



Needs Assessment Report Template

Objective: The purpose of this report is to summarize the findings of the training needs assessment for each target group. Please deal with each target group separately.

Suggested Length: 5 -10 pages

1. COUNTRY

GR HU IT NL

2. TARGET GROUP

| | |
|---------------------|-------------------------------------|
| Judges/prosecutors | <input checked="" type="checkbox"/> |
| Police | <input checked="" type="checkbox"/> |
| Legal professionals | <input checked="" type="checkbox"/> |

3. METHOD

Representatives of the relevant authorities (e.g. Hungarian Judicial Academy, Chief Prosecutor's Office, National Police Headquarters) have been contacted with whom negotiations are ongoing. Members of each target groups and trainers having experience in providing training for judges, prosecutors, legal professionals and police officers (number of interviewees related to target groups: judges, prosecutors – 6, police officers – 3, legal professionals – 3; see the details below under Annex) have been interviewed in order to survey the needs, expectations and good practices with regard to the training of each target group on the prosecution of hate crimes. The present report lists the comments and suggestions given by the interviewees.

4. MAIN FINDINGS

4.1. Police officers

Training needs:

The National Police Headquarters and the Budapest Headquarters organize two trainings on hate crimes in the near future. The first training will be provided to the special hate crime officers (1 person per county), the second one will be held for heads of police and deputies of heads of criminal investigation departments working in Budapest. These trainings will take 5 hours. This indicates that police officers working





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in other counties than Budapest might be the target of our trainings. (This is underpinned by the responses arriving from an interviewee from outside Budapest, who stated that the problem of under-qualification of incidents does not exist. At the same time, he also stated that they gain all information from the interrogation of the accused, there is no need for research for example in the perpetrator's background.) Negotiations have been initiated with the coordinator of hate crime officers.

It might be useful to create a mixed group of participants coming from Budapest (having had this basic training and being more experienced) and others coming from problematic counties such as Borsod-Abaúj-Zemplén so that they can share their thoughts and experiences. Participants should not be hate crime officers but rather lower level police officers being closer to the crime scene and the incident. Recruiting is a crucial point in organizing the trainings, and if a training is organized at the level of one single county, there is a risk that incompetent officers will be ordered to participate. For this reason, recruitment of police officers in mixed groups and with the help of the coordinator of hate crime officers and the National Headquarters is important.

Content and format of the training:

- Three **major topics** should be discussed under any circumstances: (1) correct qualification of incidents, (2) identification of protected groups, (3) bias indicators.
- The training should put a major focus on bias indicators. Not only in theory, and not only those indicators included in already existing training materials (such as OSCE) which are valid for all countries, but country-specific, less well-known indicators.
- Additional important issues: (4) preparation of hate crimes, (5) the form of rowdiness of hate crimes (separation from cases of incitement), (6) cumulation of crimes.
- **Design of an investigation plan** (report of incident, photos on the crime scene, interrogation, etc.) Planning an investigation is part of the official curricula at the police academy, but in practice they fail to use this method. This issue can be discussed in small groups. Different groups work on different cases, then they report to the other participants.
- **“Investigation map”**: Who play the key roles in an efficient investigation? (such as police officer collecting evidence on the crime scene, prosecutor qualifying the incident, judge, civil society actors, etc.) It is important to discuss where participating police officers stand in the whole system, and what consequences it leads to if they fail to conduct an efficient investigation.
- **Practical investigation methods** should be given a high emphasis.
- All **vulnerable groups** who are typically targeted in Hungary should be touched upon in the training. The special needs of victims and the victim support services should be addressed briefly (max. 20 minutes).
- Correct **registration practices** should be raised briefly. Why hate crime incidents do not appear in statistics? Who and how to register hate crimes?
- Working with hypothetical **cases** might imply the risk that participants do not pay attention. Discussions on real, well-known cases might be a better option.





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However, a good solution might be for the use of hypothetical cases to make them evolving cases: the initially presented facts of the incident present an easily solvable case, but then more and more new components are added to the case by which it grows to a complicated one. At each step of the evolving case, when presenting new elements and facts, the questions should be posed to the participants: Is it a crime? Is it punishable under the Criminal Code? Should it be punishable? Answers might be typed in a chart and projected, and then when presenting the correct qualification and the relevant legal norms, the group should go back to the chart reevaluating the incident.

