷⁵

This resource (particularly the "Some basic facts" chapter) can be very useful to achieve a better understanding of intersex persons and sex characteristics issues.

72. <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/ecri-glossary>

73. <https://www.unhcr.org/media/2021-global-roundtable-lgbtqi-persons-forced-displacement-and-statelessness-protection-and>

74. <https://tgeu.org/trans-media-guide-for-journalists-and-editors/>

75. <https://www.oii-europe.org/protecting-intersex-people-in-europe-a-toolkit-for-law-and-policy-makers/>

Module Three:

Policing hate crime against LGBTI persons - a human rights and anti-discrimination approach

INTRODUCTION AND BACKGROUND

While human rights can often feel removed from matters of “real policing,” they in fact affect every police officer’s core responsibilities, from ensuring victim safety and security to conducting effective investigations. Failure to meet these standards can have serious repercussions. Victims may lose confidence in the commitment of the police to protecting them, perpetrators go unchecked and are free to further offend, and police services risk legal claims of discrimination including being found in breach of the European Convention on Human Rights.

Hate crimes against LGBTI persons take place in a context of daily occurrences of prejudice and discrimination. Research has found that LGBTI persons experience hostility and harassment in public, and face discrimination at work, at school and when trying to access housing and health services. Some LGBTI persons experience harassment and even violence at the hands of the police. These experiences combine to create barriers that stop LGBTI persons reporting hate crimes to the police or cooperating with investigations and possible court proceedings. Common reasons for not reporting include: victims do not think that the police will take their complaint seriously; their experience is that such incidents happen too frequently to report; or because they fear repercussions from the perpetrators.

This means that when investigating hate crime against LGBTI persons, police officers need to be very careful to avoid re-victimisation.

This module outlines the human rights standards that are most relevant for the police in the context of hate crime against LGBTI persons. It also includes exercises that can be used to encourage officers to rely on human rights standards and principles in their efforts to effectively investigate hate crimes against LGBTI persons. Handout 3.3 gives a comprehensive overview of the most relevant international standards related to effectively policing hate crimes against LGBTI persons.

Where appropriate and possible, local CSOs should be invited to deliver a presentation and to engage in constructive dialogue with participants about the discrimination experienced by LGBTI persons in the national context. Opportunities for input from CSOs are highlighted throughout this module.

LEARNING OUTCOMES

Participants will:

- ▶ become aware of the broader context of prejudice, hostility and discrimination that LGBTI persons and communities face
- ▶ identify specific barriers to reporting hate crime faced by LGBTI communities and the corresponding responsibilities of the police
- ▶ understand national legislation and concepts of discrimination and hate crime
- ▶ understand Council of Europe and other human rights standards that are relevant to hate crime against LGBTI persons, including key judgments of the European Court of Human Rights, and why they are important to their role
- ▶ recognise specific human rights violations that can be committed by the police
- ▶ become familiar with essential Council of Europe and other international standards

OVERVIEW OF ACTIVITIES

- ▶ Activity 3.1: What is discrimination?
- ▶ Activity 3.2: Understanding the broader context of discrimination that LGBTI persons and communities experience
- ▶ Activity 3.3: What is a hate crime? Presentation and discussion
- ▶ Activity 3.4: Understanding key Council of Europe and other human rights standards relevant to hate crimes against LGBTI persons

ACTIVITY 3.1 – WHAT IS DISCRIMINATION?

Note for Trainers

This is a general explanation of the key concepts regarding discrimination. Local legislation and related definitions of discrimination should be examined prior to the training session and incorporated where appropriate. Participants should be provided with both the legal definition of discrimination and list of the protected groups covered by the legislation.

Discrimination: Most countries have their own legal definitions of discrimination. A general legal definition would be that discrimination is a differential treatment based on a protected ground, such as sex, gender, sexual orientation, gender identity, gender expression or sex characteristics, which has no objective and reasonable justification. This is also known as **direct discrimination**.⁷⁶

Therefore, a differential treatment would be discriminatory if two conditions are met: it is based on a **protected characteristic** (such as the ones explained in the previous Module) and is **unjustified**. It would be unjustified when it does not have a legitimate goal or when the means used are disproportionate to that goal.

For example: a police officer stops two women (one of them a transgender woman and the other is not) and asks for their IDs. When the cisgender woman says she does not have an ID with her, the police officer tells her to always carry it with her and lets her go. When the transgender woman is also unable to show her ID, the officer arrests her.

Indirect discrimination: instances when an apparently neutral provision, practice, or policy applies to everyone in the same way, but puts some groups of people at a disadvantage compared to others based on a protected characteristic.

An example of this would be giving special annual leave entitlements or benefits only to married police officers where policies and/or legislation do not recognise same-sex relationships, as officers in a same-sex relationship would not be able to enjoy those benefits.

MULTIPLE DISCRIMINATION AND INTERSECTIONALITY

LGBTI persons, as any other person, are not just LGBTI. Their personalities, identities and realities are formed by different traits. Some of those traits might be stereotyped or discriminated against in a society and, for this reason, be protected characteristics. Therefore, an LGBTI person can be **discriminated against for multiple reasons**.

For instance, a lesbian Roma woman might be discriminated against for being lesbian in some contexts, for being Roma in others and for being a woman in other spaces.

Sometimes, those different grounds for discrimination can interact with each other and make the person particularly vulnerable to very specific forms of discrimination. This is called **intersectional discrimination**.

A good way of visualizing intersectionality is by thinking of traffic intersections. Imagine every protected characteristic is a different road. There is a road for being a member of an ethnic minority, a road for being transgender, a road for being a migrant. However, sometimes those roads cross each other, and form intersections. Within those intersections, **the discrimination experienced is different to the one faced in each of the intersecting roads alone**. It might be a heightened version of it or an entirely different experience of marginalisation.

⁷⁶. ECRI Glossary, available at <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/ecri-glossary>

Some examples:

- ▶ A gay man from a country where homosexuality is persecuted seeks asylum in a European country because he has heard gay men are able to have a safe life there. However, while he waits for his asylum application he is housed with several other men from his own country of origin. When they discover he's gay, they shun him and ban him from touching the fridge, the toilet and the shower as he "might spread his sickness". This is an experience of discrimination that neither local gay men nor straight asylum-seekers would usually face in that European country, while it can be a very real challenge for many gay asylum-seekers.
- ▶ A transgender woman who is a sex worker was assaulted by a group of men after she rejected their offer. The aggressors shouted transphobic slurs and were particularly violent towards her because she is trans. However, she was scared to report it to the police, as sex work is banned in her country, and she could be fined. In her case, being a transgender sex worker puts her in a position that is more vulnerable to hate crimes than other transgender women and other sex workers, two groups that are heavily marginalised themselves.

ACTIVITY 3.2 – UNDERSTANDING THE BROADER CONTEXT OF PREJUDICE AND DISCRIMINATION THAT LGBTI PERSONS AND COMMUNITIES EXPERIENCE

Materials needed:

Flipchart paper, pens

Handout 3.1

Note for Trainers

Handout 3.1 can be replaced or completed by personal testimonies of LGBTI individuals gathered from and/or presented by representatives of local civil society organisations. Furthermore, the FRA sources cited included many other examples that can be used to customise the training as needed. Moreover, extracts of data and case studies from any relevant national reports on hate crime should be included, if available. Clearly cite the source, with details about how to access the publication.

1. Before the session, prepare two flipchart pages:

- ▶ a table entitled: "LGBTI persons' experiences of prejudice and discrimination" on a flipchart with four columns: public spaces; public services (housing, education); private and family life; and workplace. You can also sketch out the categories as a mind map. The important thing is to have the four categories clearly visible, with enough space to add words
- ▶ a page called "LGBTI persons' experience of the police"

"LGBTI persons' experiences of prejudice and discrimination"

Public space (on the street, in restaurants/ pubs)	Public services (health, housing, education)	Private and family life	Workplace

2. Before the training session, research evidence of prejudice and hostility experienced by LGBTI persons in the context/country in which the training session is taking place. Data compiled by national equality bodies and local or national CSOs can be very useful for this exercise. At an international level, ECRI's country monitoring

reports⁷⁷, the European Fundamental Rights Agency reports or the CSO submissions compiled by the OSCE are also good resources. Moreover, you could search for data by international CSOs such as the ones mentioned in Handout 0.1.

3. 5 minutes: Introduce the activity by explaining that LGBTI persons face prejudice, hostility and discrimination in many areas of their lives. Let participants know that they will be studying some examples of these experiences in the next part of the activity. Explain that, for now, you would like them to share their ideas about what kinds of hostility and prejudice LGBTI people face. As participants propose examples, make a note of them in the correct column. If no one offers any suggestions, start by making one or two suggestions yourself, referring back to previous discussions where appropriate. Here are some examples that you could add:

Public space (on the street, in restaurants/ pubs)	Public services (health, housing, education)	Private (family life)	Workplace
name calling; staring; stalking	school bullying; inappropriate treatment by health professionals; being unfairly evicted by landlords	threats of being thrown out of the family home; physical assault and abuse by family members	jokes; inappropriate comments; lack of promotion; misgendering

4. Divide participants into small groups of four or five. Try to make sure that you separate people who regularly work together and get a good gender mix if possible.

5. Give each group Handout 3.1 and ask them to read it and discuss it for a few minutes. Remind them to come prepared to add to the table.

6. Give the groups 10-15 minutes to read the handout and agree points to add to the table. Check on the groups to see that they are on track.

7. Bring the groups back into plenary and ask them to come up and add their points to the table. Encourage them to draw pictures or represent the points in other ways. Depending on the participants' suggestions, ask the other people present what they think of these ideas.

8. Now put up the second flipchart paper, LGBTI persons' experience of the police and ask for their thoughts. If there is no response you can make the following suggestions:

- ▶ Lack of follow-up given to reported incidents
- ▶ Experiences of harassment by the police
- ▶ Experiences of discrimination in police responses
- ▶ Experiences of violence, including physical assaults

9. Close the activity by highlighting key points and explain that the group will further explore these issues in the next activity.

ACTIVITY 3.3 – WHAT IS A HATE CRIME? PRESENTATION AND DISCUSSION

Note for Trainers

This is a general explanation of the key concepts regarding hate crime. Local legislation and the legal definitions of Hate Crime/Hate Incident/Hate Speech should be examined prior to training and incorporated where appropriate by the trainer. Participants should be provided with both the definitions and the protected groups covered by the legislation.

Materials needed:

Flipchart paper, pens, paper

In this activity, the trainer will provide the definition of hate crime and some key related concepts in a plenary session.

⁷⁷. <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/country-monitoring>

Key Definitions

Definition

Hate crime: a criminal offence committed with a hate element based on one or more actual or perceived personal characteristics or status, where:

- a. "hate" includes bias, prejudice or contempt;
- b. "personal characteristics or status" includes, but is not limited to, race, colour, language, religion, nationality, national or ethnic origin, age, disability, sex, gender, sexual orientation, gender identity and expression, and sex characteristics.⁷⁸

In other words, it is a **criminal act** with a **bias motive**.

Hate crimes include any kind of crime, such as intimidation, threats, property damage, assault, murder. In sum, **any criminal offence** where the victim, premises or target of the offence are selected because of their **real or perceived connection**, attachment, affiliation, support or membership of a protected group.

The two essential ingredients of a hate crime are that:

- a) a **criminal offence** has occurred and
- b) the offender had a **bias motive**.

Without either of the above ingredients, an incident cannot be designated a hate crime.

Hate crimes against LGBTI persons or persons perceived as being LGBTI require a reasonable suspicion that the motive of the perpetrator is the actual or perceived sexual orientation, gender identity, gender expression or sex characteristics of the victim.

Hate speech is understood as all types of expression that incite, promote, spread or justify violence, hatred or discrimination against a person or group of persons, or that denigrates them, by reason of their real or attributed personal characteristics or status such as race, colour, language, religion, nationality, national or ethnic origin, age, disability, sex, gender identity and sexual orientation.⁷⁹

It would include, for example, statements made by political and religious leaders or other opinion leaders circulated by the press or the Internet which aim to incite hatred.

Hate speech may or may not be a crime depending on local legislation. Furthermore, even when it is legally considered as such, it might only be applicable to some protected characteristics, but not others.

Hate incidents are acts or manifestations of intolerance committed with a bias motive that may not reach the threshold of hate crimes, due to there being insufficient evidence to constitute proof in a court of law of the criminal offence or bias motivation, or because the act itself may not constitute a criminal offence under national legislation. Even if they are not crimes, hate incidents might still be harmful to the individuals affected and contribute to an oppressive climate that, eventually, may contribute to the commission of hate crimes.

Moreover, a key feature of hate incidents and discourses is that they can **escalate** if not addressed. Hate speech left unchallenged can lead to persons engaging in criminal damage and/or acts of violence. The impact can escalate from the individual to their family, to members of their local community and across society.

It is therefore important that schools, communities, governments and the police intervene where appropriate in a prompt fashion to prevent the escalation of discriminatory behaviour.

A **protected characteristic** is a fundamental feature of a group, such as race, religion, ethnicity, nationality, gender, sexual orientation, sex characteristics or a similar common factor that is *fundamental to their identity*. Protected characteristics represent parts of our make up as individuals that we *cannot easily change*. They tend to be characteristics where there is a **visible pattern of discrimination across time and culture**.

Note that it is **not necessary to show** that the offender **hated** the selected group. It is sufficient to show that the victim was chosen as a result of protected group membership (**bias selection**). The hate crime offender may also be a member of the same group.

78. Committee of Ministers, Recommendation CM/Rec(2024)4 on combating hate crime, available at <https://search.coe.int/cm?i=0900001680af9736>

79. Ibid.

For example, criminals often select gay men as targets of blackmail as they hope to be able to extort money from them due to their fear of being outed. The criminals may not hate the gay men concerned, but simply wish to make money in the easiest way possible.

The victim does not have to *be part of* the protected group. The victim can be someone who is selected because of **being associated with** support for that group **or** who has been **wrongly identified** as being part of the group.

And, although most victims of crimes motivated by sexual orientation, gender identity and expression and sex characteristics might fall under the LGBTI umbrella, a person might be the victim of a hate crime based on SOGIESC even when they are straight, cisgender or endosex if they have been targeted because they are associated with or perceived as LGBTI.

For example, the victim may be a heterosexual man who walked past a gay bar, was mistaken for a customer and consequently beaten up by skin heads. The victim could also be a TV personality who supports trans rights and is targeted by right-wing groups as a result of this support.

The victim may not know they have been the **victim** of a hate crime or they **may not understand the concept**. This does not negate the fact that the incident may be an instance of hate crime.

They may or may not know that they were targeted because they were identified or perceived as an LGBTI person. It is up to the police to identify if a bias motive might exist and to explain this to the victim where appropriate. The victim's perception is only one factor amongst many to be considered here (see Module Four: "Bias Indicators").

ACTIVITY 3.4 – UNDERSTANDING KEY COUNCIL OF EUROPE AND OTHER HUMAN RIGHTS STANDARDS RELEVANT TO HATE CRIMES AGAINST LGBTI PERSONS

This activity highlights the centrality of human rights obligations in police practice. It starts off with key words, which are then further explained in the reading on *Identoba and Others v. Georgia*.

Materials:

Card/ A4 paper, flip chart, paper and pens

Handout 3.2

Handout 3.3

Handout 3.4

Note for trainer:

In preparing this session, carefully read through handout 3.3, which contains detailed information about relevant judgments of the European Court of Human Rights, Council of Europe standards and other international standards. ECHR judgments are particularly relevant when preparing this session. European Standards will normally be included in those trainings aimed at EU Member States' police forces, although they might sometimes also be relevant for other trainings.

1. Before the session, write the following terms and phrases on pieces of card or paper:

Article 3, European Convention on Human Rights

Article 14, European Convention on Human Rights

Positive obligation

Procedural obligation

Unmasking homophobic motive

Then write each term on one piece of flipchart paper and put them up around the room.

2. At the start of the activity, hand out the pieces of paper with the terms described. Explain that these terms and phrases are central to the practice of a human rights approach to policing.
3. Ask participants to read out the terms and to offer an idea of what they mean. Explain that at this point you are not looking for the perfect answer but just ideas. Ask another participant to write down the contributions

offered on the flip chart. Have a short discussion about each term, but don't yet offer a definition. Explain that you will come back to this at the end of the session.

4. Now give out Handout 3.2, which provides an overview of *Identoba and Others v. Georgia*. Introduce this part of the activity by explaining that, while nothing in the summary is inaccurate, the aim is not to give an exhaustive description of the facts of the case, Georgia's laws, or the law(s) that the Court considered. The point is to look at one example – that happened to take place in Georgia – and to identify the common human rights principles that apply to all police officers.

5. Give participants 5-7 minutes to read Handout 3.2. Ask them to look out for the terms that you have just discussed together as a group and to look again at the definitions.

6. Bring the participants back to a larger group and launch a guided discussion. Go back to the definitions and terms that you introduced at the beginning of the training session. Start with Article 3 of the Convention. Ask participants whether they still agree with the definition and whether they would add anything to it. Ask them what it means for their practice.

7. Now talk about the term "positive obligation". Ask the group what it means and if they would add anything to the definition. Draw on the following expert opinion about the meaning of Article 3 in this discussion.

The positive obligation that Article 3 imposes means that states must take both preventative and investigative action in respect of any ill-treatment of individuals. This means that states must provide effective protection of an individual or individuals from the criminal acts of a third party, as well as take reasonable steps to prevent ill-treatment which authorities know or ought to know about. In addition, states must conduct effective official investigations into alleged ill-treatment even if such treatment has been inflicted by private individuals.

8. Now talk about **Article 14**. Ask if participants would add anything to their definition. During the discussion, draw on the following definition: The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

9. Finally, move on to a discussion about procedural obligations. Ask participants what this means in their practice. Make it clear that, where there is evidence of homophobia, lesbophobia, biphobia, transphobia or intersexphobia in society and someone is victimised on the basis of their sexual orientation, gender identity and expression and sex characteristics, the police have a duty to investigate it and this is the procedural element of their human rights obligations.

10. Distribute Handout 3.3 and draw participants' attention to the detailed information on relevant international human rights standards. Emphasise that these are important resources in their work.

11. Finally, share Handout 3.4 with the learners. Explain that they can get more information on these topics in the sources listed there.

HANDOUTS

HANDOUT 3.1 – UNDERSTANDING THE BROADER CONTEXT OF DISCRIMINATION THAT LGBTI PERSONS AND COMMUNITIES EXPERIENCE

LGBTI persons experience hostility and discrimination in many areas of their lives. LGBTI-phobic jokes are very common and LGBTI people are often stared at with hostility on the street. This sets the context of their experience of hate crime and hate-incidents, an experience which will affect their confidence in the police to respond appropriately in cases of hate crime.

