

*First Draft Report*

# **Monitoring Hate Crimes and Victim Assistance in Poland and Germany**

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The research project “Monitoring hate crimes and victim assistance in Poland and Germany” touches on various aspects of the foundation’s program: first of all, by having brought together a mixed group of political activists and academics from both countries involved in the struggle against contemporary manifestations of racism, xenophobia, antisemitism and right-wing extremism, allowing an intensive exchange of information and practical experiences; secondly, by focussing on the problem of hate crimes, which should be considered as being amongst the most severe and common forms of human rights violations in Europe today, attacking and threatening not only the right to dignity and physical inviolability of individuals, but also the democratic and participatory capacities of many minority groups and communities affected; and finally, by trying to further future transnational cooperation between Polish and German civil society actors in order to improve monitoring systems of right-wing violence and support services for hate crime victims.

The report was compiled and prepared by the following persons: Britta Grell (Berlin), Timm Köhler (Berlin), Rafal Pankowski (Warsaw), Natalia Sineeva (Warsaw), Marcin Starnawski (Wrocław), and Jacek Zinkiewicz (Kraków). Alicja Kowalska (Warsaw) conducted some of the the interviews, on which the report is mainly based on. Dominique John (Berlin) was the responsible project coordinator.

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The opinions expressed in the following report are those of the authors only, and do not necessarily reflect the positions of the project partner organizations “Opferperspektive” and “Nigdy Więcej”, nor the ones of the foundation.

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# Introduction

The dramatic rise in homophobic, racist and antisemitic violence in many European countries over the past decades lends new urgency to the issue of combating discrimination and hate crimes. Poland and Germany, as two neighboring countries with a particular difficult historical relationship and enduring tensions, are no exceptions in this respect. Both have seen extreme nationalistic movements and right-wing organizations and parties gaining influence inside and outside the parliaments over the last years; both are challenged by a wide range of intolerance and ethnic and religious biases within the population, as indicated by various studies and public-opinion polls.

Some of the hate crimes which go along with these troubling developments will be documented in this report to illustrate that they are no isolated cases. We will also present official as well as unofficial aggregated figures on recorded incidents of right-wing violence and hate speech in both countries for the past three years, but the main focus of the report will be on the strategies and activities of those organizations and projects which try to give a “voice to the voiceless” (Rafal Pankowski). Whereas we have witnessed some growing public and academic interest in comparing organized forms of far-right activities as well as xenophobic attitudes and tendencies across Europe, including Poland and Germany, transnational studies of policies and projects against right-wing and related violence are still less common. This is particularly true with regard to the role, experiences and perspectives of nongovernmental actors and organizations, representing the interests and demands of the groups mostly affected by hate crimes such as Roma, migrant and LGBT communities, religious minorities, antifascist and antiracist activists, as well as young people involved in alternative cultural scenes. Furthermore, despite various formal and informal NGO networks on the European level dedicated to counteract homophobia, racism and antisemitism, programs that could foster transnational cooperation on practical issues are most of the time difficult to implement, mainly due to a lack of resources and often quite differing working and operational conditions as well as different political opportunity structures for civil society influence.

The funding of the foundation “Erinnerung, Verantwortung und Zukunft” (“Remembrance, Responsibility and Future”) created a rare opportunity to take a closer look at potential areas and forms of cooperation and mutual support between German and Polish NGOs in one particular field of human rights activities: monitoring of incidents of right-wing violence and providing assistance to victims of hate crimes. The idea for this research project is based on the shared conviction by all project partners that these two elements are crucial if broader national and international strategies to counter right-wing extremism, homophobia, racism and antisemitism should be effective. All efforts and public policies that want to address the problem of bias-motivated violence and hate speech need detailed information on the amount and circumstances of these incidents, including the perpetrators and the victim groups mostly affected, which are often not provided in a sufficient way by the national governments or other authorities as will be shown in the following chapters. Outreach and support services to the victims are not only a question of humanitarian commitment, solidarity and social justice, but can be also turned into an instrument for further networking and the empowerment of otherwise marginalized individuals, minority groups and communities. But how to provide them with only limited resources and no government support remains one of the most pressing questions, not only for the Polish context, but also, as will be discussed later, for many NGOs in the Western parts of Germany.