- Discussed cases can be of a mixed character: both didactic, easily interpretable and complicated cases can be useful for different purposes.
- Cases which were decided upon by the prosecution that they fall under Art 216 of the Criminal Code or under aggravated forms of violent crimes (hate crime) should be discussed. These cases have authority for police officers.
- Hungarian judicial practice cannot be „overruled” at the training while evaluating a case. This might work in target groups of judges and lawyers, but not those of police officers.
- Role play with cards of roles might be useful: 30-40 minutes for group discussion and preparation, 30 minutes for presentation of the solution and evaluation. There might one participant who is an observer and reflects on the solutions.

- Since the main aim of the investigation conducted by the police is to provide **prosecutions** with sufficient evidence for pressing charges, it would be useful to invite someone from the prosecutions services so that he/she can present what evidences they need for proving bias motivation.

- **International standards** might not be of high interest in the circle of police officers. They are interested in how the evidences collected by them can be used by the prosecutions and not so much the question of what international norms were violated if they fail to collect evidences proving bias motivation.
- International obligations should not be mentioned as pressure coming from the outside, but rather as an enhancing factor in cases of correct qualification and efficient investigation. If participants arrive to a correct conclusion while analyzing a case, then international standards might be raised as ones that they complied with in the moot investigation. (Another possible reference to Strasbourg might be when dealing with a highly problematic case, and mention just briefly that the failed investigation would not be acceptable by the ECtHR either.)

- It is useful to map in the beginning of the training what views the particular participants have. In this way, throughout the training whenever a heated debate takes place, the **“positive thinkers”** might be activated. Their own colleagues’ opinion might have a stronger impact on the rest of the group in these cases. A potential method for that is: to discuss the phenomenon of hate crimes in general in the beginning of the training, drawing an imaginary line in the room, and invite the participants to stand on the two ends of the line if they have a negative or positive extreme view, and those who hesitate in between





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them. Three topics might be discussed with this method: (1) sensitivity to the problem, (2) personal experiences, (3) existing skills.

- From the very beginning, **interaction** has a high significance. If the training is started with a **short presentation**, it is useful to start up with data and numbers of incidents mirroring the situation in different countries, and to compare the situation of those countries and the different roots of the problems. It is worth to discuss (1) social factors relevant to different countries, (2) the problem of latency, (3) the appearance of the incidents in the criminal justice system, the problem of under-qualification.
- A colleague from the Háttér Support Society (dealing with LGBTQ issues) who has held hate crime trainings to police officers for two years is glad to share training materials (mostly on role play and cases) which should be modified according to the broader hate crime perspective.

The use of the experiential method:

- Classic methods of sensitization might not work. It is easier to gain the attention of police officers by rational arguments and professional standards. The first and the last modules should be focused on professional and practical content. (This view is enhanced by the interviewee who told a story when a large group of police officers watched a movie on a specific Hungarian hate crime incident, and all members agreed that the crimes were terrible and the perpetrators behavior unacceptable, however, when I asked him about the issue of whether they discussed all the failures of the police while investigating that specific incident, he answered negative, they did not reflect on the professional duties of the police and did not realize the gaps in the investigation.)
- If victims are presented in the training either in person or in a movie, it is very important to select a “proper” victim. If he/she in any way contributed to the incident by being violent or drunk, it would undermine any potential impact on the participants of the training. He/she should be a victim of a “pure hate crime”.
- The Háttér Support Society has prepared short movies on different victim groups which they share with us gladly.

Training material: (see under the other target groups)

Location/timing of the training:

- Thursday + Friday half a day.
- Date must be negotiated with the coordinator of hate crime officers and the National Headquarters.

Facilitators/trainers:

- It is very important to have one trainer for the whole training, there shouldn't be a shift of trainers.
- There shouldn't be any invited expert who would give a long presentation.





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- In case a prosecutor (or a police officer from a different county) is invited, he/she should be present just for a short exercise or a practical investigation focused module which would be moderated by the trainer.

Other issues (Champion):

- He/she should be in a position which provides him/her the possibility to influence the colleagues (such as at the National Headquarters or one of the heads of investigation units at the County headquarters).
- He/she should be dedicated to the topic and have a good attitude being credible for the colleagues.
- The champion will be appointed by the police, but organizers might give a proposal.