Read these quotations originating from LGBTI persons that were surveyed by the European Union's Fundamental Rights Agency⁸⁰. How do you think that these experiences influence LGBTI persons' feelings of safety and security in public and their willingness to report hate crimes and incidents against them?

I came out as lesbian when I was 18. Negative comments and jokes were the rules of communication, and anyone who expressed a comment in favour of LGBT rights (or just respect) was marginalised and harassed. Discrimination for me has never meant violent physical attack, but gossiping, exclusion, jokes, psychological violence, feeling inadequate, fear for myself and the persons around me: partner, family, friends." (Italy, lesbian, 30)

'The worst part of my life was when I was a teenager, I was humiliated, insulted and beaten up every day, I was insulted with the most offensive names ... I suffered from bullying throughout my school life, I was always alone, I ended up with huge traumas, which are now ingrained in me, I have a phobia of socializing, I can't be the centre of attention, I get anxiety attacks, at home my older brother didn't accept me either, he beat me up and made fun of me.' (Portugal, bisexual man, age 30)

'In Hungary, there is nowhere to turn, especially since the police force consists mainly of extremely homophobic people.' (Hungary, 'other' sexual orientation, man, age 32)

"My last physical attack was a grope and punch to the chest at a tram stop after works' Christmas Party." (United Kingdom, Trans woman, Intersex person, Bisexual, 49)

'I have been raped and abused for being trans, I have been a sexual worker, and I am also Gitano. This means that I am suffering racism from the municipal police where I am living, I have thought [of] suicide on many occasions.' (Spain, asexual trans man, age 23)

"As soon as we behave as a couple (holding hands, hugging or kissing) we can assume that a man or often groups of men will start making lewd remarks/gestures or approach us to stand near us and openly to stare." (Austria, Lesbian woman, 27)

'Every day I read ultra-homophobic and transphobic comments, and no one reacts. I report all the comments I can (on Instagram in particular), but nothing gets resolved or removed. It's depressing.' (France, pansexual genderfluid, age 23)

"I worked in a bank for 24 years and I was constantly discriminated against by directors who felt that, being honest about my sexuality, I should not be promoted, because I could not command respect. Once a new employee asked to have his desk placed at 'a reasonable distance' from mine, because he feared that I might assault him sexually. His request was considered reasonable and my desk was moved. When I was finally promoted, I was ordered to be secretive about my sexuality." (Greece, gay, 53)

'I do not trust the police, because the last time I was threatened with both physical and sexual violence and threatened to be killed, it happened when the police witnessed the situation.' (Finland, asexual genderfluid, age 27)

'Two of my friends were murdered last year in our country's first ever terrorist attack. Less than a year later the situation of queer people in Slovakia is worse than it has ever been. ... The east is not safe, the west is not safe, nowhere is safe for us, we are trying to live our lives knowing we could be dead at any moment. This is no life, it's barely surviving.' (Slovakia, bisexual non-binary, age 22)

'The police officers disdain, humiliate and sometimes do not care to help if they see a particular dress, haircut or walk of a woman that suggests she is a lesbian.' (Greece, lesbian woman, age 47)

80. FRA, EU LGBT survey - European Union lesbian, gay, bisexual and transgender survey, 2013, available at: <https://fra.europa.eu/en/publication/2013/eu-lgbt-survey-european-union-lesbian-gay-bisexual-and-transgender-survey-results>; FRA, A long way to go for LGBTI equality, 2020, available at: <https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results>; FRA, LGBTIQ at a crossroads: progress and challenges, 2024, available at: <https://fra.europa.eu/en/publication/2024/lgbtiq-crossroads-progress-and-challenges>

[My female partner and I] do not visit night clubs, mostly because it feels too dangerous if they are not LGBT friendly, especially if the two of us are alone. We do not share our relationship openly with our landlord or persons living nearby.” (Slovenia, lesbian, 28)

‘I’ve been assaulted, harassed, threatened with violence a myriad of times, have been sexually abused and beaten, and I’ve been subject to transphobia and intersex-phobia too many times to count. I’ve been denied help from police after getting attacked by far-right people and been ridiculed by them for looking weird, being ‘a tranny’ or being on drugs (I wasn’t on drugs). I’ve also been forced to undergo hormonal treatment for my intersex condition.’ (Bulgaria, bisexual, intersex, trans man, 20)

HANDOUT 3.2 – OVERVIEW OF ECHR CASE *IDENTOBA AND OTHERS V. GEORGIA*

This handout gives an overview of the case of *Identoba and Others v. Georgia* for training purposes.⁸¹

A) Background

► What happened?

In this case, Identoba, a non-governmental organisation, was granted permission by the Georgian authorities to organise a peaceful march on 17 May 2012 in the centre of Tbilisi to mark the International Day Against Homophobia. The authorities confirmed that “police forces would be deployed to ensure that the procession took place peacefully”.

On the day, LGBT marchers were confronted by “a hundred or more counter-demonstrators, who were particularly aggressive and verbally offensive”. The aggression escalated to banners being grabbed and torn, the pushing and punching of the LGBT marchers and at least one person being kicked and beaten. Several marchers sustained physical injuries. Specific threats that the marchers “should be burnt to death and crushed” were made.

When the marchers were confronted by the counter-demonstrators, the police “suddenly distanced themselves from the scene”. Other police on the scene informed the LGBT marchers that it wasn’t their duty to intervene, because they were not part of the police patrol. After receiving telephone calls from the marchers, other police officers arrived and intervened to stop the beatings, but the threats continued. Several of the LGBT marchers were arrested by the police. As subsequently explained by the Government, the aim of this retention was twofold: “to prevent them from committing an administrative offence – impeding road traffic – and to protect them from the counter-demonstrators’ assault.”

The applicants made several detailed complaints in relation to the violence perpetrated against them and the lack of police protection (see paragraphs 20-28).

B) The decision of the ECHR

► The context of homophobia and hostility

The Court drew upon evidence of homophobia and negative attitudes towards LGBT persons in Georgia in forming its judgment in favour of the applicants. This evidence was based on a visit made by the Council of Europe Commissioner for Human Rights to Georgia and on evidence from the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe). The Court concluded that the background of negative attitudes in “some quarters of Georgian society” rendered the “discriminatory overtones of the incident of 17 May 2012 and the level of vulnerability of the applicants, who publicly positioned themselves with the target group of the sexual prejudice... particularly apparent” (paragraph 68). This, combined with the lack of police support during the march, led the Court to conclude “that the treatment of the applicants must necessarily have aroused in them feelings of **fear, anguish and insecurity**, which were **not compatible** with respect for their human dignity and **reached the threshold of severity within the meaning of Article 3 taken in conjunction with Article 14 of the Convention**”.

► The police did not protect

Second, the Court found that the domestic authorities knew or ought to have known about the risks associated with this event, “and were consequently under an obligation to provide **heightened** state protection” (paragraph 72). However, it concluded that the police “failed to provide adequate protection to the thirteen individual applicants from the bias-motivated attacks of private individuals during the march of 17 May 2012” (paragraph 74).

► Lack of an effective investigation

Although the perpetrators had been caught on video, and the victims had suffered injuries, the authorities “inexplicably narrowed the scope of the investigation and opened two separate and detached cases concerning the physical injuries inflicted on two individual applicants only” (paragraph 75). In addition, the investigation had lasted over two years, and only minor administrative fines had been issued to the perpetrators at the time the judgment was given.

81. For more details, please read the full judgment (available at <https://hudoc.echr.coe.int/?i=001-154400>) or the official press release (<https://go.coe.int/MRx8>).

The authorities did not instigate a **hate crime investigation**, nor did they apply Georgia's existing hate crime laws. Bearing in mind the circumstances of the case and the fact that Georgia does have hate crime laws, the Court found that:

"It was essential for the relevant domestic authorities to conduct the investigation in that specific context, taking all reasonable steps with the aim of **unmasking the role of possible homophobic motives for the events in question**. The necessity of conducting a meaningful inquiry into the discrimination behind the attack on the march of 17 May 2012 was indispensable given, on the one hand, the hostility against the LGBT community and, on the other, in the light of the clearly homophobic hate speech uttered by the assailants during the incident. The Court considers that without such a strict approach from the law-enforcement authorities, **prejudice-motivated crimes would unavoidably be treated on an equal footing with ordinary cases** without such overtones, and the resultant indifference would be tantamount to **official acquiescence to or even connivance with hate crimes**".

HANDOUT 3.3 – RELEVANT COUNCIL OF EUROPE AND OTHER INTERNATIONAL STANDARDS

1. Council of Europe standards

a. Binding standards

► *European Court of Human Rights case-law*

The European Court of Human Rights (ECHR) publishes a guide analysing and summarising the case-law under different Articles of the European Convention on Human Rights relating to the rights of LGBTI persons.⁸²

Furthermore, the ECHR regularly publishes and updates thematic factsheets that include very useful summaries of its case-law. They can be found in the ECHR website under Case-Law -> Factsheets. Some of them concern specifically SOGIESC issues:

“Sexual Orientation Issues”⁸³

This factsheet provides an updated overview of all cases that consider criminal justice responses to incidents of hate crime and hate speech against LGBTI communities in Council of Europe member states. Further information is given about the cases of *Identoba and Others v. Georgia* and *M.C. and C.A. v. Romania* that are considered in this manual in Module Zero and Module Three, respectively. In addition, the facts of two pending cases against Georgia and Croatia are outlined.

“Gender Identity Issues”⁸⁴

This factsheet does not refer to hate crime cases or the treatment of LGBTI persons by the police; however, the judgments it summarises highlight the struggles of transgender persons to have their gender identity legally and socially recognised. As explored in this module, it is important to understand the context of discrimination that LGBTI persons experience because it can undermine their confidence to report incidents to the police and their belief that incidents against them will be effectively investigated.

► *Council of Europe Convention on Violence Against Women and Domestic Violence*⁸⁵

Also known as the Istanbul Convention, this instrument introduces legally binding commitments relating to prevention, protection, investigation and sentencing. While violence against women and domestic violence are outside the scope of this manual, it is important to bear in mind that LGBTI persons can also be victims of this type of violence. Furthermore, some cases of targeted violence against LGBTI persons in the home can be considered and experienced as hate crime **and** domestic violence. For a trainer it is useful to explore this point during plenary discussions and ask participants about the issues raised when thinking about how domestic violence and gender-based violence interrelate with hate crime against LGBTI persons.

The Convention includes a non-discrimination provision which provides that victims are not to be discriminated against on grounds of gender identity or sexual orientation. For further background and information see the explanatory notes⁸⁶.

b. Non-binding standards

► *Committee of Ministers’ Recommendation CM/Rec(2024)4 on combating hate crime*⁸⁷

Although the entire recommendation is relevant and might be of use for the specific needs of the training, some paragraphs are particularly important for police forces:

“35. Police should develop a common approach for the recognition, unmasking and official recording of hate crime and ensure that hate incidents that do not constitute crimes are appropriately recognised, in accordance with the guidance provided by ECRI GPR No. 11. Policies should also be developed with respect to victim support, in particular the development of individual needs and risk assessments. Clear guidance should also be

82. ECHR, Guide on the case-law of the European Convention on Human Rights: Right of LGBTI persons, available at https://ks.echr.coe.int/documents/d/echr-ks/guide_lgbti_rights_eng.

83. Available at: https://www.echr.coe.int/documents/d/echr/FS_Sexual_orientation_ENG

84. Available at: https://www.echr.coe.int/documents/d/echr/FS_Gender_identity_ENG

85. The full text of the convention is available at: <https://www.coe.int/en/web/istanbul-convention/text-of-the-convention>

86. The explanatory report of the Istanbul convention is available at <https://rm.coe.int/1680a48903>

87. Available at: <https://search.coe.int/cm?i=0900001680af9736>

provided on the circumstances, if any, in which a crime should be re-recorded as a non-hate-based offence in the criminal record of a suspect. Police recording processes and databases should be updated to allow the recorded data on hate crimes to be disaggregated by targeted groups and crime type, in accordance with existing European human rights and data protection standards.

36. The identification and recognition of “bias indicators” are essential to unmasking the hate element of a crime. Such indicators should, therefore, be developed for all groups targeted by hate crime, in close co-operation with relevant civil society organisations, and should be used to ensure that hate crimes are properly recorded, investigated and included in the relevant criminal file.

37. Compulsory modules on hate crime should be included in the curricula of police training academies. Regular awareness training on hate crime for the purposes of improving first responses should be provided to all police officers. Compulsory, continuous and targeted training should be provided to police officers, in particular those specialised in investigating hate crime. This should include, for example, training on bias indicators and how to unmask the hate element, including the need to search for and secure evidence regarding the hate element through the identification and recording of bias indicators in accordance with the case law of the Court and the guidance provided by ECRI GPR No. 11. Training should also be provided on bias, on the assessment of individual needs and risks and on the referral of victims to relevant support services, as well as on respectful and non-discriminatory treatment of victims of hate crime.

38. The role of specialist hate crime investigators should be developed within police organisations to provide an expert knowledge base, direct operational support and responses, and support to victims of hate crime in partnership with victim support services. Bespoke training should be provided to all such officers working in either specialist hate crime units or as individual specialists attached to other policing units.”

► ***Committee of Ministers Recommendation CM/Rec(2022)16 on combating hate speech***⁸⁸

“12. Member States should ensure that effective investigations are conducted in cases where there is reasonable suspicion that an act of hate speech punishable by criminal law has occurred.”

► ***Committee of Ministers Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity***⁸⁹

“1. Member states should ensure effective, prompt and impartial investigations into alleged cases of crimes and other incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator; they should further ensure that particular attention is paid to the investigation of such crimes and incidents when allegedly committed by law enforcement officials or by other persons acting in an official capacity, and that those responsible for such acts are effectively brought to justice and, where appropriate, punished in order to avoid impunity.

2. Member states should ensure that when determining sanctions, a bias motive related to sexual orientation or gender identity may be taken into account as an aggravating circumstance.

(...)

13. Member states should take appropriate measures to ensure, in accordance with Article 10 of the Convention, that the right to freedom of expression can be effectively enjoyed, without discrimination on grounds of sexual orientation or gender identity, including with respect to the freedom to receive and impart information on subjects dealing with sexual orientation or gender identity.

14. Member states should take appropriate measures at national, regional and local levels to ensure that the right to freedom of peaceful assembly, as enshrined in Article 11 of the Convention, can be effectively enjoyed, without discrimination on grounds of sexual orientation or gender identity.

15. Member states should ensure that law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of lesbian, gay, bisexual and transgender persons from any attempts to unlawfully disrupt or inhibit the effective enjoyment of their right to freedom of expression and peaceful assembly.

(...)

88. Available at: <https://search.coe.int/cm?i=0900001680a67955>

89. Available at: <http://www.coe.int/en/web/sogi/rec-2010-5>

17. Public authorities at all levels should be encouraged to publicly condemn, notably in the media, any unlawful interferences with the right of individuals and groups of individuals to exercise their freedom of expression and peaceful assembly, notably when related to the human rights of lesbian, gay, bisexual and transgender persons.”

► ***Committee of Ministers Recommendation CM/Rec(2001)10 on the European Code of Police Ethics***⁹⁰

Even with the diversity of police services and institutions present within the membership of the Council of Europe, the Committee of Ministers recognises that there is a set of ethics that should be common across all services. The Code sets out detailed standards to be followed by the police in their efforts to fulfil their core functions, as set out below:

“I. Objectives of the police

1. The main purposes of the police in a democratic society governed by the rule of law are:

- to maintain public tranquillity and law and order in society;
- to protect and respect the individual’s fundamental rights and freedoms as enshrined, in particular, in the European Convention on Human Rights;
- to prevent and combat crime;
- to detect crime;
- to provide assistance and service functions to the public.”

In the context of police training, there is a clear connection between each of these purposes and the effective, fair and safe policing of hate crimes against LGBTI persons. Police obligations to, “carry out their tasks in a fair manner, guided, in particular, by the principles of impartiality and non-discrimination” are emphasised throughout the Code, including in the areas of support and assistance to victims; developing a culture of non-discrimination and respect for individual rights within police services; and specifically in relation to upholding the European Convention on Human Rights and the general prohibition on discrimination with respect to the rights enshrined in the Convention.

► ***European Commission against Racism and Intolerance General Policy Recommendation N°. 17 on preventing and combating intolerance and discrimination against LGBTI persons***⁹¹

“Investigation, prosecution and procedural law measures:

60. ensure that hate crimes committed against LGBTI persons are effectively investigated and prosecuted. Law enforcement agencies and prosecution services should adopt guidelines on the recording and investigation of such offences;

61. ensure that hate speech committed online, and motivated by anti-LGBTI bias, is punished in the same way as criminal offences that are committed offline, and that online anti-LGBTI hate speech is adequately addressed by means of **effective investigation, prosecution and other appropriate measures;**

62. support training and develop competencies on preventing and combating anti-LGBTI discrimination, including intersectional discrimination, hate speech and hate crimes for law enforcement officials, prosecutors and judges, in co-operation and consultation with relevant civil society actors, including LGBTI organisations, and equality bodies;

63. ensure that, where a crime is committed against LGBTI people, those who are perceived to be LGBTI, or persons who are associated with LGBTI people, the possibility that it was motivated by anti-LGBTI bias is investigated from the beginning and forms an integral part of the investigation;

64. provide effective, accessible and intersectionally-aware support for victims and witnesses to report anti-LGBTI hate crimes. Authorities should implement trust-building measures to enhance co-operation between the police and LGBTI people, including through the facilitation of increased dialogue (e.g. regular meetings, community liaison officers) between LGBTI people and law enforcement agencies.”

90. Available at: <https://search.coe.int/cm?i=09000016805e297e>

91. Available at: <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.-17>

► ***Parliamentary Assembly Resolution 2576(2024) on combating violence and discrimination against lesbian, bisexual and queer women in Europe***⁹²

“8. (...) the Assembly calls on the member and observer States of the Council of Europe and States whose parliaments enjoy observer or partner for democracy status with the Assembly to: (...)

8.5. adopt a zero-tolerance policy on hate crimes and hate speech against LGBTI persons, including LBQ women, to prosecute and, where appropriate, punish perpetrators of violence motivated by prejudices against them, to intensify measures to combat online anti-LGBTI hate and prosecute the perpetrators thereof”.

► ***Parliamentary Assembly Resolution 1728(2010) Discrimination on the basis of sexual orientation and gender identity***⁹³

This resolution describes and recognises the range of discrimination experienced by LGBT persons, including hate crime and hate speech. It is an important complement to *Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity* described above. The resolution calls on the member states of the Council of Europe to “ensure that the fundamental rights of LGBT persons, including freedom of expression and freedom of assembly and association, are respected, in line with international human rights standards” and to “provide legal remedies to victims and put an end to impunity for those who violate the fundamental rights of LGBT persons, in particular their right to life and security”.