Both project partners, “Nigdy Więcej” and “Opferperspektive e.V.”, who developed the idea for this joint study, have long years of experiences in the field of monitoring of hate crimes:

- With a wide-stretching network of correspondents and volunteers, the Polish association „*Nigdy Więcej*” belongs to Poland’s most important antifascist and antiracist initiatives. In its „Brown Book“, a register of racist, xenophobic and homophobic incidents, the members have documented a few thousands cases of hate crime and hate speech since the beginning of the 1990s, mostly committed by offenders affiliated to neo-Nazi and skinhead groups. Since 2007 the monitoring program has been run in cooperation with the Collegium Civitas, a Warsaw-based university, and has received some support from the Batory Foundation. The information is published regularly in the antifascist magazine *Nigdy Więcej* as well as on the association’s website. It is collected by 150 volunteers and correspondents all over Poland, who do regular monitoring of the press and the Internet, and have established good contacts to minority organizations and social groups exposed to hate crimes. Correspondents also frequently report incidents which they themselves have witnessed. Many of the offences documented by „*Nigdy Więcej*” are not reported to the police. Their publications serve not only general educational purposes, they have also provided the basis for important investigative reporting that has prompted coverage of the issue of hate crimes in mainstream Polish media.
- The association „**Opferperspektive e.V.**“ has been offering legal, social and psychological assistance to victims of right-wing violence in the state of Brandenburg since 1998. The organization operates as a proactive outreach and monitoring centre. On a daily basis, incidents of right-wing violence are monitored, the victims are identified and offered support. When in 2001, the federal government of Germany set up the CIVITAS program aimed to tackle the spread of right-wing extremism in Eastern Germany, the approach developed by „Opferperspektive e.V.“ served as a model to be replicated in other states. Eight regional NGOs with a similar profile have been established since then. These NGOs have developed and implemented a set of definitions and standards in order to improve the quality and comparability of data collected on hate crimes. Each year they publish, based on their research and a common data base, comprehensive information on the amount and quality of hate crimes in the new federal states of Germany, highlighting not only the continuing massive problem of right-wing violence in East Germany, but also the continuing problem of underreporting.

Despite shared beliefs, commitments and interests, all project partners, including the foundation and the research teams, are well aware of the fact that particular experiences with manifestations of far-right activities and hate crimes and respective counter-measures can not be easily transferred from one national context to the other. Geographic proximity of both countries and shared challenges with regard to right-wing extremism do not mean that counter-strategies and approaches to the problem have necessarily to look the same. Poland and Germany are still quite different in many respects, ranging from specific governance traditions and legal structures, shaping the relationship between state actors and NGOs, different party systems, public discourses on matters such as national or religious identities to distinct demographic features such as the size of ethnic/religious minority groups and differing patterns of migration. While in the German context, for example, litigation strategies have become an integral part of some NGO activities in order to bring justice to the victims affected by hate crimes, legal approaches and direct cooperation with state authorities are less common amongst Polish organizations, mainly due to a general distrust of the law enforcement agencies that is still widespread among many sections of Polish society, especially among members of minority communities and young people.