4.2. Judges/prosecutors

Training needs:

The Hungarian Judicial Academy has a plan to organize a training of sensitization on equal treatment in 2015 at the national and regional level. However, we do not have any specific information yet about the design of the trainings. We are in negotiations with the Judicial Academy. A second meeting will take place in the near future to discuss the details of how to integrate the training into the training plans of the Academy. The institution is open for cooperating, but we need to set the conditions and practicalities.

For prosecutors, only occasional lectures are dedicated to the issue of hate crimes. The Council of Europe HELP hate crime training is scheduled to be launched in September. This course will be a distance learning course lasting for 5 weeks and dealing with the basics, concept, indicators and international standards of prosecuting hate crimes. In addition, Hungarian substantive and procedural law will be subject of that training. We are in negotiations with the Chief Prosecutor's Office to figure out how the two trainings can be harmonized.

Probably the Chief Prosecutor's Office will play a decisive role in appointing prosecutors to participate in the training. In case we can make recommendations, it would be wise to ask for the deputies of Chief Prosecutors in the counties who are responsible for coordinating the conduct of criminal investigations at the county level. It would be advantageous to train entity level prosecutors in order to "fight" against under-qualification, but they are too many to be involved as a group.

Content and format of the training:

- It would be useful to address the **forms of rowdyism** and violent acts against property as hate crimes, since the correct detection and identification of these incidents raise problems in the practice.
- The **supervision of investigation** of the police should be discussed.





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- Thorough investigation of bias indicators is essential. **Non-obvious bias indicators**, symbols and characteristics of radical organizations should be discussed one-by-one (for example, a swastika has a meaning obvious for everyone, but the number of 88 or red lace Martens boats might not be that obvious).
- The **case-law of the ECtHR** is thought already at the Law Schools and the major cases are available at the Complex (legal database available to prosecutors, judges and legal practitioners). However, specific hate crime related cases are usually not part of the official curricula. The jurisdiction and procedure of the ECtHR is not an obvious knowledge of a significant number of judges and prosecutors. Therefore, a brief introduction of the Court is also needed in case ECtHR cases are discussed and subject of case study exercises.
- It might be useful to adapt Strasbourg cases to the Hungarian legal context, by that to make hypothetical cases for case study exercises. As part of the conclusion, the participants would be informed about the ECtHR conclusions and standards so that they can compare their own solutions with the international standards.
- As regards international standards, the most significant focus should be the ECtHR case-law. It is important to clarify when the Court held a state responsible for violating the Convention even if a criminal investigation was conducted but the bias indicators were not revealed. This can point to the necessity of correct qualification of hate crime incidents and to the fact that bringing the case to the court and pressing charges is not enough for complying with international standards.
- Frontal education method is not advantageous. In case there is a presentation, it should be limited to a maximum of 1 hour. Small group **case study exercises** provide the most ideal method where one representative of each group should present the views and solutions of the group to the plenary session of the training. (A prosecutor interviewee referred to an OSCE training where this method was used, and all the participants were satisfied with that.)
- In case study exercises, good solutions should not be pressed against the participants. Sufficient time and space should be provided to present and discuss different views and solutions of a case, even failed ones so that different views can come forth and be discussed.
- It is important not to present easy cases for judges and prosecutors so that they do not feel offended and deem the training as not sufficiently professional and advanced. More complicated, grey zone cases should be preferred.
- It might be useful to present cases where investigatory authorities failed to collect evidences or failed to correctly qualify the incident so that they can correct them by solving the exercise.





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- Possible case study exercise: to make two groups out of the whole audience. Each of these two groups would be cut to two further smaller groups (defence and prosecution). The two bigger groups would be given two different cases. When one group presents its prosecution/defence arguments about one case, the other bigger group would be the court. Then in return, the same rule applied to the second case.
- Case studies should not involve any political overtone, in order to avoid any such risk, hypothetical cases might be a solution.
- It is very important to make it clear already in the call for the training that it will be based on case study exercises, otherwise, the participants might be unpleasantly surprised and then resistant to active participation.