The resolution also calls for Council of Europe member states to “condemn hate speech and discriminatory statements and effectively protect LGBT persons from such statements while respecting the right to freedom of expression, in accordance with the European Convention on Human Rights and the case law of the European Court of Human Rights” and to “adopt and implement anti-discrimination legislation which includes sexual orientation and gender identity among the prohibited grounds for discrimination, as well as sanctions for infringements”.

2. European Union standards

► ***European Union Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime***⁹⁴

This Directive was adopted on 25 October 2012 and entered into force on 15 November 2012. European Union member states had until 16 November 2015 to incorporate the provisions into their national laws. The Directive applies to all victims of crime and specifically refers to victims of hate crime, including LGBTI persons. It imposes specific duties on European Union member states to treat victims of hate crime as a category requiring specific protection; to ensure that they have access to specific support services based on an assessment of their needs; and to ensure that criminal justice practitioners who are likely to come into contact with victims, including police, prosecutors and judges, are appropriately trained to ensure that victims are treated in a respectful and non-discriminatory manner.

Extracts from the most relevant articles are set out below.

Article 3: Right to understand and be understood

1. Member States shall take appropriate measures to assist victims to understand and to be understood from the first contact and during any further necessary interaction they have with a competent authority in the context of criminal proceedings, including where information is provided by that authority.
2. Member States shall ensure that communications with victims are given in simple and accessible language, orally or in writing. Such communications shall take into account the personal characteristics of the victim including any disability which may affect the ability to understand or to be understood.
3. Unless contrary to the interests of the victim or unless the course of proceedings would be prejudiced, Member States shall allow victims to be accompanied by a person of their choice in the first contact with a competent authority where, due to the impact of the crime, the victim requires assistance to understand or to be understood.

92. Available at: <https://pace.coe.int/en/files/33902/html>

93. Available at: <https://pace.coe.int/en/files/17853/html>

94. Available at: <http://data.europa.eu/eli/dir/2012/29/oj>

Article 8: Right to access victim support services

1. Member States shall ensure that victims, in accordance with their needs, have access to confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings. Family members shall have access to victim support services in accordance with their needs and the degree of harm suffered as a result of the criminal offence committed against the victim.
2. Member States shall facilitate the referral of victims, by the competent authority that received the complaint and by other relevant entities, to victim support services.
3. Member States shall take measures to establish free of charge and confidential specialist support services in addition to, or as an integrated part of, general victim support services, or to enable victim support organisations to call on existing specialised entities providing such specialist support. Victims, in accordance with their specific needs, shall have access to such services and family members shall have access in accordance with their specific needs and the degree of harm suffered as a result of the criminal offence committed against the victim.
4. Victim support services and any specialist support services may be set up as public or non-governmental organisations and may be organised on a professional or voluntary basis.
5. Member States shall ensure that access to any victim support services is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority.

Article 20: Right to protection of victims during criminal investigations

1. Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that during criminal investigations:
 - a) interviews of victims are conducted without unjustified delay after the complaint with regard to a criminal offence has been made to the competent authority;
 - b) the number of interviews of victims is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of the criminal investigation;
 - c) victims may be accompanied by their legal representative and a person of their choice, unless a reasoned decision has been made to the contrary;
 - d) medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings.

Article 22: Individual assessment of victims to identify victim protection needs

1. Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings, as provided for under Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.
2. The individual assessment shall, in particular, take into account:
 - a. the personal characteristics of the victim;
 - b. the type or nature of the crime; and
 - c. the circumstances of the crime.
3. In the context of the individual assessment, particular attention shall be paid to victims who have suffered considerable harm due to the severity of the crime; victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics; victims whose relationship to and dependence on the offender make them particularly vulnerable. In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence, exploitation or hate crime, and victims with disabilities shall be duly considered.
4. For the purposes of this Directive, child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under Articles 23 and 24, child victims shall be subject to an individual assessment as provided for in paragraph 1 of this Article.
5. The extent of the individual assessment may be adapted according to the severity of the crime and the degree of apparent harm suffered by the victim.

6. Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures as provided for in Articles 23 and 24.

7. If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.

Article 25: Training of practitioners

1. Member States shall ensure that officials likely to come into contact with victims, such as police officers and court staff, receive both general and specialist training to a level appropriate to their contact with victims to increase their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and professional manner.

2. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request that those responsible for the training of judges and prosecutors involved in criminal proceedings make available both general and specialist training to increase the awareness of judges and prosecutors of the needs of victims.

3. With due respect for the independence of the legal profession, Member States shall recommend that those responsible for the training of lawyers make available both general and specialist training to increase the awareness of lawyers of the needs of victims.

4. Through their public services or by funding victim support organisations, Member States shall encourage initiatives enabling those providing victim support and restorative justice services to receive adequate training to a level appropriate to their contact with victims and observe professional standards to ensure such services are provided in an impartial, respectful and professional manner.

5. In accordance with the duties involved, and the nature and level of contact the practitioner has with victims, training shall aim to enable the practitioner to recognise victims and to treat them in a respectful, professional and non-discriminatory manner.

3. Other international human rights standards

► *The Yogyakarta Principles and The Yogyakarta Principles +10*⁹⁵

The «Yogyakarta Principles» are a collection of international human rights standards applied to sexual orientation and gender identity compiled in 2006 by a group of international human rights experts. In 2017, they were expanded in the Yogyakarta Principles plus 10 (YP+10) to include sex characteristics and gender expression.

Although not binding themselves, the Yogyakarta Principles are a very authoritative source of guidance and recommendations on how to apply binding human rights standards to SOGIESC issues.

Some principles that are specifically relevant to hate crimes and hate speech include:

Principle 28: The right to effective remedies and redress

Every victim of a human rights violation, including of a violation based on sexual orientation, gender identity, gender expression or sex characteristics, has the right to effective, adequate and appropriate remedies. Measures taken for the purpose of providing reparation to, or securing adequate advancement of, persons of diverse sexual orientation, gender identities, gender expressions or sex characteristics are integral to the right to effective remedies and redress.

States shall:

- A) Establish the necessary legal procedures, including through the revision of legislation and policies, to ensure that victims of human rights violations on the basis of sexual orientation, gender identity, gender expression or sex characteristics have access to full redress through restitution, compensation, rehabilitation, satisfaction, guarantee of non-repetition, and/or any other means as appropriate;
- B) Ensure that remedies are enforced and implemented in a timely manner;
- C) Ensure that effective institutions and standards for the provision of remedies and redress are established, and that all personnel are trained in issues of human rights violations based on sexual orientation, gender identity, gender expression or sex characteristics;

95. You can find both the Yogyakarta Principles and its extended version The Yogyakarta Principles +10 at <https://yogyakartaprinciples.org/>

- D) Ensure that all persons have access to all necessary information about the processes for seeking remedies and redress;
- E) Ensure that financial aid is provided to those who are unable to afford the cost of securing redress, and that any other obstacles to securing such redress, financial or otherwise, are removed;
- F) Ensure training and awareness-raising programmes, including measures aimed at teachers and students at all levels of public education, at professional bodies, and at potential violators of human rights, to promote respect for and adherence to international human rights standards in accordance with these Principles, as well as to counter discriminatory attitudes based on sexual orientation, gender identity, gender expression or sex characteristics.

Principle 29: The right to effective remedies and redress

Everyone whose human rights, including rights addressed in these Principles, are violated is entitled to have those directly or indirectly responsible for the violation, whether they are government officials or not, held accountable for their actions in a manner that is proportionate to the seriousness of the violation. There should be no impunity for perpetrators of human rights violations related to sexual orientation, gender identity, gender expression or sex characteristics.

States shall:

- A) Establish appropriate, accessible and effective criminal, civil, administrative and other procedures, as well as monitoring mechanisms, to ensure the accountability of perpetrators for human rights violations related to sexual orientation or gender identity;
- B) Ensure that all allegations of crimes perpetrated on the basis of the actual or perceived sexual orientation, gender identity, gender expression or sex characteristics of the victim, including such crimes described in these Principles, are investigated promptly and thoroughly, and that, where appropriate evidence is found, those responsible are prosecuted, tried and duly punished;
- C) Establish independent and effective institutions and procedures to monitor the formulation and enforcement of laws and policies to ensure the elimination of discrimination on the basis of sexual orientation, gender identity, gender expression or sex characteristics;
- D) Remove any obstacles preventing persons responsible for human rights violations based on sexual orientation, gender identity, gender expression or sex characteristics from being held accountable.

Principle 30: The right to state protection

Everyone, regardless of sexual orientation, gender identity, gender expression or sex characteristics, has the right to State protection from violence, discrimination and other harm, whether by government officials or by any individual or group.

States shall:

- A) Exercise due diligence to prevent, investigate, prosecute, punish and provide remedies for discrimination, violence and other harm, whether committed by State or non-State actors;
- B) Take appropriate and effective measures to eradicate all forms of violence, discrimination and other harm, including any advocacy of hatred that constitutes incitement to discrimination, hostility, or violence on grounds of sexual orientation, gender identity, gender expression or sex characteristics, whether by public or private actors;
- C) Compile statistics and research on the extent, causes and effects of violence, discrimination and other harm, and on the effectiveness of measures to prevent, prosecute and provide reparation for such harm on grounds of sexual orientation, gender identity, gender expression and sex characteristics;
- D) Identify the nature and extent of attitudes, beliefs, customs and practices that perpetuate violence, discrimination and other harm on grounds of sexual orientation, gender identity, gender expression and sex characteristics, and report on the measures undertaken, and their effectiveness, in eradicating such harm;
- E) Develop, implement and support education and public information programmes to promote human rights and to eliminate prejudices on grounds of sexual orientation, gender identity, gender expression and sex characteristics;

- F) Ensure sensitivity training of judicial and law enforcement officers and other public officials on issues relating to sexual orientation, gender identity, gender expression and sex characteristics;
- G) Ensure that laws against rape, sexual assault and sexual harassment protect all persons regardless of their sexual orientation, gender identity, gender expression and sex characteristics;
- H) Establish support services for victims of rape, sexual assault and harassment, and other forms of violence and harm on grounds of sexual orientation, gender identity, gender expression, and sex characteristics;
- I) Ensure that human rights violations are vigorously investigated and, where evidence is found, those responsible are prosecuted and, if convicted, punished as appropriate;
- J) Ensure access to effective complaints procedures and remedies, including reparation, for victims of violence, discrimination and other harm on grounds of sexual orientation, gender identity, gender expression and sex characteristics.

HANDOUT 3.4 – REFERENCES, FURTHER READING AND RESEARCH TIPS

A) Resources by the Council of Europe

- ▶ **Sexual Orientation, Gender Identity and Expression and Sex Characteristics Unit's website**⁹⁶

The Council of Europe's SOGIESC Unit provides technical support and expertise to member states, upon request, through cooperation activities aiming at improving the legal and institutional frameworks, builds capacity of administration staff and law enforcement, but also promotes the sharing of good practices and raises awareness. Its website has a section (Resources) with dozens of documents, including texts adopted by the Council of Europe, thematic reports, videos and relevant links.

- ▶ **Council of Europe Commissioner for Human Rights, *Human rights and intersex persons* (2015)**⁹⁷

A review of issues affecting intersex persons across the Council of Europe region and beyond that sets out common examples of the discrimination and violence they experience.

- ▶ **Council of Europe Commissioner for Human Rights, *Human rights and gender identity and expression* (2024)**⁹⁸

This issue paper addresses the main challenges faced by trans people in Europe. In particular, its chapter 2.4 is dedicated to violence, hate crimes and hate speech against this community.

B) Resources by other international organisations

- ▶ **United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity's (IESOGI) thematic reports**

Annually, the IESOGI publishes a report focusing on a specific topic related to SOGIESC issues. These reports contain very relevant information on the violence and discrimination faced by LGBTI persons around the World and could be useful to further contextualise the contents of this Manual or enrich it with new examples adapted to the needs of the training.

C) Resources by civil society organisations

- ▶ **EL*C, *Lesbianising the Istanbul Convention: Research on the Implementation of the Convention to Protect LBT Women* (2024)**

This report provides a comprehensive understanding of lesbian experiences within the Istanbul Convention. It evaluates the implementation of the Convention's anti-discrimination clause across 28 countries, drawing insights from expert focus groups and civil society practices. It might be particularly useful for trainings focused on hate crimes against women who are part of the LGBTI community.

- ▶ **ILGA-Europe's Rainbow Map and Annual Review**⁹⁹

These projects are very useful to understand the current state of legislation protecting LGBTI people against hate crimes and discrimination in Europe. The Rainbow map ranks 49 European countries on the basis of laws and policies that have a direct impact on LGBTI people's human rights. The Annual Review provides a snapshot of what happened during the previous year at national, regional and international levels, and it documents progress and trends regarding the human rights situation of LGBTI people.

- ▶ **ILGA World's Database**¹⁰⁰

The ILGA World Database is a comprehensive platform providing detailed information on laws, human rights mechanisms, and advocacy opportunities related to sexual orientation, gender identity, gender expression,

96. <https://www.coe.int/en/web/sogi/>

97. <https://rm.coe.int/16806da5d4>

98. <https://rm.coe.int/issue-paper-on-human-rights-and-gender-identity-and-expression-by-dunj/1680aed541>

99. <https://rainbowmap.ilga-europe.org/>

100. Available in English and Spanish at <https://database.ilga.org>.

and sex characteristics (SOGIESC). In particular, it offers up-to-date information on hate crime legislation in every country and territory of the World, as well as UN documents relevant to this matter, such as Treaty Bodies' comments, Special Procedures' reports and Universal Periodic Review recommendations.

► **ILGA World's "Laws on Us" reports¹⁰¹**

These reports track any legal development around the World related to SOGIESC issues. Along with ILGA World's Database, it can be a great tool to make sure the information on legal standards explained during the training sessions is comprehensive and up-to-date.

► **OII Europe, *Towards an extension of the list of EU crimes to hate speech and hate crime* (2021)¹⁰²**

This document includes very relevant information on the violence faced by intersex people as victims of hate crime, being "among the most vulnerable and silenced victims of hate crimes and hate speech".

101. <https://ilga.org/laws-on-us-report/>

102. <https://www.oii europe.org/hate-crime-hate-speech-submission/>

Module Four:

Investigating hate crimes against LGBTI persons

INTRODUCTION

The primary responsibility of police officers is to prevent crime and, should crime occur, to investigate and detect criminal behaviour. This is particularly important when responding to and investigating a hate crime, given the psychological impact on the victim,¹⁰³ the tendency for hate crimes to escalate and the possible impact they might have on the LGBTI community. Preventing re-victimisation should always be a primary goal. If not addressed, hate crimes can lead to further and more severe criminal actions. A failure to respond effectively on the part of the police may lead to significant challenges to police competence and damage its relationship with the community.

As discussed in previous chapters, the police have a positive responsibility to do their job in a professional and thorough manner. This module is designed to equip police officers with the knowledge and skills to investigate hate crime professionally.

Investigating hate crimes against LGBTI persons is challenging, as it requires the police to obtain evidence from victims in vulnerable and stressful situations. It requires the victim to disclose information that they may not feel comfortable talking about.

Communities and victims will expect a swift and professional response from the police. Failure to clearly demonstrate this can erode trust and sends a message to communities that the police don't take hate crime against LGBTI people seriously or, worse, that they endorse it.

The module begins with an exercise to support front-line police officers' understanding of steps that should be taken when initially responding to a hate crime incident. These include taking details from the victim, collecting physical evidence and making an official record of the crime.

The module then explores the investigation of hate crime from a victim-centred approach. This includes supporting the victim at the scene of the crime, on the phone or at the police station. It explores the ideal way in which a statement can be taken and it then looks at further considerations for providing victim support after the comprehensive report has been compiled.

The unique needs of transgender victims of crime are then explored in some detail. This is important given the limited knowledge that police officers often have about transgender persons and the high rates of victimisation suffered by this group.

The module then examines bias indicators, the evidential building blocks to prove that hate crimes have occurred. Practical examples are then used to focus the attention of the participants on what is required to identify and prove a hate crime from a front-line policing perspective.

Finally, participants will be challenged to examine the relationship that exists between the police service and the local LGBTI community. The last section will focus on the importance of trust, a key factor both in encouraging reporting and in helping to secure the evidence required to support criminal prosecutions.

103. The Council of Europe recognises that the term "victim" is not accepted by many people who have been targets of hate crime. We acknowledge that in many instances people prefer the term "survivor" as it better reflects their lived experience. The term "victim" is used in this manual because it best fits the legal and technical status of a person targeted by hate crime who is in contact with the police and broader criminal justice agencies. As emphasised throughout this manual, the police should take a victim-centred approach and ask the targeted person how they would like to be addressed, and where possible, follow their wishes.

LEARNING OUTCOMES

Participants will:

- ▶ identify good practices in investigating hate crimes against LGBTI persons. This will be done both from the technical perspective of a police investigation and from a victim-centred approach
- ▶ become more aware of how to take into account the intersection of different protected characteristics when investigating a hate crime
- ▶ develop a better understanding of the specific challenges facing the transgender community and how best, from a policing perspective, to support transgender persons when they are victims of crime
- ▶ understand and be able to identify bias indicators, the building blocks used to prove the bias motivation necessary for a successful hate crime investigation and prosecution
- ▶ be able to identify hate crimes
- ▶ understand the role of proactive policing in building trust, a key component for ensuring that policing is effective

OVERVIEW OF ACTIVITIES

- ▶ Activity 4.1 – Collecting the evidence: action at the crime scene and subsequent criminal investigation
- ▶ Activity 4.2 – Collecting the evidence: a victim-centred approach
- ▶ Activity 4.3 – Collecting the evidence: transgender-specific guidelines
- ▶ Activity 4.4 – Collecting the evidence: Bias Indicators – Proving bias selection/motive
- ▶ Activity 4.5 – Collecting the evidence: Bias Indicators – Identifying hate crimes against LGBTI persons
- ▶ Activity 4.6 – The importance of trust: police responses and the LGBTI community
- ▶ Activity 4.7 – Supporting LGBTI Communities: an effective police response

ACTIVITY 4.1 – COLLECTING THE EVIDENCE: ACTION AT THE CRIME SCENE AND SUBSEQUENT CRIMINAL INVESTIGATION

This activity comprises reading, discussions in small groups and a facilitated discussion in plenary.

