



## Working group – reporting back

**WG number and topic: Working Group III: legal instruments pertaining to hate crime in the EU**

**Chair: Salla Saastamoinen**

### What suggestions for concrete action were made?

- The EU should do more to combat hate speech by ensuring that any discrimination that comes under Art. 21 of Charter is punishable.
- Measures should be established to combat political rather than just common hate speech.
- Political parties should be made responsible for the conduct of their members.
- Political parties also need to take immediate steps to distance themselves from expressions of hate speech.
- Politicians tend to play down the issue of hate crime, saying there are no statistics to prove there's a problem. A change in mentality is needed.
- There is no mention in the framework decision on combating racism and xenophobia of police practices, and there are two major problems with this. 1) Policing at demonstrations and 2) role of police in investigating hate motive. According to EU law they have a clear duty to do this. So when the framework decision is reviewed, this needs to be taken into account.
- The two most important things to be done are to 1) fully implement the framework decision and 2) fully implement the victims' directive. The implementation of both these pieces of legislation would bring us a long way.
- All rights should not only be theoretical, but also implemented in practice. And this is where many member states are failing.
- What is needed now is especially training: of police forces; of prosecutors, and also of private security firms, not just public ones. The training needs to be mandatory and not voluntary.

### Existing practices

- Almost all the member states criminalise incitement to hatred or violence, but the terminology used and criteria applied vary significantly. Only 3 Member States expressly refer to all the grounds listed. 11 MS (BE, CZ, DK, DE, IE, HU, NL, AT, FI, SE and UK) have no provisions criminalising condoning, denial or gross trivialisation of crimes as defined in Art. 1(c) of the framework decision.
- There are major shortfalls in the implementation of the framework decision.
- Best practice: In Lithuania, there are penalties for political parties that violate these principles: 1) paying a fine; 2) restriction of operation as legal entities; 3) liquidation of parties as a legal entity; 4) denial of funding for party; restriction of political activities eg in elections; 5) common rapid intervention mechanisms (eg hate speech during an election campaign – measures to limit consequences).
- At the European Court of Human Rights, everything under Art. 14 of the Convention on hc are treated in the same way (even though sexual orientation isn't mentioned expressly in Art. 14).

### **Other key messages**

- The Chair pointed out that there's nothing to prevent member states criminalising hate crime based on sexual orientation and other grounds on an individual basis. Indeed, some member states have done so. In order for the EU to add eg sexual orientation as ground for hate crime, the member states would have to decide to do it unanimously. There are gaps in implementing the existing rules, and it took 7 years to negotiate them in the first place.
- From FRA's perspective, the most important starting point is the rights of victims.
- FRA research shows that victim support services don't encourage victims to report, as they aren't sure that the police wouldn't share the same discriminatory attitude as the offenders.