The use of the experiential method:

- Sensitization is not important for prosecutors in view of one of the prosecutor interviewees. During his/her work, the prosecutor does not meet with the victims, only with the case file. The prosecutor would not work more efficiently because he/she empathizes more with the victim. He/she would not be able to deal with the extreme workload if started to weigh the experiences, feelings of the victims. Victims and the other parties to the case are only "subjects" to the work of prosecutor. He/she works in line with professional standards. In addition, the interviewee does not think that a short time sensitization would make any change in the way prosecutors think about the target groups.
- Instead of sensitization, a more successful approach would be to impact prosecutors through their professional pride. Emphasis should be put on the issue of what they need to do in order to gain success in the courtroom.
- Another interviewee expressed the view that sensitization might have a long-term effect on criminal investigation in hate crime incidents. He mentioned an example that since he watched a documentary on refugees, he sees the issue of asylum seekers in a different way. In his view, it would be important to emphasize that the victim is first of all a human being and not for instance a Roma or an LGBTQ person.

Training material:

- Paper based training materials might be easily lost and forgotten. It would be more useful to provide the participant with an electronic device such as a pen drive that they will not lose, and load all the training docs on that device.
- A detailed bias indicator list should be included in the training materials. The indicator list should not be as general as those included in internationally applied (such as OSCE) publications, but it should be composed of Hungary-specific and also less obvious indicators.
- It would be useful to dedicate one training material to the issues of cumulation of crimes and aggravated forms of violent offences.





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Location/timing of the training:

- The location would be Budapest. It will be determined by the outcome of negotiations with the Judicial Academy and the Chief Prosecutor’s Office.
- September or January should NOT be an option.
- October or November, and April or May can be ideal. It also depends on the ongoing negotiations with the authorities.
- Probable ideal day for the trainings would be Thursday and half day of Friday.

Facilitators/trainers:

- It is highly significant to have a trainer who has a solid experience in moderating case study exercises.
- It is not a problem if the trainer comes from outside of the judicial or prosecutorial service, civil society background is not a problem.
- The trainer should not be someone appointed by the authorities for this task, since the training could easily end up in long presentations without interaction.
- The trainer should not be a “prophet” of the topic pushing the message in an aggressive way.
- The trainer must have a solid knowledge in legal and procedural matters, otherwise the whole training might fail.

Other issues (Champion):

- The champion will probably be appointed by the authorities, but organizers might have the possibility to make proposals to the person referring to the participant’s attitude and results given at the training.
- The champion ideally would be a prosecutor from the county level. He/she should not come from the Chief Prosecutor’s Office, since they do not meet with hate crimes in their everyday work.
- English language skills should not be the only one factor determining the selection, it would be important to ensure that this factor does not overrule professional features of the candidates. If possible, in case of an insignificant gap in English skills a preparatory English language course might be a solution for keeping the most dedicated and competent person.

4.3. *Legal professionals*

Content and format of the training:

- It would be useful to discuss the **open ended list of protected groups**, and the issue of how the *sui generis* crime under Art 216 of the Criminal Code can be applied in case of members of the majority of the Hungarian population, and





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- to clarify who are and who are not entitled to enhanced criminal legal protection under the hate crime provision.
- Among those who are not entitled to enhanced criminal legal protection, extremist organizations should be given a particular attention.
 - **Aggravated form of violent crimes, violence against property, the form of rowdyism, cumulation of crimes** should be given attention.
 - The necessity and the acceptable grounds of **pre-trial detention** in case of hate crime charges would be useful to address. Due to the nature of the crime, the ethnicity of the offenders and victims will be facts of the case, hence, there would be no data protection obstacle to research the potential discrimination in this field.
 - Evidences proving without reasonable doubt bias motivation, methods of research of the personal background of the offender and the victim, and the broader social context, targeted statement taking already at the **investigatory stage of the procedure**, the possibility of filing a motion for audiovisual recording of the confronting between the offender and the victim, preparation of the victim should be a special focus of the discussions. Case file is developed in the investigatory stage, years later when the court delivers the judgement, judges will decide based on the case file hence it is essential to emphasize the significance of measures taken at this stage of the procedure.
 - **Complaint procedure**, motion for correct qualification and the referral of the case to the county level should be an additional focus of the module on the investigatory phase.
 - The training should be as interactive as possible. **Case study exercises** should be the core elements of the course.
 - Case study exercise method mentioned under the target group of judges and prosecutors can be applied in the case of legal professionals too.
 - Recommended Hungarian cases: Sajóabony, Muszkás sor, Bicske, MILLA Szász Barna, Balaton incident 2014, Gyöngyöspata, Devecser.
 - **International standards**, and the possibilities to use them as legal tools in argumentation should be discussed.
 - Significance of referring to the ECHR during the complaint procedure and its relevance to the admissibility of the case at the ECtHR must be emphasized.