Materials needed:

Flipchart paper, pens

Breakout rooms or space within the training room

Handouts 4.1a and 4.1b

1. Prepare three flip chart pages.
 - i. Entitle the first page: “Collecting oral testimony: Victim and witness evidence”
 - ii. Entitle the second page: “What to collect: Forensic and technical evidence”
 - iii. Entitle the third page: “At the station: Making an initial official record”
 - iv. Entitle the fourth page: “Further investigation: Exploring all avenues”
2. Divide participants into four groups. Try to make sure that you separate people who regularly work together and get a good gender mix if possible.
3. Distribute Handout 4.1a and ask participants to follow the instructions. Give the group 10-15 minutes to read through the scenario and, using the above headings, brainstorm all of the issues a police officer should consider when investigating a crime. One member of the group should record these.
4. Bring the small groups back into the larger group. Ask for the spokesperson from each group to present the key points identified by their group. Then ask all the participants if anyone can think of points that are missing.
5. When going through the points, refer to the good practice guide in Handout 4.1b, highlighting key points and any that may have been missed.

Note for trainers

The guide under Handout 4.1b is not exhaustive. Local best practice guides and regulations should be consulted and added.

ACTIVITY 4.2 – COLLECTING THE EVIDENCE: A VICTIM-CENTRED APPROACH

This activity comprises reading, discussions in small groups and a facilitated discussion in plenary.

Materials needed:

Flipchart paper, pens

Breakout rooms or space within the training room

Handouts 4.2a, 4.2b and 4.2c

1. Prepare three flip chart pages.
 - i. Entitle the first page: "Initial report: Supporting the victim at the scene of the crime/over the phone/at the station reception"
 - ii. Entitle the second page: "Taking a detailed victim statement"
 - iii. Entitle the third page: "Ongoing support and risk mitigation"
2. Divide participants into three groups. Try to make sure that you separate people who regularly work together and get a good gender mix if possible.
3. Give them Handout 4.2a and ask them to follow the instructions. Give the group 10-15 minutes to brainstorm ideas. One member of the group should record these.
4. Bring the small groups back together into the larger group. Ask the person acting as spokesperson for each group to list the key points identified by their group. Then ask all the participants if anyone can think of points that are missing.
5. When going through the points, refer to the good practice guide in Handout 4.2b, highlighting key points and any points that may have been missed.
6. Finally, provide each participant with a copy of Handout 4.3c. Read it aloud and explain they can use it as a checklist of recommendations for their offices.

Note for trainers

The recommendations included in Handout 4.2b are not exhaustive and should be adapted to take account of local legislation, policies, guidelines and procedures.

ACTIVITY 4.3 – COLLECTING THE EVIDENCE: TRANSGENDER-SPECIFIC GUIDELINES

Materials needed:

Flipchart paper, pens

Handouts 4.3a & 4.3b

This activity includes a presentation by the trainers (preferably along with a presentation by at least a CSO focusing on transgender issues, or the presentation of suitable video material on the lives of transgender persons), covering transphobic hate crime and good policing practices, discussions in small groups, and a facilitated discussion in plenary.

At the start of the presentation, participants should be asked to take notes during the presentation regarding the key points raised that address the following questions:

1. What makes transgender persons particularly vulnerable to crime?
2. What can the police do to support transgender victims of crime?

Note for trainers:

Where possible, it is highly recommended to collaborate with local transgender or LGBTI CSOs to provide a comprehensive briefing on the experiences of transgender persons, their experiences as victims and to provide advice on the best way for public officials to interact with them. Where this is not possible, the use of videos and other resources should be considered.

There are a multitude of factors relevant to the support of transgender victims, and Handout 4.3a provides a detailed but **non-exhaustive** list of matters that police officers should take into consideration when engaging with transgender persons in an official capacity. Handout 4.3b can be provided to participants to assist them in focusing on the key activity questions.

ACTIVITY 4.4 – COLLECTING THE EVIDENCE: BIAS INDICATORS – PROVING BIAS SELECTION/MOTIVE

This activity comprises a plenary presentation, individual work and a facilitated group discussion.

Materials needed:

Handouts 4.4a and 4.4b.

- 1) The topic of bias indicators should be addressed using the information provided at the start of Handout 4.4a.
- 2) Each member of the group should be given Handout 4.4a and asked to write down as many examples of indicators of bias motivation that they can think of under each of the headings.
- 3) The results should then be compared in a group discussion, using the examples given in Handout 4.4b to identify new ideas or indicators that may have been missed.

ACTIVITY 4.5 – COLLECTING THE EVIDENCE: BIAS INDICATORS – IDENTIFYING HATE CRIMES AGAINST LGBTI PERSONS

This activity comprises reading, discussions in small groups and a facilitated group discussion.

Materials needed:

Handouts 4.5a and 4.5b

1. Divide participants into small groups. Try to make the groups as diverse as possible.
2. Distribute Handout 4.5a and ask the groups to follow the instructions. Give them 10-15 minutes to read through the scenarios. They should then address the following points:
 - a) Ascertain if a crime has occurred
 - b) Identify evidence of bias motivation in the written scenario
 - c) What other evidence could the police look for?
 - d) Decide if the incident is a hate crime
3. Discuss the groups' findings in relation to each scenario in conjunction with Handout 4.5b. Record further bias indicators identified by the group that do not appear on the handout.

Note for trainers:

Scenario 6 is particularly challenging and forces the participants to look closely at hate crime definitions and legislation. It may be useful to examine the scenario in the context of local legislation and legal thresholds before the training session starts.

ACTIVITY 4.6 – THE IMPORTANCE OF TRUST: POLICE RESPONSES AND THE LGBTI COMMUNITY

This activity comprises reading and a facilitated discussion in plenary.

Materials needed:

Handout 4.6

1. Read the two examples, as set out in Handout 4.6.
2. Ask the police officers present to consider the points raised in the handout.
3. Ask the police officers present what they believe the level of trust between the LGBTI community and the police to be in their areas of work.
4. Ask the police officers present what they believe would happen if such incidents occurred in their city next week.
5. Ask the police officers present what they think they could do individually and as a police service to improve the level of trust.

Note for trainers:

There may be more relevant local/recent examples that you can use instead of the examples provided.

ACTIVITY 4.7 – SUPPORTING LGBT COMMUNITIES: AN EFFECTIVE POLICE RESPONSE

This activity comprises a short reading and a discussion of specific points in small groups, followed by a presentation and discussion in a plenary session. All scenarios are real-life cases and reflect situations relevant to policing and the LGBTI community.

Note for trainers:

Prior to using the examples below, trainers should examine the scenarios police officers are most likely to face in the country where they operate. The cases and discussion points below should best be used as a guide rather than directly translated, unless the scenario meets local needs. Any cases used should be drafted in such a manner that they are relevant to the police officers concerned, using local names, locations, etc. This will make the cases as real as possible for the participants.

Materials needed:

Handout 4.7 (or similar cases)

Handout 4.8

Paper, Pens

1. Divide participants into groups.
2. Task each group with reading the short case provided.
3. Task the group with discussing and formulating an answer for the discussion points under each scenario.
4. One member of the group should be selected to record the relevant answers.
5. Bring participants back into plenary and discuss the cases and issues raised, focussing on the professional police response required.
6. Lastly, share Handout 4.8 with participants. Explain that they can get more information on these topics in the sources listed there.

Note for trainers:

Adapt the questions in the handout to the specific context and needs of the learners.

HANDOUTS

HANDOUT 4.1A – COLLECTING THE EVIDENCE: HATE CRIMES AGAINST LGBTI PERSONS – ACTION AT THE CRIME SCENE AND SUBSEQUENT CRIMINAL INVESTIGATION

This activity comprises reading, discussions in small groups and a facilitated discussion in plenary.

- ▶ One participant should be delegated responsibility to read the following scenario to the group.
- ▶ One participant should be delegated responsibility as note-taker.

Scenario:

City Centre Assault:

Two lesbian women leave an LGBTI venue in the city centre. 100 metres away from the venue the women are attacked by a group of males, some of whom are armed with sticks. The women are badly beaten with sticks, punched and kicked. The offenders shout lesbophobic abuse at the women before and during the assault. A passer-by phones the police and you arrive at the scene.

Having read the scenario above, read the description of the task below that your group has been assigned. Brainstorm ideas for 10-15 minutes, taking notes to help present your findings to the main group.

Group 1 task – Collecting oral testimony: Oral evidence from victims and witnesses

What are the key points to consider when taking details from victims and witnesses at the scene?

Group 2 task – What to collect: Forensic and technical evidence

What are your key responsibilities surrounding the collection of forensic and technical evidence?

Group 3 task – At the station: Making an initial official record

What are the key considerations that the police should consider when returning to the station and filing an official report? What does the police organisation need the police officer to do and why?

Group 4 task – Further investigation: Exploring all avenues

Outline the investigation process after the initial on-scene investigation and having made your official report at the police station. Without an initial named suspect, what good investigative practices could you employ?

HANDOUT 4.1B – INVESTIGATION OF A HATE CRIME AGAINST LGBTI PERSONS: FROM ARRIVAL AT CRIME SCENE, COLLECTION OF TECHNICAL AND WITNESS EVIDENCE AND FOLLOW-UP ENQUIRIES.

The initial actions at the scene of a crime can have huge implications for the success of a criminal investigation. A failure to record written testimony, to record what actions you took as a police officer or to collect physical evidence can result in a failed criminal case.

It is particularly relevant to hate crimes against LGBTI persons that the initial police interaction with the victim and/or witnesses can result in the provision or withholding of vital information, which again could make or break a prosecution for a serious crime.

This handout provides some guidance to police officers on action to take at the scene of a crime, in terms of collecting witness and forensic evidence. It then explores the reporting of the crime through official police channels and some ideas for follow-up investigation.

A) Collecting oral testimonies from victims, witnesses and suspects

What are the key points to consider when taking details at the scene from victims, witnesses and suspects?

B) Collecting forensic and technical evidence at the scene

What are the key tasks surrounding the collection of forensic and technical evidence?

C) Back at the police station: making an official record

What are the key considerations that the police should bear in mind when returning to the station and filing an official report. What does the police organisation need the police officer to do and why?

D) Further investigation: exploring all avenues.

Outline the investigation process after the initial on-scene investigation and having made your official report at the police station. What good investigative practices could you employ?

A) Collecting oral testimonies from victims, witnesses and suspects

- ▶ The victim should be interviewed by one police officer to minimise trauma and revictimisation; a second officer can be present if required but should ideally not ask questions.
- ▶ As a matter of principle, it is a good practice to ask the persons how they wish to be addressed, irrespective of the gender markers in their identity documents. Respect their wishes in every interaction with them.
- ▶ If a victim, witness or suspect is a child, adopt the necessary precautions in accordance with the relevant legislation and the best interest of the child.
- ▶ Identify any potential needs for interpreters or any other support to assist them that can support the gathering of evidence from witnesses, victims or suspects.
- ▶ Relay to victims and witnesses all the information they need to report a hate crime or to testify. This is especially important when the victim or a witness is a sex worker, (particularly where sex work is not allowed), or a migrant whose legal situation in the country is potentially irregular. Fear of legal repercussions might prevent them from reporting any kind of crime. While you cannot make sure that they will not incur any negative consequences, you can support them in making an informed decision.
- ▶ Police officers should use open and inclusive language, such as:
 - “Do you have a partner?” instead of “Are you married?”
 - “Are you in a relationship?” instead of “Do you have a boyfriend/girlfriend?”
- ▶ Persons interviewed at the scene should be allowed to explain what happened in their own words and in their own time. Hate crimes are very distressing situations, and thus the persons involved in it or potential witnesses might not be articulate and calm in their explanations at first. A patient approach may result in evidence being provided that otherwise could have been missed.
- ▶ However, if someone is too distressed or too badly injured, defer detailed questioning until they are in a better position to talk (and arrange medical treatment where appropriate).
- ▶ Persons interviewed will likely use their own language and not police or legal language. Clarification can be sought if there is ambiguity.
- ▶ Record verbatim anything reportedly said by the suspects to the victims or witnesses, as it could provide evidence of a bias motive.

- ▶ If a suspect is at the scene, record any admissions in accordance with local legislation/police regulations, cautioning as appropriate. Use their exact words.
- ▶ While the notes taken at the scene may just be a preliminary record, they are likely to be used throughout the investigation and may be examined at the prosecution stage. It is thus vital to record as much detail as possible.
- ▶ Notes should be sufficiently detailed to allow a second investigator to carry the investigation forward should the case be reallocated to a detective/a hate crime investigator/another officer.

B) Collect forensic and technical evidence at the scene

- ▶ Secure the scene on arrival, cordoning off the location of the incident and any areas where offenders may have been or where they fled the scene.
- ▶ Preserve any visible evidence and take photographs of all relevant areas and exhibits. Consider taking a video of the scene if resources are available and it is appropriate. Ensure physical evidence showing bias is collected (e.g. photograph homophobic graffiti).
- ▶ Preserve any trace evidence on the victim. Remember that every contact leaves a trace and evidence from the offenders may be present on the skin and clothes of the victim (blood, saliva, clothing fibres, hair, DNA, etc.).
- ▶ Consider taking swabs if appropriate and seizing clothing once a change of clothes has been made available.
- ▶ Photograph injuries of the victim, obtaining consent where appropriate. You may have to take photographs after a period of time to allow for bruising to become visible.
- ▶ Arrange for crime scene examiners or forensic specialists to be present as required.
- ▶ Gather and package all physical evidence in accordance with local regulations and best practices.
- ▶ Identify opportunities for obtaining DNA evidence from the scene. Sources include weapons/tools used, anything that may have been touched or drunk out of, blood, saliva, hair or other bodily fluids. As stated above, the suspect's DNA may be present on the victim.
- ▶ If the incident is being reported by telephone, advise the person reporting it to preserve any evidence.
- ▶ Seek the assistance of investigators trained in LGBTI issues, if available.
- ▶ Gather CCTV footage from the immediate and surrounding areas, paying particular attention to access and egress points from the scene.
- ▶ Should a suspect be identified and arrested, seek to secure clothing and shoes which may have evidence on them and take a DNA sample as well as fingerprints and photographs. Symbols that might be a bias indicator, such as Tattoos indicating membership of far-right groups, should be photographed and noted in a report.
- ▶ Arrange for a medical examination and request consent to obtain a medical examiner's report.
- ▶ Assume the case will lead to a full court case and collect all evidence accordingly.

C) Back at the police station: Making an official record

- ▶ Recording of hate crime is vital to ensure that patterns of offending behaviour can be identified and that preventative measures are put in place.
- ▶ Create a crime report on the police database.
- ▶ Record any initial observations that flag the incident as a possible hate crime.
- ▶ Carry out initial investigations to identify if there have been similar crimes committed before. There may be a pattern of offender behaviour. Review hate crime records in order to identify patterns of victimisation.
- ▶ Examine records to see if the victim has been registered as a victim of a crime before. This is important to identify potential repeat victimisation.
- ▶ Report the incident to the relevant manager as required by local policy/regulations.
- ▶ Report the incident to the local/national hate crime unit in accordance with policy/regulations.
- ▶ If the investigation is passed on to another investigator/unit, ensure they are aware it may be a hate crime.
- ▶ Ensure where required that the relevant manager/police media spokesperson is informed of the incident.
- ▶ If a pattern of hate crime is identified, report it so that an appropriate response/intervention can be put in place.

- ▶ Arrange for interpreters for future victim/witness/suspect engagement if required.
- ▶ Plan the handover of exhibits and evidence to the designed investigating officer or team.

D) Further Investigation: Exploring all avenues

After the initial on-scene investigation and having made your official report at the police station, the case will often require significant further investigation, particularly where there is no named suspect(s). The good investigative practices outlined below are not exhaustive and should be expanded upon to suit local practices/procedures. The determination of police officers to identify offenders in hate crime incidents is key to building trust among minority communities. Where trust in the police service is low, LGBTI witnesses may not feel comfortable talking to the police. An extra effort will be required in these cases to encourage witnesses to come forward.

Police officers should:

- ▶ launch appeals for witnesses using the media, social media, etc.
- ▶ look for similar incidents in other locations/police districts
- ▶ look for witnesses who may regularly visit the area/scene (post office workers, refuse collectors, people on bus routes). Local beat/community police officers may be of assistance
- ▶ have an experienced officer review the evidence gathered to date, to identify new lines of enquiry
- ▶ examine recordings at the emergency call centre
- ▶ use a forensic medical examiner for the case if appropriate
- ▶ conduct door-to-door enquiries in the area
- ▶ conduct a survey of CCTV footage, for instance from businesses, office buildings or houses in the area where the hate crime being investigated took place
- ▶ examine all available crime records and criminal intelligence records to identify links
- ▶ triangulate mobile phone usage and examine phone evidence if appropriate
- ▶ use specialist units as appropriate
- ▶ request the services of a crime review unit (if one exists) to review evidence and investigations after 28 days have passed for serious cases
- ▶ canvas security employees and staff at LGBTI venues to see if they have any information that may assist. People may be having conversations within communities that they are not having with the police. Even “soft” intelligence can be of assistance
- ▶ seek the assistance of LGBTI civil society organisations in making appeals for information
- ▶ utilise information from 3rd party recording websites where available

HANDOUT 4.2A – INVESTIGATION OF A HATE CRIME AGAINST LGBTI PERSONS: A VICTIM-CENTRED APPROACH

One participant should be delegated responsibility as note-taker.

The same scenario as Activity 4.1 can be used for this exercise.

Scenario:

City Centre Assault:

Two lesbian women leave an LGBTI venue in the city centre. 100 metres from the venue the women are attacked by a group of males, some of whom are armed with sticks. The women are badly beaten with sticks, punched and kicked. The offenders shout homophobic abuse at the women before and during the assault. A passer-by phones the police and you arrive at the scene.

Having read the scenario, read the task below that has been assigned to your group. Brainstorm ideas for 10-15 minutes, taking notes as appropriate.

Group 1 task – The initial response

Supporting victims at the crime scene, when reporting a crime by phone or upon arrival at a police station to report a hate crime against LGBTI persons.

What should the police consider?

Group 2 task – Taking the official statement/report

Gathering the best evidence and supporting the victim when taking a detailed victim or statement.

What should the police consider?

Group 3 task – After the initial evidence is gathered

Providing ongoing victim information and support. Reducing the risk of re-victimisation.

What should the police consider?

HANDOUT 4.2B – INVESTIGATION OF A HATE CRIME AGAINST LGBTI PERSONS: A VICTIM-CENTRED APPROACH

This handout provides key guidance on the following three areas:

- A) supporting victims at the initial stages of a criminal investigation
- B) taking a detailed victim/witness statement and creating an environment conducive to gathering the best evidence
- C) ongoing victim support and risk mitigation

A victim-centred approach implies an **individual assessment of the needs and risks of a victim**, and is particularly important in cases of hate crimes and incidents as these cases bear the risks of continued or repeat victimisation, intimidation and retaliation.

An individual assessment ensures the police understand the needs of a victim and the risks they (may) face, and helps the police determine the protective and support measures that they should put in place.¹⁰⁴ Responding to the victim's needs, treating them with dignity and respect will also empower them to report and foster their co-operation with police forces.