When looking at strategies to raise awareness towards the problem of hate crimes one has also to take into account that Poland has experienced an ultra-conservative backlash on the highest political level during the past few years, with parties and politicians in power until quite recently, of which some are openly homophobic and antisemitic. When the party Samoobrona (Self-Defense) and the League of Polish Families signed a coalition agreement with the Law and Justice

Party in May 2006, this represented the culmination of a continued campaign by right-wingers and extreme nationalists to gain government positions to intimidate and persecute their political opponents as well as minority groups deemed as „un-Polish“. In the light of such assaults and direct confrontations NGOs involved in antiracist and antifascist activities or groups representing the LGBT community faced quite different challenges compared to their counterparts in Germany, where racism, homophobia and ethnic hatred, including antisemitism, are generally condemned by all major political parties and other opinion-leading institutions such as the mass media and most intellectuals. Furthermore, one has to keep in mind that various federal and state programs which have been adopted by governments to counteract right-wing extremism since the early 2000s have provided a larger number of German NGOs, especially in the Eastern parts of the country, with considerable resources. These increased their professional capabilities and enabled them to more directly tackle the neglect of the problem of hate crimes by many political actors and government institutions. Whereas in the Polish case, selected NGOs have been also part of consultation processes organized by government agencies to fulfill some of the obligations resulting from international treaties and agreements no comparable funding schemes have been established so far in the country to support the work of NGOs dealing with hate crimes and their victims.

### **Note on Research Design and Scope of the Study**

In the following report we will touch on some of these national differences when presenting our research results, but we would like to clarify right from the beginning, that our study had a rather limited scope, and was not set out to cover and discuss all the historical, political and social factors and constraints which are relevant for NGO activities in the respective field. The main tasks of the study project, as outlined in a common agreement in December 2007 and carried out by two teams of free-lance researchers, were the following:

- To summarize relevant research findings on the problem of hate crimes in both countries.
- To outline the respective national legal frameworks.
- To summarize data on right-wing violence in both countries for the years 2005 to 2007.
- To identify German and Polish NGOs operating in the monitoring of right-wing violence and providing assistance to victims of these crimes.
- To describe their operational definitions of right-wing violence/hate crimes, their methods of data collection/presentation and victim assistance.
- To examine the identified organizations' perspectives, available resources and current embeddedness concerning transnational networks.
- To propose viable forms and fields of transnational (Polish-German) cooperation.

To fulfill these tasks was already a major undertaking given the fact that both teams had only six months to prepare and carry out the needed literature research, conduct, summarize and evaluate interviews, discuss the results and compile this first draft report, accompanied by five workshops with sometimes quite fierce debates on matters such as terminology, the relevance of legal provisions or the assessment of our findings. One also has to take into account that the current status of research and official data on hate crimes and hate crime policies is still very limited in Poland, and that there were hardly any legal studies or up-to-date reports by other organizations or supranational bodies to build on. At the same time, we can maintain that contacts to NGOs and other interview partners were very much facilitated by the knowledge, high reputation and long years of activities and experiences of both project partners in the respective fields.

The most important empirical source for our report are qualitative face-to-face interviews with

NGOs and some selected experts, which were (with a few exceptions) recorded and summarized. Altogether, about 60 interviews were conducted, most of them between February and April 2008. To select the interview partners was up to the respective research teams. However, we agreed that for the Polish part of the study it was reasonable to broaden the scope of the research by also contacting and interviewing organizations and groups which have not been directly involved in activities of monitoring and victims' assistance so far, but from which we expected a certain interest in the issues, because they are either representing the interests of particular minority communities or as welfare or human rights organizations have regular contact to potential victim groups such as refugees or the Roma community. In the German part of the study we concentrated right from the beginning more on organizations already active in the respective fields, paying less attention to informal and self-help groups or general welfare or human rights associations, mainly due to time restrictions. It would be useful, however, to incorporate the latter more actively in subsequent studies and projects to find out about their views and experiences with victims of hate crimes.