The use of the experiential method:

- There might not be a need for sensitization of legal professionals, since either they are a representative of a civil society organization (no problem with empathy to the victim) or a mandated lawyer who will focus on “doing a better job to earn the money”. It might be a loss of time and capacity to focus on sensitization.
- One of the interviewees expressed an opposite opinion, namely, that a brief session on sensitization might be useful. For example, a short movie on an





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obvious hate crime from another country and then showing another movie on a Hungarian case which is less obvious but still a hate crime might be useful as a tool to engage the participants in a discussion on different forms of hate crime incidents.

Training material:

- Paper based materials would be probably lost among files of the legal professional. Pen drive is a much better solution.
- Participants would be gladder to receive a pen drive with a project logo, and it is also an environment friendly solution.

Location/timing of the training:

- September and January are NOT ideal for training.
- October and March/April are ideal for training.
- Training should be one and a half day together, cutting it into three evenings is not a good option.
- Friday + a half day of Saturday might work, or Thursday-Friday, but not an earlier day of the week!

Facilitators/trainers:

- Trainer should be a lawyer who is familiar with practical professional aspects of working with a hate crime case. An experienced legal professional colleague is a good choice.
- Trainer should be also an experienced moderator. The participation of two persons (a practicing lawyer and a facilitator) might be the most ideal solution.

Other issues (Champion):

- Active participation at the training should be a decisive factor. This should include also the person's ability to easily communicate with colleagues so that the potential of the impact upon his/her return from the NL training is increased.
- English language skills should be tested somehow during the training (this factor cannot be reviewed solely based on the CVs, earlier passed language exams frequently do not reflect real language skills). A potential solution for this is to hold the module on ECtHR case-law in English.
- Selection criteria should be transparent. If there is a test, it should not be an essay type.

5. RECOMMENDATIONS

Please report the main recommendations for each target group





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Negotiations with the authorities are ongoing, final recommendations will be provided at the end of the negotiation process.

Annexes

I. List of interviewees, with dates

- Bakk Richárd, Head of Department of Criminal Investigations, Borsod-Abaúj-Zemplén County Police Headquarters (Miskolc, 18 March 2015)
- Bárd Petra, National Institute of Criminology, National Tutor of the CoE HELP Program on Hate Crimes (Budapest, 25 March 2015)
- Bóna Gyula, Chief Prosecutor, Nógrád County Prosecution Service (Balassagyarmat, 10 April 2015)
- Dombos Tamás, Háttér Support Society, Extensive training experience (Budapest, 25 March 2015)
- Fazekas Tamás, Legal professional, Hungarian Helsinki Committee (Budapest, 3 March 2015)
- Homonnai János, Prosecutor, Chief Prosecutor’s Office (Budapest, 2 April 2015)
- Jovánovics Eszter, Legal professional, Hungarian Civil Liberties Union (Budapest, 17 March 2015)
- Kárpáti József, Legal professional, CivilMedia, Extensive training experience (Budapest, 24 March 2015)
- Kis László, Hungarian Judicial Academy (Budapest, ongoing negotiations)
- Nagy Anita, Hungarian Judicial Academy (Budapest, ongoing negotiations)
- Nónay Gábor, Legal professional, Nónay and Co. Law Firm, Miskolc (Miskolc, 18 March 2015)
- Radványi Zsolt, Prosecutor, Borsod-Abaúj-Zemplén County Prosecution Service





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(Miskolc, scheduled on 7 May 2015)

- Tóth Zsanett, Prosecutor, Chief Prosecutor's Office, National Tutor of the CoE HELP Program on Hate Crimes
(Budapest, 25 March 2015)

II. Notes or minutes of interviews (if available) -

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