An individual assessment of the victim's needs is an **obligation** under EU Law.¹⁰⁵

A good resource to know more about how to engage with victims in a way that guarantees the support and respect they need is the Strengthening Targeted Assistance and Response Structures for Hate Crime Victims in the OSCE Region (STARS) initiative, by the OSCE, which compiles several guidelines and recommendations to strengthen understanding of hate crime victims' needs and rights.¹⁰⁶

A) Supporting victims at the initial stages of the criminal investigation

The initial contact with the victim will have a lasting impression on how they view the police and the expectations they will have in terms of service provision. A bad start could destroy the chances of obtaining their cooperation.

Key points to consider at the initial stages of the investigation are summarised below.

Common guidelines

- ▶ The victim should be interviewed by one police officer to minimise trauma and revictimisation; a second officer can be present if required but should ideally not ask questions.
- ▶ As a general principle, it is a good practice to start by asking the victim how they wish to be addressed, irrespective of the gender markers in their identity documents. Respect their wishes in every interaction with them.
- ▶ Assess the need for medical attention and call for it if required. A lack of visible injuries does not automatically mean medical attention is not required.
- ▶ Record the victim's emotional state (e.g. are they in shock?). Suggest the victim be examined by a medical professional. A medical report detailing any harms to the victim's physical or mental health can be a key piece of evidence.
- ▶ Relay to the victim all the information they need to report a hate crime or to testify. This is especially important when the victim is a sex worker, (particularly where sex work is not allowed), or a migrant whose legal situation in the country is potentially irregular. Fear of legal repercussions might prevent them from reporting any kind of crime. While you cannot make sure that they will not incur any negative consequences, you can support them in making an informed decision.
- ▶ Inform the victim of how and under what conditions they can obtain legal aid or advice and protection, if needed. Inform them also on the available procedures for making a complaint if they feel their rights have not been respected by authorities.

104. Council of Europe, Manual for police education on equality & non-discrimination: a resource for trainers, p. 175 available at <https://rm.coe.int/manual-for-police-education-on-equality-and-non-discrimination-final-/1680ad3669>.

105. See: 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, articles 22, 23, 24, available at <http://data.europa.eu/eli/dir/2012/29/oj>.

106. See: the STARS: Comprehensive Support for Hate Crime Victims page at the OSCE website at: <https://www.osce.org/odihr/stars>.

- ▶ Reassure the victim that they are not to blame for what happened. Do not dismiss their account of the events just because they were under the effects of alcohol or drugs when the incident happened. Do not tell them they should have dressed, appeared or behaved in a different way to avoid being victimised.
- ▶ Police officers should use language which is open and inclusive, such as:
 - “Do you have a partner?” instead of “Are you married?”
 - “Are you in a relationship?” instead of “Do you have a boyfriend/girlfriend?”
- ▶ Be patient and give the victim the space to express how they feel. Hate crimes are very distressing situations, and the victims might not be articulate and calm in their explanations at first. A patient approach may result in key evidence being provided that otherwise could have been missed.
- ▶ Protect the victim’s identity from unnecessary exposure. Advise the victim that the police will protect their privacy as much as is legally possible.
- ▶ Advise the victim of the realistic possibilities of the incident becoming public knowledge and/or reported in the media. Ensure that this information is not relayed in a way such that the victim thinks the police do not wish to pursue the matter.
- ▶ Inform the victim about the type of support they can obtain and from whom, including, where relevant, basic information about access to medical and/or psychological support, and alternative accommodation.
- ▶ Refer them to a local victim support service (with their consent), such as those provided by local civil society organisations. Details of support services should be provided orally and in writing (whenever possible). A document listing support services for LGBTI persons who have suffered a hate crime should be prepared beforehand.¹⁰⁷
- ▶ The victim should be given details of the investigating officer or case contact person should they wish to communicate further. A second contact person should be considered if the initial person is to be absent for any extended periods.
- ▶ A victim’s wish not to be contacted in a certain way should be seriously considered. For example, a victim fearing retaliation of the offender or disclosure of their SOGIESC may not be comfortable with officers e.g. visiting their home, receiving information (including court summons) by post to their home address, or being contacted through a landline.
- ▶ Ask the victim if they have someone that they want contacted for support.
- ▶ Based on the information gathered above, assess any immediate risk to the victim or their partner/ immediate family. In addition to the points above, establish if the victim has received any threats, if there were weapons involved, if there have been previous incidents and whether the perpetrator – if known – has committed similar offences in the past. Based on the assessment, put in place any required protection measures immediately.

Context specific guidelines

- a) At the crime scene
 - ▶ Ensure the victim is safe at the scene; remove them from the scene if they are in danger.
- b) If taking an initial report on the phone
 - ▶ Ask questions to ascertain whether the victim is safe at the scene and advise them to leave the scene if they are in danger and are able to do so. Direct emergency response officers to the scene if the victim is in danger and cannot leave.
 - ▶ The victim should be given information on how best to make an official report. The victim should be given details of whom to contact, when and where. Arrangements should be made to have the victim contacted by an investigating officer in line with local police policy.
- c) If a victim arrives at the police station
 - ▶ Take initial details from the victim in a private room and not at the public counter. Ideally, a room should be designated and prepared as a safe space room.¹⁰⁸

¹⁰⁷. See Module Zero for more details on how to collaborate with CSOs.

¹⁰⁸. See Handout 4.2C: Tips to create a safe space for LGBTI persons at the police station.

B) Taking a detailed victim/witness statement. Creating an environment conducive to gathering the best evidence

The interview is often the point in the investigation where key evidence is provided. This can make or break a criminal case. The police must balance the need to press for as much detailed information as possible with the needs of the victim, including the need for privacy. Before going through the key points below, please read the common guidelines to consider at the initial stages of the investigation, as well as the context specific guidelines "If a victim arrives at the police station" above.

- ▶ Ensure the interview room is quiet and that you will not be disturbed while taking the statement. Place a "do not disturb" sign on the door. Turn off mobile phones and try to ensure you are not disturbed for the period in question.
- ▶ Make the setting as comfortable as possible. Offer the victim water. Provide breaks when required.
- ▶ Ask the victim if they have been examined by a healthcare provider and whether they have a medical report. Suggest them to find medical attention or call it yourself, if needed and appropriate.
- ▶ Be respectful at all times, acknowledging pain/upset.
- ▶ Do not use judgemental language or give your personal opinion on the victim's individual circumstances. Do not criticise the victim's behaviour. Avoid making assumptions about e.g. the victim's religion, life-style, family.
- ▶ Always remember that any crime can be a hate crime, provided there is a bias motive. For instance, if a woman reports a sexual assault and there are other elements indicating an anti-LGBTI bias (for instance, the use of anti-lesbian slurs or the suspect stating their intention to "cure" the victim). Likewise, if an LGBTI sex worker reports a sexual assault, never dismiss it or treat it as a "disagreement" with a client; pay attention to every element and ask the victim all the relevant questions to gather evidence of potential bias indicators.
- ▶ Use a reassuring tone. Let the victim know that you appreciate that giving evidence is difficult.
- ▶ Be careful with your body language and keep as neutral an expression as possible.
- ▶ Do not press the victim if they are distressed. It may be necessary to take a second statement at a later stage. Where this presents legal difficulties, this should be explained to the victim.
- ▶ Be patient with the victim if they go into great detail about the incident beyond what you require for a statement. Allow sufficient time and do not rush the process.
- ▶ Never use discriminatory terms, not even as a joke. What might seem light-hearted to the officer can be deeply painful for the victim in their circumstances and make the officer's job to gather evidence harder. If the victim flags that a term has been used inappropriately, acknowledge the mistake, apologise and continue with the interview without using it again. This will build trust between the officer and the victim and facilitate the collection of evidence.
- ▶ Never belittle the seriousness of the crime. This is particularly relevant where the suspects are under-age. Avoid diminishing its importance as "kid stuff", especially in cases of school bullying or hate crimes where the suspects are groups of children. They are likely not kid stuff.
- ▶ Keep always in mind that a hate crime can be motivated by several different biases. Ask all the relevant questions and consider the enhanced vulnerability of a certain victim's situation. For example, a transgender woman who engages in sex work because her irregular migrant status prevents her from getting a work permit is at a heightened risk of suffering a hate crime and is less likely to be willing to report it to the police.
- ▶ Consider taking the statement at a neutral venue or at the victim's home if that is appropriate given the facts of the case.
- ▶ Ensure the victim receives a written acknowledgement of their complaint stating the basic elements of the crime reported.

C) Ongoing victim support and risk mitigation

After the initial interaction and once the statement has been taken, follow the recommendations set out below.

- ▶ Give the victim the contact details for communications about their case. The victim should be notified if a suspect has been arrested, charged, or released from custody. If the suspect is released from custody, the victim should be notified about why it was done.

- ▶ Once an officer is designated as investigator, the victim should be contacted within 24 hours to reassure them they are being taken seriously.
- ▶ After the initial risk assessment has been conducted, the risk to the victim should be periodically monitored and appropriate action should be taken to mitigate against risks identified.
- ▶ Remind the victim about the type of support they can obtain and from whom, including, where relevant, basic information about access to medical and/or psychological support, and alternative accommodation.
- ▶ Advise a local community officer or beat officer to call in to see the victim and provide reassurance where appropriate. You should discuss this with the victim prior to doing so.
- ▶ Consider bringing in a family liaison officer (a trained police officer who liaises with the victim/family in a major investigation) or trained LGBTI liaison officer, if available.
- ▶ The victim should be provided with a single point of contact and a secondary contact person if the single point of contact is to be absent for significant periods.
- ▶ Victim support referrals should be made if these have not been attended to already.
- ▶ Advise the victim on crime prevention and home and personal security, if needed. Where appropriate, consider providing them with the necessary equipment (alarms, police protection, etc.).
- ▶ The victim should be informed of any media requests.
- ▶ The victim's details should be safeguarded on paper and in electronic databases, as required.
- ▶ Victims may require a name change or a whole new identity. Relocation programmes should be considered and supported in these circumstances.
- ▶ Provide information about the available restorative justice services.
- ▶ Provide suitable support for victims when they are required to attend court, which could include:
 - arranging access to victim support rooms/witness waiting rooms
 - arranging for the victim to visit and view the court before the trial (in conjunction with court services, if available)
 - arranging for the investigating officer or a nominated officer to meet and remain with the victim where possible. If unable to do so, a “witness liaison” should meet and remain with the victim
 - if none of the above is possible, suggest the victim to attend accompanied by a friend or family member who is not evidentially connected with the case, as long as it is safe for them, or a representative of an LGBTI civil society organisation

HANDOUT 4.2C – TIPS TO CREATE A SAFE SPACE FOR LGBTI PERSONS AT THE POLICE STATION

1. If possible, plan ahead by designating a room as a safe space. Ideally, a safe space room should offer privacy. In case the room's walls are transparent, consider hanging blinds.
2. The room should **feel** safe and welcoming. Display posters indicating the space is safe for LGBTI people, preferentially in different languages. If resources allow it, you could decorate the room with some plants and illuminate it with a softer, warmer light. Consider adding items that would help through the interview, such as water and tissues.
3. Display items that work as visible LGBTI symbols, such as the rainbow flag or a poster depicting it. Consider adding these symbols to other areas of the police station, as that could help LGBTI persons feel more comfortable.
4. Hang a "Do not disturb" sign at the entrance to the room. Make sure everyone in the office is aware of the importance of respecting it.
5. Include visible messaging emphasizing that responding to hate crimes is a priority, along with the steps the police is taking to address them. A simple and effective slogan can help this resonate.
6. Collaborate with local LGBTI organisations. They can advise you on how to create a safe space for the local LGBTI community. Engaging with civil society is a key element to foster trust between LGBTI persons and police officers, as it will help to make them feel safe and comfortable enough to report a crime.
7. Display information from local LGBTI organisations, such as posters or leaflets, in a visible place. Ensure materials are updated and include contact details for emergency support, legal aid, and counselling services.
8. Make sure officers of different genders are trained in sexual and gender diversity. This would allow the victim to talk with an officer of the gender they feel more comfortable with, if needed.
9. Use social media to periodically inform the public about the efforts made at your station to make it a safe space for LGBTI persons reporting a crime. Highlight real actions, such as collaboration events with LGBTI organisations or feedback from community members, to build credibility.
10. Always offer the victim the possibility of using the safe space room. However, respect their decision if they prefer to talk in a more public area. Some LGBTI persons might not feel comfortable in a secluded space with a police officer, while others might prefer the privacy. In any case, reassure the victim that they can bring a trusted companion, such as a friend or a community advocate, for additional support if they wish.

HANDOUT 4.3A – COLLECTING THE EVIDENCE: VICTIMS OF HATE CRIMES AGAINST LGBTI PERSONS – TRANSGENDER-SPECIFIC CONSIDERATIONS

The information outlined below provides some guidelines and good practices for professional and supportive police interaction with transgender victims of crime. A number of the issues are also relevant to intersex persons.

1) Gender identity and law enforcement

As outlined previously, transgender persons suffer high levels of victimisation across a range of crime areas, including sexual violence and murder. Rates of victimisation are greater for certain transgender persons, such as those who are migrants, sex workers or belong to an ethnic minority. Considering the pervasive social stigma and disproportionate levels of criminal violence experienced by transgender persons, law enforcement **must prioritize professional and empathetic responses**.

In many countries, transgender persons often face discrimination by police officers, which can erode trust and make it harder for them to report crimes of which they are the victim. This is particularly the case for transgender persons who engage in sex work or with an irregular migration status, as they fear reporting the violence they suffered to the police could expose them to legal risks of being fined or expelled. Displaying **professionalism and respecting the gender identity, gender expression, name and pronouns used** of any victim is vital to effectively support and serve transgender persons.

2) Avoid unnecessary, irrelevant or judgmental questions

Transgender persons are subject to regular questioning and judgement throughout their lives. They do not need the police to create further stress by asking questions that are not relevant to their professional interaction with the victim. **A key responsibility for police officers is to stay in their professional role and only ask questions that are relevant to the investigation of the reported crime.**

When conducting an investigation, police officers should be mindful of the criminal charge they are trying to prove and the information required to provide evidence of a bias motive. It may be relevant to refer to the gender identity of the victim when investigating a transphobic incident. It will often not be necessary to provide any evidence related to more personal and private elements, such as the person's physical anatomy, the medical treatments they might or might not be undergoing, etc. If the information is not evidentially related to the crime reported or its bias motivation, **do not ask the question.**

Examples of inappropriate questions would include, for instance: 'Have you had surgery?'; 'What is your real name?'; or inquiries about the person's private medical history unless explicitly relevant to the investigation.

Transgender persons can often face judgemental reactions from family, friends and the wider community. When they arrive at a police station after suffering a crime, it is vital that they do not face further judgement from the police.

Maintain a neutral demeanour, avoiding body language or facial gestures that might inadvertently convey judgment or discomfort. **Remain professional at all times.**

Language should be neutral, technical and non-judgemental. The role of a professional police officer is to be supportive and empathetic. **Secondary victimisation is likely to occur if the victim feels that they are going through a judgemental/discriminatory process when they engage with the criminal justice system.**

3) Confidentiality

Police officers have a professional responsibility to maintain confidentiality when investigating criminal matters. Police officers have a responsibility to keep personal information private, particularly in smaller towns and cities where anonymity is harder to maintain.

Unauthorized disclosure of a transgender person's gender identity can result in **severe emotional, social, and physical risks**. It could also cause problems in their relationships with their family, friends and partners, at school or at work.

Moreover, it may also constitute a breach of legal privacy standards. Data protection legislation must be applied rigorously. Officers should ensure all case-related documentation, including digital records, is stored securely. Access to sensitive information must be restricted to relevant personnel, with clear policies for its use.

The role described above should be considered in conjunction with the risk of details of the criminal case reaching the media through court appearances or otherwise. The victim should be told what the risks are so

that they can make an informed decision on how to proceed. **This information should never be conveyed in a manner whereby the victim feels they are being dissuaded from making a complaint.** Lastly, **never make promises you cannot keep regarding confidentiality** to influence someone to make a criminal complaint.

4) Supports

When the victim is distressed, and in particular where relationships between the transgender community and the police are challenging, it may be adequate to **ask the victim if they would like to have a friend or family member present**. Where possible, offer to connect the victim with a local transgender advocate or liaison officer trained in hate crimes. This additional support can help the victim navigate the process more comfortably.

It may also be helpful to take the statement at a neutral venue such as a community centre or at the victim's home. Ensure compliance with local policies while prioritizing victim comfort and safety. Discuss neutral venues with the victim to enhance their sense of control and security.

5) Used name and legal name

Officers should address persons by the name they use to introduce themselves or indicate as their preferred mode of address. This is an easy rule of thumb and will likely lead to a more productive conversation between the officer and the person interviewed.

Whenever it is legally necessary for police officers to use a person's legal name instead of their used name, officers should **explain clearly to the victim** why this is needed and where it will be used (forms, statements, court and medical documents, etc.), ensuring transparency and minimizing discomfort. The police officer should still refer to the person's social name when interacting with them.

Many countries do not allow name changes to coincide with someone's gender identity. In other circumstances, a transgender person may not be in a position to change their name legally, even if it is permitted by the state. This can create a multitude of challenges, especially when dealing with police officers who are trained and experienced in examining identity documents.

When taking a statement of complaint, acknowledge the identity of the victim and their preferred name and pronouns and use these when interacting with them. In the statement, commence by stating the witness's legal name and legal gender if legally necessary, and then explain their stated name and gender identity. Indicate that from that point on you will refer to the person by using their preferred name. Once this has been clarified in the statement, you should continue to use the person's gender and pronouns throughout the statement/report.

Documents to prove someone's gender identity should not be requested unless strictly necessary for a specific purpose.

6) Use of pronouns

As discussed in Module Two, pronouns are the ways in which we refer to people by replacing their name with words like he, she or they. It is key that every person is addressed by using their preferred pronouns to create a safe space for them to express what happened to them.

Sometimes, individuals may inform officers how they would like to be addressed, a request that should always be honoured by officers. Otherwise, it would be a good practice to **ask the person how they prefer to be addressed/which pronoun they prefer to use**.

It is important to note that for many non-binary persons, gender-neutral pronouns such as they/them/theirs might be the appropriate pronouns to use. However, some others might prefer a different one.

If you find yourself using the wrong pronoun it is best to **apologise quickly and move on**. Acknowledge the mistake briefly, correct yourself, and continue the conversation without overemphasizing the error. It is not necessary to linger on it and could potentially create an awkward situation. Do not get defensive if the person corrects you and explains the way they would prefer to be addressed. Remember how important this is to create an adequate environment to hear their statement.