For the Polish part of the study, 28 organizations were selected for interviews. Most of them are officially registered associations, while others are foundations, religious organizations or informal groups. There has been a predominant focus on organizations operating in larger urban areas. Almost half of all NGOs included in the survey are based in Warsaw, while others are active primarily in the Eastern or Southern parts of Poland (in cities such as Kraków and Oświęcim, as well as in the Lower Silesia and Opole region). In Germany 24 longer face-to-face interviews and about 20 mostly shorter telephone inquiries were conducted. The main geographic focus of the study was East Germany, due to the more well-established structures for victim assistance (with regard to right-wing violence) and monitoring in the new federal states. About 70 percent of all our interview partners represent NGOs, located either in Berlin or in the the eastern states. With regard to West Germany, we decided to concentrate on two regions: North-Rhine Westphalia, and northern states such as Lower-Saxony, Hamburg and Bremen.

The representativity of our study sample is, of course, limited. Many other organizations could have been included in our research, and we also realize that further interviews with academics, other experts and representatives of police or other government institutions might have been helpful for a broader assessment of hate crime policies in both countries. Unfortunately, there was not enough time for including their perspectives in this report. As will be highlighted in various chapters of this report, more comprehensive research on various issues and questions is certainly needed.

## **Note on Terminology**

In a mixed team of Polish and German researchers and activists with different languages, backgrounds and educations a broader discussion on terminology at the beginning of our research was inevitable. What is meant when we write and talk about right-wing violence and hate crimes and are these terms understandable in our respective national linguistic and political contexts? How do we differentiate between hate crimes and hate speech?

Throughout the report, terms such as „right-wing“, „far-right“, „extreme right“, and „right-wing extremist“ are frequently used, serving as umbrella terms for nationalistic, xenophobic, ultra-conservative, anti-liberal and anti-democratic positions, tendencies, organizations and manifestations in both countries. This rather pragmatic decision to abstain from academic distinctions and to use these terms rather interchangeably, is owed to the difficulty of a comparative study, in which we look at two countries with quite different political constellations, academic and public discourses and points of references. It is worth mentioning that in the context of Eastern Europe and Poland categories such as right-wing or left-wing have quite different connotations. Especially in the case

of Poland, during the post-communist years the term right-wing was often associated with the democratic opposition. It should be also noted that even today some parties and organizations, which are usually called conservative or “centre” in the Polish context, would be labelled right-wing or far-right in the West.

We are aware of the fact that the terms “extremism” or “extremist” are also rather controversial in both national contexts. In Poland the term “extremism” is often applied to fundamentalist groups and movements outside the country, for example openly terrorist organizations. In Germany, the term “extremism” is still closely linked to discussions and authors that label movements, groups and ideologies as extremist if they are opposed to “the existing democratic order”. Since many of the attacks referred to in this report are not committed by persons affiliated to organized groups with a clear-cut right-wing worldview or sympathies to historical forms of fascism such as German National Socialism, we were rather cautious with the application of the terms fascist or neo-Nazis. If used in the report, however, they refer to groups which openly display fascist ideologies.

The central term of the study, hate crime, is not very commonly used in Poland and Germany, but has the advantage of incorporating or circumscribing a range of different ideologically motivated offences; offences which are usually addressed as racist, homophobic, antisemitic, social darwinist, anti-Roma, anti-Muslim etc., or sometimes right-wing (extremist). The term, thus, emphasizes the common trait of all these ideological dimensions, the assumption of the inequality or inferiority of the victims targeted. On the other hand, by focussing on hatred or the biases of the perpetrators, the structural embeddedness of racism, antisemitism, homophobia etc. in societies might be downplayed or neglected within the framework of this concept. We, nevertheless, decided to adopt the term hate crime, not only because it is the term most frequently used in English, but because it reflects best the variety of ideologically motivated attacks against minority groups in both countries.

We agreed to follow a definition that is applied by a number of supranational bodies and international human rights organizations, and was at first developed by the Office for Democratic Institutions and Human Rights (ODIHR), the principal institution of the OSCE responsible for the “human dimension” (elections, human rights, and democratization), based in Warsaw.

- A) Any criminal offence, including offences against persons or property, where the victim, premises, or target of the offence are selected because of their real or perceived connection, attachment, affiliation, support, or membership with a group as defined in Part B.
- B) A group may be based upon a characteristic common to its members, such as real or perceived race, national or ethnic origin, language, color, religion, sex, age, mental or physical disability, sexual orientation, or other similar factors.

