

Hate crime in the European Union

Articles 1, 10, 21 and 47 of the Charter of Fundamental Rights of the European Union guarantee, respectively, the right to: human dignity; freedom of thought, conscience and religion; non-discrimination; and an effective remedy and a fair trial.

Policy context

The Charter of Fundamental Rights of the European Union prohibits discrimination, thus obliging EU Member States to combat crimes motivated by racism, xenophobia, religious intolerance or by a person's disability, sexual orientation or gender identity.

Greater political will on the part of decision makers in the EU Member States is necessary to counter pervasive prejudice against certain groups and compensate the damage this causes to victims, other members of the same group and society as a whole. Too many people across the EU are targets of abuse simply because of their – perceived and/or real – origins, beliefs, life choices or physical appearance.

In light of this, FRA has released two reports on hate crime that together provide a comparative analysis of the existing legal framework, individual experiences of crime with a bias motivation and the state of official data collection throughout the 27 EU Member States. *Making hate crime visible in the European Union: acknowledging victims' rights* highlights the fundamental rights aspects of hate crime, offers a comparative analysis of official data collection mechanisms and considers how the scope of official data collection can be broadened. *EU-MIDIS Data in Focus 6: Minorities as victims of crime* presents data on respondents' experiences of victimisation across five crime types, from burglary to serious harassment.

Key issues

Despite EU Member States' efforts to combat discrimination and intolerance, including hate crime, there are indications that the situation is not improving. Continued and renewed

violations of the fundamental rights of people living within the EU have instead been witnessed over the past few years, through verbal abuse, physical attacks or even murders motivated by prejudice.

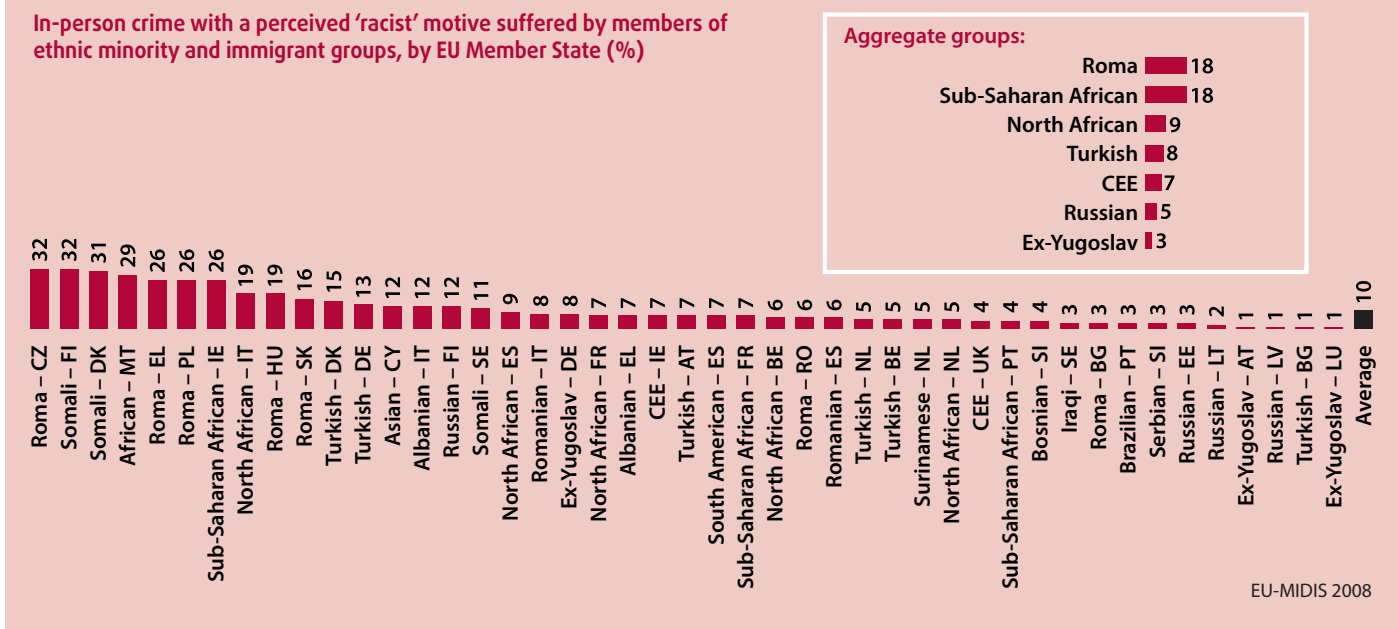
The 2008 European Union Minorities and Discrimination Survey (EU-MIDIS), which surveyed 23,500 respondents with an ethnic minority or immigrant background, found that more than one in four respondents from the following groups considered themselves to have been a victim of 'racially motivated' in-person crime (assault or threat, or serious harassment) over the 12 months preceding the survey: Roma in the Czech Republic; Somalis in Finland; Somalis in Denmark; Africans in Malta; Roma in Greece; Roma in Poland and Sub-Saharan Africans in Ireland (see Figure).