However, **addressing someone wrongly on purpose is insulting** and can cause considerable hurt. Just as most male officers would not like to be called "Miss" by a citizen while on duty, or as most female officers might not like to be addressed as "Mister" in that situation, **victims and other individuals reporting to the police must be addressed in a way that respects their self-determined gender identity.**

Police officers' use of the correct pronouns and **sensitive** questions about preferred pronouns show cultural competence and engender trust, and contribute to creating a safe and comfortable environment where reporting traumatic violent experiences becomes less challenging for the victim.

7) Body sensitivity

Although irrelevant questions about someone's body should always be avoided, there might be instances when discussing certain details is necessary (for instance, in some cases of sexual assault). Many transgender persons can feel particularly anxious about discussing their body with police officers or any other unknown person. This makes building trust even more important.

Where a forensic sexual examination is required, the procedures should be explained to the victim in advance so as to give them enough information to make a decision as to how to proceed. Victims' decisions in such cases should be respected.

Where possible, involve medical professionals trained in transgender health to conduct sensitive examinations. Victims should be informed about the availability of same-gender medical staff if preferred.

8) Family

The police may be required to engage with the family of the victim, particularly if the victim is missing, deceased or not available. Try to sensitively gauge the family's levels of acceptance and identify how far/whether they want to be involved in supporting the investigation. The family may not accept the gender identity of their relative. It may be necessary to have two types of conversation, one with the family and one with the victim.

If there are signs of hostility within the family towards the victim, **prioritise the victim's well-being and avoid sharing personal details** with unsupportive family members.

The family of the victim may have no understanding of transgender issues, and it may, in certain cases, be appropriate to refer them to organizations that specialize in transgender and victim support.

Moreover, police officers should always be aware that the person accompanying a victim may be the attacker, even if they are a relative or their partner. Officers should identify signs of coercive or abusive behaviour, such as controlling behaviour, refusal to allow the victim to speak privately, or answering questions on their behalf.

In these circumstances it may be appropriate to briefly separate the victim and partner and ask questions such as: Do you feel safe at home? Does anyone in your life hit, hurt or threaten you? Is there any reason you may feel uncomfortable or unable to openly answer questions while your companion is present?

9) Detention of transgender persons

Although a comprehensive explanation of the needs of transgender detainees goes beyond the scope of the training set in this manual, it should be noted to learners that transgender persons held in detention **can be in a situation of vulnerability and at a heightened risk of intimidation and abuse**.

According to the Committee of Ministers's Recommendation CM/Rec(2010)5:

"4. Member states should take appropriate measures to ensure the safety and dignity of all persons in prison or in other ways deprived of their liberty, including lesbian, gay, bisexual and transgender persons, and in particular take protective measures against physical assault, rape and other forms of sexual abuse, whether committed by other inmates or staff; measures should be taken so as to adequately protect and respect the gender identity of transgender persons".¹⁰⁹

The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) adopted in 2024 a set of **core principles**¹¹⁰ to ensure the respectful and decent treatment in prison of transgender persons. Although focused on imprisonment, these principles are relevant to other kinds of detention, such as an arrest or the temporary detention of transgender migrants and asylum-seekers. They include guidelines on key topics like prison **placement, body searches or healthcare** while in detention.

"98. In line with the above precepts and international norms, the CPT considers that, as a matter of principle, transgender persons should be accommodated in the prison section **corresponding to the gender with which**

109. Committee of Ministers Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, available at: <https://search.coe.int/cm?i=09000016805cf40a>

110. CPT, 33rd General Report – Activities 2023, 2024, p. 35, available at <https://rm.coe.int/1680af71cd>.

they identify. If, after **an individualised risk assessment**, there are exceptional security or other reasons to accommodate them elsewhere, those reasons should be clearly documented, and subject to regular review. In any case, just as for cisgender persons living in prisons, transgender prisoners should always be held in locations that **best afford their safety and that of others**. If they are held, even briefly, in any form of separate or dedicated section of a prison, they should be offered activities and association time with other prisoners of the gender with which they identify.

99. Moreover, the CPT considers that transgender persons should also be **proactively consulted in their initial entry needs** and risk assessment procedures before placement decisions are made, as well as **given the option that their gender identity be kept confidential** if they so wish."

HANDOUT 4.3B – CHECKLIST

- 1. Respect the person's identity:** Always use the victim's preferred pronouns and chosen name. If you use the wrong pronoun or name, apologize briefly, correct yourself, and move on.
- 2. Use neutral and non-judgmental language:** Avoid derogatory terms. Always use professional and respectful language.
- 3. Keep it relevant:** Only ask questions relevant to the investigation. Avoid intrusive questions about intimate details unless strictly necessary.
- 4. Focus on bias evidence:** Focus on the evidence of transphobia rather than delving into the victim's personal identity beyond what is strictly necessary.
- 5. Be aware of your non-verbal communication:** Maintain a neutral demeanour during interactions. Avoid judgmental gestures, tone, or body language.
- 6. Protect personal information:** Do not disclose a victim's gender identity, name, or medical history without their explicit consent.
- 7. Be transparent on legal limitations:** If legal or procedural rules require using the legal name or gender of the person, explain it clearly to the victim.
- 8. Refer to civil society:** Connect victims with local transgender or LGBTI organizations or victim support services for additional assistance.
- 9. Offer emotional support options:** Ask if the victim would like a friend, family member, or support person present during interviews.

HANDOUT 4.4A – BIAS INDICATORS – PROVING BIAS SELECTION/MOTIVE

Bias indicators

As outlined in the previous modules, hate crimes are defined as **criminal acts** accompanied by a **bias motive**. The element that turns an ordinary crime into a hate crime is the perpetrator's **selection of a victim based on a bias** towards the group to which the victim belongs, or to which the victim is perceived to belong.

Police officers will be experienced in identifying and collecting evidence to prove **criminal acts**. To support the collecting of evidence in relation to crimes, each criminal offence is defined in the criminal code. These definitions include "proofs", which have to be present in order to proceed with an arrest/charge/prosecution for an offence.

When investigating hate crimes, it is necessary to **gather evidence proving a bias motivation**. As motivation is somewhat subjective and can be harder to define, there are a number of factors which can be used to identify a bias motivation, some evidentially stronger than others. These factors can be usefully categorised under the following headings:

1. Victim or witness perception
2. Comments, written statements and gestures
3. Involvement of organised hate groups or their members
4. Location and timing
5. Patterns or frequency of previous crimes or incidents
6. Nature of violence
7. Lack of other motives

These elements should be understood as a list of indicators, and not as an exhaustive list that needs to be fulfilled for an incident to be investigated as a potential hate crime. Whenever some of these indicators are present, police officers should direct their investigation towards gathering further evidence of a bias motive.

Given the subjective nature of motivations, and the fact that some indicators will be stronger than others, it may be necessary to build a case using a combination of bias indicators. In some cases, while there may be one indicator present, it may not be enough to prove that the incident is a hate crime, and the case may therefore be treated as a standard criminal act.

Whether or not the case is indeed a hate crime is a matter to be decided by the prosecutor, based on the facts presented by the police. It is thus vital that the **police gather and present any available evidence** to the prosecutor and do not decide themselves that the crime is not a hate crime, if the evidence suggests that it could be. The police's goal should be to gather as much relevant evidence as possible.

There are situations when the person attacked is not actually a member of the targeted group, but is perceived to be by an offender. It is important to note that, even though the victim may not be LGBTI, the fact that the attackers chose the victim **believing** them to be so is what makes the offence a hate crime. What matters is the **motivation of the offender**, not the sexual orientation, gender identity and expression or sex characteristics of the victim.

For instance, the victim may be a heterosexual man who joined a Pride march or attended an LGBTI-friendly party and was physically assaulted by a group who mistakenly perceived him to be gay. This would still be a hate crime, regardless of the sexual orientation of the victim.

It should be noted that bias can comprise one or more motives of the crime. In the case of *Balázs v. Bulgaria*, the ECHR stated that "not only acts based solely on a victim's characteristic can be classified as hate crimes. For the Court, perpetrators may have mixed motives, being influenced by situational factors equally or stronger than by their biased attitude towards the group the victim belongs to".¹¹¹

Therefore, even if other motives are already established and there is enough evidence to bring the case before the court, it is important to take additional investigative steps to identify and prove bias motive.¹¹²

111. ECHR, *Balázs v. Hungary*, 15529/12, §70. Full text available at: <https://hudoc.echr.coe.int/fre/?i=001-158033>.

112. Council of Europe, Manual for police education on equality & non discrimination: a resource for trainers, p. 138 available at <https://rm.coe.int/manual-for-police-education-on-equality-and-non-discrimination-final/1680ad3669>.

Each case will need to be examined based on the facts available. Care should be taken to keep a look out for misleading facts or cases where offenders purposely feign bias motivation.

To better understand bias indicators, read the following scenario and examine the answers to questions a-d.

Scenario:

A gay couple leave a city centre gay club at 2 a.m. The club exit is down a dark side road. At the end of the road, a gang of youths have gathered. When the couple walk past the gang, the youths attack them and beat them up, punching and kicking them as they lie on the ground. The gang call them "faggots" and "queers" as they attack them. The gang then runs off. A witness calls the police.

a) Has a criminal offence occurred?

Yes, aggravated assault or affray (use local crime definition).

b) Was bias motivation demonstrated in the above scenario?

Yes, LGBTI bias motivation was demonstrated in a number of ways:

Location: *The incident happened when the men exited a LGBTI venue (the gay bar).*

Time: *It happened at a time when LGBTI persons would be expected to be leaving that location.*

Comments: *Homophobic comments were made during the assault ("faggots" and "queers").*

Victim/Witness perception: *The two victims were gay men.*

c) What other evidence could the police look for?

The above assessment is made based on the limited information available in the example. Further investigations by the police could reveal information such as:

Victim/Witness perception: *The victims may perceive that they were targeted because they were gay. The witness may have perceived the assault to be homophobic in nature.*

Lack of other motive: *There may be a lack of other motives (unprovoked attack, nothing stolen, etc).*

Membership of hate groups: *The suspects, if identified, may be associated with hate groups. There may be posts on social media about the attack.*

Patterns/Frequency of similar crimes: *Did similar attacks take place in the same area or at similar times or with a similar modus operandi?*

d) Is this a hate crime?

The incident is a hate crime, as it constitutes a criminal offence with a bias motive.

Anti-LGBTI crime indicators

Use the time remaining to outline some bias indicators that would provide evidence to investigating police officers that a LGBTI-phobic crime has occurred:

Victim or witness perception

Comments, written statements and gestures

Involvement of organised hate groups or their members

Location and timing

Patterns or frequency of previous crimes or incidents

Nature of violence

Lack of other motives

HANDOUT 4.4B – ANTI-LGBTI BIAS INDICATORS

Based on the definition of a hate crime, hate crimes against LGBTI persons are crimes that are motivated by bias or prejudice towards lesbian, gay, bisexual, transgender and intersex persons. “Anti-LGBTI bias motivation” means that the perpetrator chose the target of the crime partially or fully based on their actual or perceived sexual orientation, gender identity, gender expression or sex characteristics. The target may be a person, a group of persons, or property correctly or falsely associated with the LGBTI community.

It is very important to identify bias indicators for hate crimes against LGBTI persons, as this will help the relevant authorities to decide whether the case in question should be investigated as a possible hate crime against LGBTI persons. Note that some bias indicators might be different depending on the context, age, community, nationality... of both the victim and the perpetrator (for instance, a young perpetrator might use slurs or gestures that are widespread on social media but unknown to older cohorts).

A **non-exhaustive** list of bias indicators is set out below:

Victim or witness perception

- ▶ Did the victim or witness perceive that the criminal act that occurred was motivated by anti-LGBTI bias? (Note that the victim may not realise they have been the victim of a bias-motivated crime. They may also wish to deny that it was a bias-motivated crime, as they may be wary of expressing or exposing their SOGIESC).
- ▶ A substantial portion of the community where the crime occurred perceived that the incident was motivated by bias.
- ▶ Was the victim with a same-sex partner at the time of the incident? Were they holding hands or kissing? Were they wearing Pride symbols or other badges/ribbons/clothing commonly associated with LGBTI people?
- ▶ Was the victim engaged in activities promoting LGBTI rights/services/issues at the time of the incident?
- ▶ Was the victim visibly identifiable as an LGBTI person due to their gender expression (dress, make up, demeanour...)?
- ▶ Is the victim a public figure who is known as being LGBTI or for advocating for the rights of LGBTI people (for instance, the victim may be openly heterosexual but support LGBTI causes and, for this reason, become a victim of a hate crime)?

Comments, written statements and gestures

- ▶ Did the perpetrator use anti-LGBTI language, slurs or terminology when committing the crime?
- ▶ Did the perpetrator refer to the SOGIESC of the victim?
- ▶ Did the perpetrator write LGBTI-phobic statements or refer to the real or perceived SOGIESC of the victim in writing (possibly in an email/letter/on a social networking site)?
- ▶ Did the perpetrator use any gestures used to mock or intimidate LGBTI people?
- ▶ Did the perpetrator mention the need to “cure”, “correct”, “convert”... the victim?
- ▶ Were LGBTI-phobic graffiti left at the scene?

Involvement of organised hate groups or their members

- ▶ Is the perpetrator part of an organised hate group, or have they been identified as one by the police?
- ▶ Did the perpetrator display through their clothing or tattoos any indication of belonging to an organised hate group?
- ▶ Does the perpetrator participate in hate groups online (forums, subreddits, Discord channels, etc.)?
- ▶ Is the offender known for making hate speech or anti-LGBTI speech or comments (in writing or orally)?
- ▶ Has the offender participated in hate speech online (such as in social media or videogames)?
- ▶ Is the offender part of an organised group commonly associated with violent behaviour (such as certain clubs of football fans)?
- ▶ Did a hate group take responsibility for the assault?

Location and timing

- ▶ Did the attack happen during a major LGBTI event (e.g. Pride festival)?
- ▶ Did the attack happen at a time of political significance for LGBTI persons in the area (marriage equality laws being passed, opening of a new LGBTI bar for the first time in a city, or first LGBTI pride event being held)?
- ▶ Did the attack happen at a date of political significance for hate groups in the area (for instance, Adolf Hitler's birthday)?
- ▶ Did the offence happen near to a bar or area frequented by LGBTI people?
- ▶ Did the offence happen in an area that is known as a meeting place for LGBTI persons?
- ▶ Did the offence happen at a location that is known as a public sex environment or a cruising area?
- ▶ Did the incident happen near a location used by extremist/hate groups?
- ▶ Was the location historically an LGBTI meeting place, even if it is not now?

Patterns/frequency of previous crimes or incidents

- ▶ Did the offence happen in a location or at similar times where previous events have occurred?
- ▶ Is there a pattern in the type of offence/graffiti/violence towards minority group members?
- ▶ Does the perpetrator have a history of committing this type of offence?
- ▶ Has the victim been targeted in the past by the same person or someone associated to them?
- ▶ Has the victim had any altercation with the perpetrator related to their stances on LGBTI issues?

Nature of violence

- ▶ Was there an unusual level of violence/brutality associated with the attack that would appear excessive given the facts of the case?
- ▶ Was the victim subjected to sexual violence (for instance, where the perpetrator might be using sexual violence to try to punish the victim)?
- ▶ Did the violence focus on genitals or sexual organs?
- ▶ Did the violence focus on the gender expression of the victim (for instance, by purposely tearing their clothing or jewellery, grabbing the victim by the hair/wig or violently removing their make-up)?
- ▶ Was there an unusual level of publicity to the violence, as if the perpetrator was trying to humiliate the victim?

Lack of other motives

- ▶ Are there any other possible reasons explaining why the attacker chose the victim?
 - Note: an apparent lack of other motivations other than bias is a strong indicator of a potential hate crime. However, **the fact that the perpetrator had other motivations** (such as stealing the victim's belongings or take reprisal for their actions) **does not automatically rule a bias motive out**. Every possible indicator needs to be considered. Any crime, including robbery, can be a hate crime provided it was motivated by an anti-LGBTI bias.

HANDOUT 4.5A – IDENTIFYING BIAS INDICATORS

Scenario 1:

On the morning of the first Pride march to be held in the capital city, a group of young persons are walking through the streets to the square where the rally is set to start. One of them has a rainbow flag wrapped around their shoulders, another is a nonbinary person with long hair and a dress and two of them, both women, are holding hands. The group are assaulted by a gang of skinheads who punch, kick and spit on them. The non-binary person was also groped, and their dress was torn apart.

- a) Ascertain if an unlawful punishable act (offence or crime) has occurred
- b) Identify evidence of bias motivation in the scenario
- c) What other evidence could the police look for?
- d) Decide if the incident is a hate crime

Scenario 2:

An office belonging to a local female politician who is known widely in the media for supporting the introduction of same-sex marriage is broken into. The interior of the building is damaged and homophobic (“dyke”) and sexist (“cunt”; “whore”) slurs are sprayed on the politician’s campaign posters. The politician is heterosexual. Nothing is stolen.

- a) Ascertain if a crime has occurred
- b) Identify evidence of bias motivation in the scenario
- c) What other evidence could the police look for?
- d) Decide if the incident is a hate crime based on a and b

Scenario 3:

A transgender woman who engages in sex work is waiting for clients in a street known for being a place frequented by transgender sex workers. There, she is approached by a man who asks for her services. After agreeing on a price and a specific sexual practice, they go to the man’s house. There, and while she was performing the agreed practices, he asks for something that was not agreed on. She then decides to leave, but the man starts shouting at her that she is a “fucking abomination” who “deserves to be punished” and proceeds to sexually assault her. The attack was so violent she needed surgery.

- a) Ascertain if a crime has occurred
- b) Identify evidence of bias motivation in the scenario
- c) What other evidence could the police look for?
- d) Decide if the incident is a hate crime based on a and b

Scenario 4:

A gang of youths attack a man on a main shopping street, stealing his wallet, phone and bag. As they are robbing the man, one of the attackers calls him a “faggot” and other names. The man is not gay.

- a) Ascertain if a crime has occurred
- b) Identify evidence of bias motivation in the scenario
- c) What other evidence could the police look for?
- d) Decide if the incident is a hate crime based on a and b

Scenario 5:

A transgender man is found murdered in his apartment. The man was beaten and stabbed to death. The body has been mutilated and an object has been inserted into the man’s anus.

- a) Ascertain if a crime has occurred
- b) Identify evidence of bias motivation in the scenario
- c) What other evidence could the police look for?
- d) Decide if the incident is a hate crime based on a and b

Scenario 6:

A 20-year-old man makes advances to an older gay man on a dating website. The two men meet in a hotel and spend the night together. The young man secretly records the two having sex on his smartphone. The young man starts to blackmail the older man, saying he will out him to his family and colleagues if he does not give him money.