In contrast to the ODIHR definition, however, we also consider attacks on left-wing or human rights activists or members of alternative youth cultures as hate crimes, if the motivation of the offenders was obviously ideological, viewing the victims as “anti-national” or as political enemies. We are also aware of the fact, that hate crimes can take a variety of forms, from verbal abuses, graffiti, vandalism, harassment, to physical assaults, arson attacks or even murder, and that not all of these forms might be litigable. If and how police and government institutions and NGOs in both countries apply and understand the term hate crime will be discussed more in detail in the following chapters.

## Outline of the Report

The report is divided into five parts. **Chapter 1** has an introductory character and takes a look at recent incidents of hate crimes in both countries, and at how the official responses to the problem of hate crimes in Poland and Germany are mirrored by supranational bodies and international human rights organizations. For the latter purpose, we evaluated, amongst others, reports by organizations such as the European Commission against Racism and Intolerance (ECRI), which is the antiracism body of the Council of Europe, and the Fundamental Rights Agency (FRA) of the European Union. In the third part of the chapter we briefly describe the most important national government programs adopted to counteract right-wing extremism in both countries, with a focus on hate crime policies.

**Chapter 2** gives an overview of national legal provisions which are relevant for the combat and prosecution of hate crimes, concentrating on the question whether and how criminal laws in both countries treat bias-motivated attacks as distinct crimes, and which potential victims groups are particularly protected. This chapter on the legal frameworks also provides information about the rights of crime victims in court proceedings, and about available compensation and legal funds, which are or might be relevant for litigation strategies.

**Chapter 3** deals with the official monitoring systems in place in both countries. We look at the most relevant official data sources in Germany and Poland, and will present the figures provided by government and law enforcement institutions on recorded incidents of hate crimes and related legal proceedings. We will also summarize the discussions surrounding the official monitoring and registration systems, including the main concerns and complaints expressed by legal experts, NGOs and activists.

**Chapter 4** is the most unique contribution of the research teams. Based on our interviews it will present the results of our study with respect to activities of NGOs operating in the field of monitoring of right-wing violence and offering assistance to victims of hate crimes in Poland and Germany. We will describe differing approaches to the problem of hate crimes, and if and how the groups and organizations studied in both countries understand and apply the term. The chapter on Polish NGOs also discusses more in length the demands and needs for monitoring and support activities, as expressed by the interviewees. Furthermore, it tries to identify the main reasons why hate crimes in Poland have not been addressed more openly so far, including obstacles and barriers within Polish society as well as limited resources and capacities of many NGOs. Each country chapter provides a tabularly overview of the main fields of activities of the interviewed organizations. We will also present their perspectives with respect to transnational cooperation, and finally conclude with a summary of the most important research results.

In **Chapter 5**, based on our findings, we will present some recommendations for further research, projects and measures of German-Polish cooperation, with a focus on NGO activities in Poland. These recommendations should be considered as a basis for further discussion.

# 1 Hate Crimes in Poland and Germany

*A first step in dealing with the larger phenomenon of violent hate crimes is to fill the information deficit about its full extent, the gaps in states' responses, and the protection required for those under threat.*  
(Michael McClintock, *Humans Rights First*)