The European Court of Human Rights (ECtHR) has ruled in a number of cases that countries must clearly state the motivation behind racist crimes or those committed because of a victim's religious belief. Overlooking the bias motivation behind a crime amounts to a violation of Article 14 of the European Convention of Human Rights (ECHR).

The ECtHR puts such emphasis on the bias motivations behind hate crime because offenders who victimise people for what they are or are perceived to be convey a particularly humiliating message: namely that the victim is not an individual with his or her own personality, abilities and experience, but just a faceless member of a single-characteristic group. The offender thus implies that the rights of that group can – or even should – be ignored, in clear violation of the EU's core principles of democracy and equality.

Research findings show that victims and witnesses of hate crimes are reluctant to report them, whether to law enforcement agencies, the criminal justice system, non-governmental organisations or victim support groups. As a result, many crimes remain unreported, unprosecuted and, therefore, invisible. In such cases, the rights of victims may not be fully respected or protected, meaning that EU Member States are not upholding their obligations towards victims of crime.

In-person crime with a perceived 'racist' motive suffered by members of ethnic minority and immigrant groups, by EU Member State (%)



Notes: Question DD4-DE5: Do you think that [this incident/any of these incidents] IN THE LAST 12 MONTHS happened partly or completely because of your immigrant/minority background?; CEE = Central and East European.

Source: FRA (2012), EU-MIDIS Data in focus 6: Minorities as victims of crime, Figure 5, p. 11

Ways forward

To tackle hate crime and address related fundamental rights violations, the EU and its Member States need to make such crimes more visible and hold perpetrators accountable.

The 27 EU Member States differ markedly in the data they record and publish on bias motivations. These gaps mean that official data collection mechanisms on hate crime in the EU often fail to capture the real situation on the ground. The FRA publication *Making hate crime visible in the European Union: acknowledging victims' rights* shows that only eight EU Member States record crime motivated by the victim's (perceived) sexual orientation, while just four collect or publish data on anti-Roma crime.

The EU and its Member States should adopt legislation obliging Member States to collect and publish statistical data pertaining to hate crime. At an absolute minimum, this should include data on the number of incidents reported by the public and recorded by the authorities, as well as the number of convictions of offenders, the grounds on which these offences were found to be discriminatory and the punishments administered.

Law enforcement agencies and criminal justice systems should be alert to any indication of bias motivation. Legislators should consider enhanced penalties for hate crimes to stress the severity of these offences. Courts rendering judgments should address bias motivations publicly, in order to raise awareness about hate crime and make clear that perpetrating such offences leads to harsher sentences.

Where possible under national law, EU Member States should break down data collected on hate crime by gender, age and other variables to enable a better understanding of patterns of victimisation and offending. Official data collection mechanisms pertaining to hate crime should be supplemented by crime victimisation surveys to shed light on aspects such as the nature and extent of non-reported crimes, the experiences of victims of crime with law enforcement, reasons for non-reporting and rights awareness among victims of hate crime.

Broadly speaking, the majority of EU Member States need to expand the scope of their official data collection on hate crime in order to:

- make hate crime visible in the EU;
- give victims of hate crime the opportunity to seek redress against perpetrators;
- ensure that EU Member States respond effectively to hate crime as an abuse of fundamental rights.

Further information:

For FRA's reports on hate crime – *Making hate crime visible in the European Union: acknowledging victims' rights* and *EU-MIDIS Data in Focus 6: Minorities as victims of crime* – see: <http://fra.europa.eu/en/publications-and-resources>

An overview of FRA activities on racism and related intolerances is available at: <http://fra.europa.eu/en/theme/racism-related-intolerances>