- a) Ascertain if a crime has occurred
- b) Identify evidence of bias motivation in the scenario
- c) What other evidence could the police look for?
- d) Decide if the incident is a hate crime based on a and b

Scenario 7:

A 17-year-old intersex boy reveals he is intersex to a schoolmate and asks that it be kept secret. The following day in the male locker room before gym class, the schoolmate along with 5 other students surround the victim and demand that he remove his trousers so that they can "get a good look at it". When he refuses, the group pull off his trousers, punch him and call him a "freak" and a "faggot". They leave him on the floor and take away his trousers and underwear. The victim has a broken nose, is very emotionally disturbed by the incident and refuses to return to school.

- a. Ascertain if a crime has occurred
- b. Identify evidence of bias motivation in the scenario
- c. What other evidence could the police look for?
- d. Decide if the incident is a hate crime based on a and b

HANDOUT 4.5B – IDENTIFYING BIAS INDICATORS

Scenario 1:

On the morning of the first Pride march to be held in the capital city, a group of young persons are walking through the streets to the square where the rally is set to start. One of them has a rainbow flag wrapped around their shoulders, another is a nonbinary person with long hair and wearing a dress and two of them, both women, are holding hands. The group are assaulted by a gang of skinheads who punch, kick and spit on them. The nonbinary person was also groped, and their dress was torn apart.

- a) Ascertain if a crime has occurred – Yes – Assault
- b) Identify evidence of bias motivation in the scenario

Timing: *It is the day the first Pride march is to take place in the city.*

Location: *The young persons were on their way to the Pride meeting point.*

Victim/Witness perception: *Many of the victims appeared to be LGBTI people. Some were carrying a rainbow flag which identified them as Pride march participants. One victim was a non-binary person who visibly expressed their gender identity. Two women in the group were holding hands.*

Nature of violence: *The non-binary person was sexually assaulted, and their dress was torn apart, possibly to humiliate them more.*

- c) What other evidence could the police look for?

Comments: Did the offenders use LGBTI-phobic language during the assault or refer to the victims' sexual orientation?

Involvement of hate groups: If identified, were the offenders members of hate groups? Did they have any tattoos or clothing which would indicate membership of such groups?

Crime patterns: Checking police reports - did similar attacks happen that day to other LGBTI persons?

Nature of violence: Unusual levels of violence used/weapons, etc.

- d) Decide if the incident is a hate crime based on a and b.

The incident is a hate crime, as it combines a criminal offence and a bias motive.

Scenario 2:

An office belonging to a local female politician who is known widely in the media for supporting the introduction of same-sex marriage is broken into. The interior of the building is damaged and homophobic ("dyke") and sexist ("cunt"; "whore") slurs are sprayed on the politician's campaign posters. The politician is heterosexual. Nothing is stolen.

- a) Ascertain if a crime has occurred – Yes – Burglary and criminal damage
- b) Identify evidence of bias motivation in the scenario

Victim/witness perception: *The victim is a known advocate for an LGBTI cause.*

Comments, written statements: *The lesbophobic slogans on the posters.*

Lack of other motive: *No items were stolen.*

- c) What other evidence could the police look for?

Involvement of hate groups: Online/social media postings taking responsibility for the crime.

Timing: Was the politician involved in any significant campaign supporting the rights of LGBTI people at the time?

Patterns: Has this happened before, or have any other LGBTI-phobic events happened recently to the politician, her posters or other LGBTI-supporting politicians?

- d) Decide if the incident is a hate crime based on a and b

The incident is a hate crime, as it combines a criminal offence and a bias motive.

Scenario 3:

A transgender woman who engages in sex work is waiting for clients in a street known for being a place frequented by transgender sex workers. There, she is approached by a man who asks for her services. After agreeing on a price and a specific sexual practice, they go to the man's house. There, and while she was performing the agreed practices, he asks for something that was not agreed on. She then decides to leave, but the man starts shouting at her that she is a "fucking abomination" who "deserves to be punished" and proceeds to sexually assault her. The attack was so violent she needed surgery.

a) Ascertain if a crime has occurred – Yes – *Sexual assault, assault and possibly others*

b) Identify evidence of bias motivation in the scenario

Victim/witness perception: *The victim is a transgender sex worker.*

Comments: *The offender called her an abomination, which is an unusual term and may have religious/biological implications. He also said she deserved to be punished for that.*

Location: *The suspect approached the victim in a place frequented by other transgender sex workers.*

Nature of violence: *The extreme severity of the attack and its sexualised nature.*

c) What other evidence could the police look for?

Victim/Witness perception: Does the victim believe that it was a transphobic sexual assault?

Patterns: Do police records show similar events happening in the area in the past?

d) Decide if the incident is a hate crime based on a and b

The incident is a hate crime, as it combines a criminal offence and a bias motive.

Scenario 4:

A gang of youths attack a man on a main shopping street, stealing his wallet, phone and bag. As they are robbing the man, one of the attackers calls him a "faggot" and other names. The man is not gay.

a) Ascertain if a crime has occurred – Yes – *Robbery*

b) Identify evidence of bias motivation in the scenario

Comments: *The word faggot was used during the assault.*

c) What other evidence could the police look for?

Victim perception: Did the victim think it was a homophobic crime?

Involvement of hate groups: Is there any evidence to believe that hate groups were involved?

d) Decide if the incident is a hate crime based on a and b

There is no clear evidence, apart from one use of a derogatory term, to prove homophobic motive. Homophobic terms are often used as a general abusive term and are not always directed at LGBTI persons.

Scenario 5:

A transgender man is found murdered in his apartment. The man was beaten and stabbed to death. The body has been mutilated and an object has been inserted into the man's anus.

a) Ascertain if a crime has occurred – Yes – *Murder/Homicide*

b) Identify evidence of bias motivation in the scenario

Victim/witness perception: *The victim is transgender.*

Nature of violence: *Extreme violence shown, mutilation of genitals, stabbing of victim.*

c) What other evidence could the police look for?

Comments, written statements: Any written evidence in the apartment/comments on social media.

Patterns: Evidence of similar modus operandi in other murders/serious assaults.

Lack of other motives: Was the victim robbed? Was there any history with any of the people involved which would explain such an assault?

- d) Decide if the incident is a hate crime based on a and b

The incident is a hate crime, as it combines a criminal offence and a bias motive.

Scenario 6:

A 20-year-old man makes advances to an older gay man on a dating website. The two men meet in a hotel and spend the night together. The young man secretly records the two having sex on his smartphone. The young man starts to blackmail the older man, saying he will out him to his family and work colleagues if he does not give him money.

- a) Ascertain if a crime has occurred – Yes - *Blackmail, recording sexual acts without consent.*
b) Identify evidence of bias motivation in the scenario

Victim/witness perception: *The victim is gay. The offender may also be gay.*

Comments: *The offender threatens to out the man as being gay to persons who may react negatively.*

- c) What other evidence could the police look for?

Patterns: Evidence of similar offending by the perpetrator.

- d) Decide if the incident is a hate crime based on a and b

The incident is a hate crime, as it combines a criminal offence and a bias motive. Although the offender may also be gay, he selected the victim based on his sexual orientation, aware of the leverage he could use due to social prejudice.

Scenario 7:

A 17-year-old intersex boy reveals he is intersex to a schoolmate and asks that it be kept secret. The following day in the male locker room before gym class, the schoolmate along with 5 other students surround the victim and demand that he remove his trousers so that they can “get a good look at it”. When he refuses, the group pull off his trousers, punch him and call him a “freak” and a “faggot”. They leave him on the floor and take away his trousers and underwear. The victim has a broken nose, is very emotionally disturbed by the incident and refuses to return to school.

- a) Ascertain if a crime has occurred – Yes – *Physical assault, sexual assault.*
b) Identify evidence of bias motivation in the scenario:

Victim/witness perception: *The victim is intersex and was deeply upset by the incident, experiencing a particular violation of trust.*

Comments: *The offenders used hostile language about the victim’s body and genitals. Homophobic language was also used.*

Nature of violence: *The assault was particularly vicious and targeted the victim’s genitals, ripping off his trousers and underwear.*

- c) What other evidence could the police look for (e.g. social media posts by offenders; reports by witnesses who may have overheard preparations of the planned assault)?
d) Decide if the incident is a hate crime based on a and b

The incident is a hate crime, as it combines bias motivation and a criminal offence. There will be questions concerning national law regarding the age of culpability (the offenders were teenagers) and whether hate crime on the ground of sex characteristics is covered by the current legal framework.

HANDOUT 4.6 – THE IMPORTANCE OF TRUST: POLICE RESPONSES AND THE LGBTI COMMUNITY

The following examples are based on real events and demonstrate two starkly different police responses to crimes against LGBTI persons. They have been summarised to highlight the key learning points. While they occurred in different countries over different periods, the experiences are relevant.

The key here is the development of an awareness that the capacity to effectively investigate hate crimes is significantly enhanced when there is an existing positive relationship between the LGBTI community and the police.

Activities by the police to build trust on an ongoing basis support good policing in two ways:

- ▶ Firstly, they can create and support the flow of information and intelligence upon which police officers can proactively act to prevent hate crimes from occurring in the first place.
- ▶ Secondly, they can create a sense of willingness for people to come to the police after a crime has happened, either to report the incident as a victim or to provide supporting evidence as a witness.

Examine the cases below and then debate the discussion points.

Case A) Murder of a gay man

A well-known gay man was socialising in several bars in the city centre. Having left the final venue, he went home with a man he had met that night. He was found in his living room the next day having been stabbed repeatedly in the neck and chest.

The police force used the investigation to develop a database of gay men in the city. Gay men in the city were instructed to turn up at the city centre police station to be photographed and fingerprinted. There were many reports of the police abusing and intimidating gay men to coerce them into coming to the station. The investigation led to almost 1,500 gay men being questioned, photographed and fingerprinted.

The collection of information on gay men living in the city stopped when gay community groups took legal action against local police managers.

The detectives at the time noted that the community did not support the investigation. The case was never solved.

Case B) Bombing of LGBTI venue

A right-wing extremist placed a nail bomb in a busy LGBTI bar. The explosion killed three people and wounded 70 others.

At an open-air meeting in a nearby square a few days after the event organised by LGBTI groups, the local chief of police attended and spoke to the LGBTI community. He stated that he would put in place a mobile police unit on the street where the bombing had happened and that it would be kept in the area until the investigation had been concluded.

The van was staffed by openly LGBTI police officers. Many LGBTI persons attended the mobile unit and gave statements to the police officers.

Group discussion:

Case A) Murder of a gay man

- ▶ What would you do if you were in charge of an investigation like the case described above?
- ▶ What was the primary function of the police in this case?
- ▶ What was the impact of the police approach on the LGBTI community and its members?
- ▶ What was the impact of the police approach on the criminal investigation?
- ▶ If a similar murder took place in your city next week, how likely is it that you would be able to interview LGBTI witnesses? What is your assessment on whether they would answer a public appeal to come forward? What leads you to think this?

Case B) Bombing of LGBTI venue

- ▶ What would you do if you were in charge of an investigation like the case described above?
- ▶ What was the primary function of the police in this case?
- ▶ What was the impact of the police approach on the LGBTI community and its members?
- ▶ What was the impact of the police approach on the criminal investigation?
- ▶ If a similar bombing took place in your city next week, how likely is it that you would be able to interview LGBTI witnesses? What is your assessment on whether they would answer a public appeal to come forward? What leads you to think this?

General discussion point:

- ▶ If witnesses were nervous about providing evidence to the police, what could the police do to build trust with the LGBTI community?

HANDOUT 4.7 – CASE STUDIES

Case 1 – Gay bar assault

Michael is a solicitor working in a law firm. He is out one night in a city-centre gay club with his partner Alex. They leave the club at 2 a.m. The club exit is down a passageway. At the end of the passageway a gang of youths have gathered. When Michael and Alex walk past the gang, its members set on the couple, beating them up and calling them “faggots”. After the gang has finished beating them, the two men go back to the door of the club where a member of security administers first aid.

Alex wants to call the police, but Michael says “no”. He is afraid of the details of the case becoming public and of having to go to court, which might identify him as being gay to colleagues, potential clients or his family. Michael says to Alex “it’s just what happens to queers sometimes, you just have to put up with it”.

Case 1 - Discussion Points

- ▶ Why should Michael and Alex report the assault to the police?
- ▶ What is the desired outcome for the couple if they do?
- ▶ What is the desired outcome for the police if such a report is received?
- ▶ If the couple does not report the assault what is the impact on a) the couple, b) the local LGBTI community, and c) the police?
- ▶ How could the police encourage people to report such incidents to them?
- ▶ Imagine Michael was not a solicitor, but an immigrant in an irregular situation and was scared of being expelled of the country if he reports the crime. What measures could the police take that might make it safer for him to report?

Case 2 (a) - Public sex environment

You are on patrol in a sea-front area. It is 11 p.m. and dark outside. You come across a car on the beach and there is a young man and a young woman in the back seat of the car. They are both naked from the waist down.

The woman is performing oral sex on the man.

Case 2 (b) - Public sex environment

You are on patrol in a sea-front area. It is 11 p.m. and dark outside. You come across a car on the beach and there are two young men in the back seat of the car. They are both naked from the waist down.

One man is performing oral sex on the other.

Case 2 (c) – Public sex environment

You are on patrol in a sea-front area. It is 11 p.m. and dark outside. You come across a car on the beach and there are two young women in the back seat of the car. They are both naked from the waist down.

One woman is performing oral sex on the other.

Case 2 – Discussion points

- ▶ How do police officers generally deal with such scenarios?
- ▶ What are the factors that you would take into consideration when deciding on a course of action in each of these scenarios (for instance, issues of safety; privacy; consent...)?

Case 3 – Public sex environment - Cruising and assault

Richard works as a middle manager in a large insurance company. He is married with three children and lives in a small country town. Richard becomes aware of a motorway lay-by where men meet for anonymous encounters. Richard drives to the lay-by and hangs around the wooded area nearby. Richard meets a man and goes into the woods with him for a sexual encounter. After they go into the woods, the man beats Richard unconscious and robs him of his wallet and phone. Richard is found injured a short time later and is brought by ambulance to the local hospital, where he regains consciousness. The police has been notified by the hospital and two officers attend to take a report.

Case 3 – Discussion points

- ▶ Why might Richard choose not to reveal to the police the details of what happened to him?
- ▶ How do the police act to protect the rights of individuals who have sex in a public place, even in cases where it might not be legal?
- ▶ Why would perpetrators choose to rob and assault persons in these circumstances?
- ▶ What can the police do to protect the privacy of the victim in such cases? What are the limitations they face?

If participants in the training operate in a country where sex work is illegal, this factor could be added to the case. For instance:

- ▶ If the man who beat and robbed Richard was pretending to be a sex worker, why might Richard choose not to reveal to the police the details of what happened to him? Why would perpetrators choose to pose as sex workers and rob and assault persons? How could the police encourage Richard to report the crime?

Case 4 – School Bullying and assault

Samantha is a 15-year-old student in a secondary school. She has short hair, wears a binder to conceal her breasts and participates in a number of schools sports such as football and basketball. Samantha is seen as “butch” by the other students, who often call her a “dyke” and other derogatory names, as well as tell her she is not a “real woman”. One day, the students in Samantha’s school discover she was seen at an LGBTI venue in the city centre.

The next day during break Samantha is surrounded by a group of students and badly beaten. They use lesbophobic slurs as they throw her on the ground, kicking and punching her. Samantha leaves the school that day and never comes back.

Case 4 – Discussion points

- ▶ Why is this a police matter?
- ▶ What kinds of incidents in schools would you consider should be dealt with directly by school administrators?
- ▶ What kinds of incidents in schools should be reported to the police?
- ▶ What is the role of the police in preventing such incidents?

Case 5 – On-line date theft

John is a primary school teacher based in a small town. He is not “out” as a bisexual man to his family or colleagues and works for a school run by a religious institution. His parents are elderly, and he has decided he will not “come out” as a bisexual man until after they have passed away, as he feels they would never understand. He has concerns regarding his temporary position in the school if his employers find out that he is bisexual.

John uses a gay social networking site to meet other men. One evening he invites an online contact (Alfred) to his house. Alfred stays the night but leaves early the next morning. On his way out he takes John’s work laptop and wallet. John has to report the loss of the school laptop to the police.

Case 5 – Discussion points

- ▶ What facts of the case is the victim likely to report to the police?
- ▶ What do the police need to know to effectively deal with the case? What are the relevant elements?
- ▶ What is the desired outcome for the victim?
- ▶ What is the desired outcome for the police?
- ▶ What would help the victim to trust the police?
- ▶ How might the police bring the matter to a conclusion without “outing” the victim?
- ▶ What might be alternative desired outcomes outside of criminal prosecution?
- ▶ What police practices might prevent the victim hiding or changing facts because they fear being “outed” as LGBTI?

Case 6 – Blackmail

Susan is a lesbian woman but has never come out. She married Peter sixteen years ago and they have a 14-year-old child. She has a distant relationship with her husband, but wants to remain married in the interests of her son. She is a senior civil servant in a government department.

A colleague has discovered she is lesbian and threatens to disclose her sexual orientation to her husband and her managers unless Susan gives her a substantial amount of money. Susan wants to tell the police about the blackmailing but fears they may not be understanding about her situation. She also fears the police will disclose her situation to her husband.

Case 6 – Discussion points

- ▶ What are some of the conditions (personal; societal; legal; etc) that could make LGBTI persons more susceptible to blackmail?
- ▶ What could the implications for Susan be if she was outed?
- ▶ What can the police do to encourage people being blackmailed to come forward?
- ▶ What responsibility and means do the police have to protect Susan's privacy?

HANDOUT 4.8 – REFERENCES, FURTHER READING AND RESEARCH TIPS

A) Resources by the Council of Europe

- ▶ **Sexual Orientation, Gender Identity and Expression and Sex Characteristics Unit's website**¹¹³

The Council of Europe's SOGIESC Unit provides technical support and expertise to member states, upon request, through cooperation activities aiming at improving the legal and institutional frameworks, builds capacity of public administration staff and law enforcement, but also promotes the sharing of good practices and raises awareness. Its website has a section (Resources) with dozens of documents, including texts adopted by the Council of Europe, thematic reports, videos and relevant links.

- ▶ **Council of Europe Commissioner for Human Rights, *Human rights and intersex persons* (2015)**¹¹⁴

A review of issues affecting intersex persons across the Council of Europe region and beyond that sets out common examples of the discrimination and violence they experience.

- ▶ **Council of Europe Commissioner for Human Rights, *Human rights and gender identity and expression* (2024)**¹¹⁵

This issue paper addresses the main challenges faced by trans people in Europe. Chapter 2.4 is dedicated to violence, hate crimes and hate speech against this community.

B) Resources by other international organisations

- ▶ **United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity's (IESOGI) thematic reports**

Annually, the IESOGI publishes a report focusing on a specific topic related to SOGIESC issues. These reports contain very relevant information on the violence and discrimination faced by LGBTI persons around the World and could be useful to further contextualise the contents of this Manual or enrich it with new examples adapted to the needs of the training.

C) Resources by civil society organisations

- ▶ **ILGA-Europe, Rainbow Map and Annual Review**¹¹⁶

These projects are very useful to understand the current state of legislation protecting LGBTI people against hate crimes and discrimination in Europe. The Rainbow map ranks 49 European countries on the basis of laws and policies that have a direct impact on LGBTI people's human rights. The Annual Review provides a snapshot of what happened during the previous year at national, regional and international levels, and it documents progress and trends regarding the human rights situation of LGBTI people.

- ▶ **ILGA World's "Our identities under arrest" reports**¹¹⁷

These reports include information on the violence faced by LGBTI people in several European countries, as well as a long compilation of real cases.

- ▶ **TGEU, *Trans Murder Monitoring* (2023)**¹¹⁸

The Trans Murder Monitoring (TMM) research project by TGEU systematically monitors, collects, and analyses reports of homicides of trans and gender diverse people worldwide.

113. <https://www.coe.int/en/web/sogi/>

114. <https://rm.coe.int/16806da5d4>

115. <https://rm.coe.int/issue-paper-on-human-rights-and-gender-identity-and-expression-by-dunj/1680aed541>

116. <https://rainbowmap.ilga-europe.org/>

117. Available in English, French and Spanish at: <https://ilga.org/our-identities-under-arrest/>

118. <https://transrespect.org/en/research/tmm>

- ▶ **OII Europe, *Towards an extension of the list of EU crimes to hate speech and hate crime* (2021)**¹¹⁹

This document includes very relevant information on the violence faced by intersex people as victims of hate crime, who are “among the most vulnerable and silenced victims of hate crimes and hate speech”.

- ▶ **OII Europe, *Protecting Intersex People in Europe: A toolkit for law and policymakers* (2023)**¹²⁰

The section dedicated to “Hate crimes and hate speech” helps to understand the violence faced by intersex people and why it is important for law enforcement authorities to learn about it.

119. <https://www.oii europe.org/hate-crime-hate-speech-submission/>

120. <https://www.oii europe.org/protecting-intersex-people-in-europe-a-toolkit-for-law-and-policy-makers/>

Going further:

Mapping hate crime investigation in your context: the policy framework

BACKGROUND AND RATIONALE

While appropriate training can measurably improve the ability of the police to effectively investigate hate crimes against LGBTI persons, it is only **one piece of the puzzle** of a comprehensive approach to tackling hate crime. For example, hate crime laws may only cover sexual orientation and not gender identity, making it difficult to investigate and prosecute transphobic hate crimes. Police recording forms may not allow the police to record all aspects of hate crime against LGBTI persons, so important information that the police now have the skills to capture simply disappears without being reflected in official statistics. The investigative procedures learned in this training session may not be reflected in official protocols and guidelines. The prosecution service may not have undertaken the same training on hate crimes against LGBTI persons, and might therefore be less informed about the type of evidence that can prove bias motivation in these crimes.

Throughout the training session, participants may well have identified these and other barriers to implementing improvements in their investigative practice and support to LGBTI persons as victims. The purpose of this exercise is to support participants in bringing together these issues and in taking a solution-focused approach to addressing them. It is recommended that a senior member of the police and possibly a representative from the relevant government ministry or ministries attend these sessions. It is also highly recommended to involve CSOs in this activity. This will increase the chances of understanding important issues and implementing improvements.

In this module, participants will be encouraged to map their own national context according to the key elements necessary for a comprehensive approach to hate crime. These are:

- ▶ **The legal framework:** do hate crime laws include sexual orientation, gender identity and expression and sex characteristics as protected categories?
- ▶ **Hate crime recording framework and system:** do police recording forms include the necessary “tick boxes” and fields to record LGBTI bias indicators, evidence of bias motivation, and victim perception?
- ▶ **Guidance and guidelines:** do the police have clear instructions on how to investigate hate crime against LGBTI persons, how to ensure that victims get support and how to work with prosecutors to build successful cases?
- ▶ **Training:** are there regular training sessions for police on investigating hate crimes against LGBTI persons? Are they available to all police elements?
- ▶ **Support services:** Are there support services for hate crime victims? Do they cater for LGBTI persons?
- ▶ **Cooperation with CSOs:** Are there already partnerships with relevant CSOs working on LGBTI issues? Are there mechanisms and guidelines in place to facilitate those contacts?

It is important to note that no country has fully implemented each element of the comprehensive hate crime approach, as described above. Therefore, this exercise is likely to reveal significant gaps in implementation. This should not be a barrier to completing this exercise. Its purpose is for participants to take the lead in mapping the gaps and identifying practical steps that can be taken to address gaps in one area or more. **It is a chance to move forward** constructively at the national level.

LEARNING OUTCOMES

Participants will:

- ▶ build a picture of their national hate crime context (law, data, policy, training, etc.) and identify current gaps

- ▶ identify and understand the barriers to implementing what has been learned during the training session and steps to address these barriers

OVERVIEW OF ACTIVITIES

- ▶ Going Further 1: Mapping the gaps
- ▶ Going Further 2: Taking action

GOING FURTHER 1: MAPPING THE GAPS

1. Before the training session, print out the sheet below. Make several copies. Cut out the following sub-headings and have them ready for the training session.

Legal Framework

Guidance and guidelines

Hate crime recording framework

Training

Support services

Cooperation with CSOs

Other

2. Take a piece of flip chart paper and replicate the chart in Handout 6.1. In addition, make one paper copy per participant so that they can take notes as they go along.
3. Welcome the participants to the session and explain that the purpose of the session is to map out the national context using the knowledge that has been gained during the training session, as well as their existing knowledge.
4. Explain that each participant will be asked to read out their slip of paper and assess the national context in relation to each sub-heading. You can illustrate this task by using one sub-heading, for example, “legal framework,” and giving your assessment of any gaps in hate crime legislation, for instance. Explain that more than one person in a group may have the same sub-heading. In that case, the second person should add further detail or missing information to the first contribution.
5. Split the large group into smaller groups as needed (you may also want to carry out this activity in one large group, it is up to you). Hand out the small slips of paper (chart one above) making sure that each participant has one. If you are dividing participants into smaller groups, make sure that the full set of sub-headings is included in each group.
6. Direct participants’ attention to the large chart (if you have more than one group, tell them that they will need to re-create the chart when the activity starts). Go over the sub-headings, to make sure that everyone understands them. Ask if participants would like to add any sub-headings. Talk them through as a group and agree whether they should be added.
7. Tell participants that this is their chance to identify what needs to be done to support the implementation of everything that they have learned during this training session. Tell them that there is no right or wrong answer; this is their chance to map what they know and what needs to be done.
8. Tell them to keep the last column empty and explain that this will be completed during the next session.
9. Give participants 20-25 minutes to discuss and complete the table.
10. If participants were split into groups, bring them back together.
11. Ask each group to explain what they agreed to write on their board. Facilitate a short discussion and add any additional points that come up in the group discussion. Try to reach agreement about each category as you go along.
12. Encourage participants to save the board, either by taking a photograph of it or filling in the paper version.

GOING FURTHER 2: TAKING ACTION

1. Begin by explaining that the purpose of this session is to identify concrete and constructive actions to improve on each element of this comprehensive approach to hate crime. Acknowledge that some actions lie outside the mandate or competence of the participants; however, the work done here can serve as the basis for the further work on the subject by senior management, government ministries, etc. At the same time, emphasise that just because one element of the comprehensive approach is missing (e.g. hate crime laws), it does not mean that no action can be taken.
2. Start the discussion with participants, going through each element. Depending on the number of learners, you can split them in breakout groups. Encourage participants to identify actions that they can personally take. If senior management or government representatives are present, invite them to take part and commit to actions, however small.
3. Close the activity by explaining that this chart can be used as the basis for an action plan at the national level. Encourage participants to return to the chart together to monitor progress or make changes to ensure that it stays relevant. Thank participants for taking part in the activity. Acknowledge that improving the response to hate crimes against LGBTI persons can be challenging for police officers, but that it is an essential step to make them better professionals.

HANDOUTS

Handout: Map the gaps

Area	Assessment	Issues What are the barriers to achieving this?	Action What can be done now? By whom?
Legal framework	Do hate crime laws include SOGIESC as protected categories?		
Guidance and guidelines	Do the police have clear instructions on how to investigate hate crime against LGBTI persons, how to ensure that victims get support and how to work with prosecutors to build successful cases?		
Hate crime recording framework	Do police recording forms include the necessary "tick boxes" and fields to record LGBTI bias indicators and victim perception?		
Training	Are there regular training sessions for police on investigating hate crimes against LGBTI persons? Are they available to all police?		
Victim support services	Are there support services for hate crime victims? Do they cater for LGBTI persons?		
Other			

Annex One:

Model agenda for a three-day training

This annex sets out a model agenda for a three-day training session. It is recommended that trainers review the manual before they finalise the agenda in order to ensure that the most appropriate modules and activities are chosen for their context.

For a training of trainers (like the one outlined in this annex) a minimum of three days is recommended. For a direct training of the target group (e.g. police officers, investigators, managers, hate crime officers, frontline police officers, private security personnel) a minimum of a two-day training is recommended.

Please read through the full notes and guidance in the manual that corresponds to each section of the training. They contain essential information about preparation that needs to be undertaken before the training and give detailed explanations of the activities.

Before deciding on an agenda, the pre-training evaluation questionnaire set in Annex Two should be distributed among participants to assess their training needs.

Day One

09.00-09.30 Introduction to the training and its trainers

09.30-11.00 Module 0: Working with Civil Society Organisations (CSOs)

- ▶ Activity 0.1 – What are civil society organisations (CSOs) and how can they help?
- ▶ Activity 0.2 – Walking in their shoes: what do I need and what can I do?
- ▶ Activity 0.3 – Building effective relationships with communities

11.00-11.15 Coffee break

11.15-12.30 Module 1: Why Are We Here?

- ▶ Activity 1.1 – Input from a commanding officer to set the scene for the training
- ▶ Activity 1.2 – Civil society organisation (CSO) session: victims and community's perspective
- ▶ Activity 1.3 – Data on violence against LGBTI people

12.30-13.30 Lunch break

13.30-14.30 Module 2: Key concepts and definitions – The LGBTI Community – Stereotyping and Prejudice (part 1)

- ▶ Activity 2.1 – Understanding the key terminology: Plenary presentation by course facilitators
- ▶ Activity 2.2 – Understanding Stereotypes 1: Individual work followed by discussion

14.30-14.45 Coffee Break

14.45-16.45 Module 2: Key concepts and definitions – The LGBTI Community – Stereotyping and Prejudice (part 2)

- ▶ Activity 2.3 – Understanding Stereotypes 2: Group work followed by plenary presentation and discussion
- ▶ Activity 2.4 – Definition Quiz

16.45-17.00 Closing of Day One

Day Two

09.15-09.30 Welcome, review of Day One and overview of Day Two.

09.30-11.00 Module 3: Policing hate crime against LGBTI persons - a human rights and anti-discrimination approach (part 1)

- ▶ Activity 3.1 – What is discrimination?
- ▶ Activity 3.2 – Understanding the broader context of discrimination that LGBTI persons and communities experience

11.00-11.15 Coffee break

11.15-12.30 Module 3: Policing hate crime against LGBTI persons - a human rights and anti-discrimination approach (part 2)

- ▶ Activity 3.3 – What is a hate crime? Presentation and discussion
- ▶ Activity 3.4 – Understanding key Council of Europe and other human rights standards relevant to hate crimes against LGBTI persons

12.30-13.30 Lunch break

13.30-14.30 Module 4: Investigating hate crimes against LGBTI persons (part 1)

- ▶ Activity 4.1 – Collecting the evidence: action at the crime scene and subsequent criminal investigation

14:30-14:45 Coffee Break

14.45-16.45 Module 4: Investigating hate crimes against LGBTI persons (part 2)

- ▶ Activity 4.2 – Collecting the evidence: a victim-centred approach
- ▶ Activity 4.3 – Collecting the evidence: transgender-specific guidelines

16.45-17.00 Closing of Day Two

Day Three

09.15-09.30 Welcome, review of Day Two and overview of Day Three.

09.30-11.00 Module 4: Investigating hate crimes against LGBTI persons (part 3)

- ▶ Activity 4.4 – Collecting the evidence: Bias Indicators – Proving bias selection/motive
- ▶ Activity 4.5 – Collecting the evidence: Bias Indicators – Identifying hate crimes against LGBTI persons

11.00-11.15 Coffee break

11.15-12.30 Module 4: Investigating hate crimes against LGBTI persons (part 4)

- ▶ Activity 4.6 – The importance of trust: Police responses and the LGBTI community

12.30-13.30 Lunch break

13.30-14.30 Module 4: Investigating hate crimes against LGBTI persons (part 5)

- ▶ Activity 4.7 – Supporting LGBT Communities: An effective police response

14:30-14:45 Coffee Break

14.45-16.00 Going Further: Mapping hate crime investigation in your context: the policy framework

- ▶ Going Further 1 – Mapping the gaps
- ▶ Going Further 2 – Taking action

16.00-16.30 Closing and evaluation

During this session, the trainer closes the training and invites participants to complete an evaluation.¹²¹

¹²¹. See Annex Three.

Annex Two:

Pre-training evaluation to assess training needs

A comprehensive needs assessment underpins the most effective training programmes, as they increase the immediate, medium- and longer-term impact of equality and non-discrimination training and its contribution to broader cultural change in the police.

The broader context should also be considered. Police services across the region of the Council of Europe are at different stages in their implementation of LGBTI equality and non-discrimination principles, standards and practice. Police personnel will also have differing levels of knowledge, experience and skills in these areas. High profile cases may have revealed poor or discriminatory police conduct, uncovering urgent needs for training, and even disciplinary action. Some states may have introduced national LGBTI equality action plans that require strategic training priorities to be implemented within specified timescales. A comprehensive needs assessment can ensure that the strategic as well as operational contexts are considered when designing a training programme.¹²²

Suggested title: 'Pre-training questionnaire: Policing Hate Crime against LGBTI persons – Training for a Professional Police Response'

'Please answer the following questions based on your knowledge, understanding and experience. The answers will be used to better understand your training needs in dealing with equality and human rights in policing'

Thank you in advance for your answers!

1. Full name
2. Authority you represent (in full)
3. E-mail
4. Position and main responsibilities
5. Region/Country
6. Work experience
 - ▶ Less than 1 year
 - ▶ 1-5 years
 - ▶ More than 5 years
7. Have you have any responsibilities related to any of the following topics? Please indicate which ones.
 - ▶ Equality and human rights in policing
 - ▶ Hate-crime investigation
 - ▶ LGBTI issues
 - ▶ Gender equality
 - ▶ Victim support
 - ▶ Engagement with LGBTI civil society organisations

Note for trainers:

Elaborate a list of topics tailored to the specific context of the training. The topics listed below can be used as suggestions.

122. Council of Europe, Manual for police education on equality & non-discrimination: a resource for trainers, available at <https://rm.coe.int/manual-for-police-education-on-equality-and-non-discrimination-final/1680ad3669>

8. How would you rate your level of knowledge of [insert module title/agenda topics]? (1 = low or limited understanding; 5 = strong understanding)

☐ 1

☐ 2

☐ 3

☐ 4

☐ 5

Please add any further comments:

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Note for trainers:

Include as many questions as needed. Some suggestions:

- ▶ How would you rate your level of knowledge of the key concepts related to LGBTI people?
- ▶ How would you rate your level of knowledge of what a hate crime is?
- ▶ How would you rate your level of knowledge of how to correctly investigate a hate crime?
- ▶ How would you rate your level of knowledge of how to work alongside civil society organisations?

Annex Three:

Post-training feedback evaluation

After finishing the training session, the trainer should assess its effectiveness and impact with a questionnaire, which helps to gather direct and specific feedback on various aspects of the course. Participants' answers will help to identify strengths and areas for improvement, facilitating the continuous optimization of the course.

Suggested title: 'Post-training evaluation: Policing Hate Crime against LGBTI persons – Training for a Professional Police Response'

"In order to assess the effectiveness of this training, we would like to know your opinion about this course. You can give us your feedback by answering the following questions. Your answers will be used to improve future iterations of this course"

1. Following the training, how would you rate your level of knowledge of [insert module title/agenda topics]? (1 = low or limited understanding; 5 = strong understanding)

☐ 1

☐ 2

☐ 3

☐ 4

☐ 5

Please add any further comments:

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Note for trainers:

Ask about the same topics included in the pre-training evaluation.

Please rate the following statements:

2. The training met your overall expectations.

☐ Strongly Agree

☐ Agree

☐ Neutral

☐ Disagree

☐ Strongly Disagree

3. The training duration was appropriate

☐ Strongly Agree

☐ Agree

☐ Neutral

☐ Disagree

☐ Strongly Disagree

4. The content of the training was relevant to your work.

- ☐ Strongly Agree
- ☐ Agree
- ☐ Neutral
- ☐ Disagree
- ☐ Strongly Disagree

5. The format of the training (group work, exercises, presentations, etc.) was appropriate.

- ☐ Strongly Agree
- ☐ Agree
- ☐ Neutral
- ☐ Disagree
- ☐ Strongly Disagree

6. The trainer(s) was/were knowledgeable about the topics covered in the training.

- ☐ Strongly Agree
- ☐ Agree
- ☐ Neutral
- ☐ Disagree
- ☐ Strongly Disagree

7. The trainers presented the topics in an engaging an interesting manner.

- ☐ Strongly Agree
- ☐ Agree
- ☐ Neutral
- ☐ Disagree
- ☐ Strongly Disagree

8. How do you intend to use the knowledge from this training?

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9. Is there anything else that you need to implement in your work what you have learned (e.g. more knowledge, better support / more commitment from leadership, change of police culture, more specific training courses, etc.)?

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10. Please provide below any other comments on the training, including tips for improvement.

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The police are at the frontline of the criminal justice system and the first point of contact for many victims of hate crime. This manual is designed for police trainers, investigators, managers, hate crime officers and frontline police officers working in countries across the Council of Europe region to develop essential skills to identify and investigate hate crimes against LGBTI persons.

The member states of the European Union have decided to link together their know-how, resources and destinies. Together, they have built a zone of stability, democracy and sustainable development whilst maintaining cultural diversity, tolerance and individual freedoms. The European Union is committed to sharing its achievements and its values with countries and peoples beyond its borders.

<http://europa.eu>

The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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