## 1.1 Latest Incidents and Developments

### 1.1.1 Germany

In May 2008, German Interior Minister Wolfgang Schäuble participated in a memorial service on the 15<sup>th</sup> anniversary of a xenophobic arson attack which had killed five Turkish family members in the West German town of Solingen in 1993. Schäuble called the attack a historical turning-point for Germany, and said it should serve as a constant reminder not to neglect efforts to promote a tolerant and diverse society.<sup>1</sup> The Solingen tragedy was part of a broader wave of racist and right-wing violence which swept Germany in the wake of unification,<sup>2</sup> and has not abated until today. A revised documentation on victims of right-wing hate crimes in Germany, first published in 2000 by the newspapers *Frankfurter Rundschau* and *Der Tagesspiegel*, reveals the number of 136 violent deaths between 1990 and 2005, resulting directly from right-wing and racist assaults.<sup>3</sup> Victim support organizations in East Germany just recently published their latest figures for the new federal states<sup>4</sup>: In 2007 they had registered 861 cases of right-wing attacks which affected 1.869 individuals.<sup>5</sup> In March 2008, German police had already recorded 1.311 right-wing and racially motivated offences, including 72 acts of violence, which left at least 200 people injured; the highest number of such incidents counted for the first quarter of a year since the introduction of a new data registration system in 2001.<sup>6</sup>

In most cases the public does not learn anything about the specific circumstances of these attacks, the background of the offenders, and about how these violent incidents change the lives of those targeted. From the numerous incidents of hate crimes only a few particular brutal ones make it into the headlines of the national or world's press. One of them was the case of a 37-year-old engineer of Ethiopian descent, who was attacked at 4 a.m. on a street right in the center of Potsdam on Easter Sunday 2006. He was so badly beaten that he nearly died. The federal public prosecutor,

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1 Spiegel Online, 26.5.2008.

2 Other serious attacks on Turkish migrants, refugee homes and synagogues which have become markers for the national reassessment of hate crimes in the 1990s occurred in Hoyerswerda (1991), Rostock (1992), Mölln (1993) and Lübeck (1994 and 1997). Following the deaths in Mölln and Solingen the debate in Germany took a new turn. For the first time since the recruitment of so called „guest workers“, the Federal Criminal Police Office began to record data on racist and antisemitic crimes, in 1992 and 1993 respectively (Bundesministerium des Innern; Bundesministerium der Justiz 2006: Zweiter Periodischer Sicherheitsbericht, Berlin, p. 135).

3 The documentation served as the basis for a travelling exhibition, designed by the artist Rebecca Forner and supported by the NGO „Opferperspektive e.V.“ in Potsdam.

4 The new federal states of Germany are Berlin, Brandenburg, Mecklenburg-Pomerania, Saxony-Anhalt, Saxony, and Thuringia.

5 <http://www.opferperspektive.de/Home/725.html>

6 Deutscher Bundestag 2008: Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Petra Pau und weiterer Abgeordneter und der Fraktion DIE LINKE. Ausländerfeindliche und rechtsextreme Ausschreitungen in der Bundesrepublik im März 2008, Drucksache 16/9188, 14.5.2008, Berlin.

who was placed in charge of the case, said the assailants were motivated by “hatred of foreigners and extreme right-wing inclinations”.<sup>7</sup> Shortly after the incident in Potsdam, the statement of a former government spokesperson caused further heated controversies over the severity of racism and right-wing violence in Germany: He had lamented the fact that people with dark skin “might not make it out alive” if they dared set foot in certain towns, especially in the Brandenburg region around Berlin.<sup>8</sup> About the same time, only a few days before the opening of the football World Cup in Germany, a Berlin-based umbrella organization of African community groups and activists drew international attention to the issue of physical safety for blacks and foreigners in East Germany by announcing to publish a list of “no-go” areas to warn visitors of the threat of hate crimes.<sup>9</sup> In August 2007, pictures of massive injuries suffered by eight Indian men assaulted at a local fair in Mügeln (Saxony), went also around the globe, followed by further reports on racist attacks in the Southern parts of Germany which raised the question again, as before in the 1990s, whether German authorities were doing enough to protect ethnic minorities and foreigners in the country. German Chancellor Angela Merkel condemned the events in Mügeln as an “extraordinarily distressing and shameful incident,” which had been “noted very carefully” abroad and could damage Germany’s international standing.<sup>10</sup>

Whereas migrants and non-ethnic Germans definitely belong to the most vulnerable groups in Germany, targeted by racists, skinheads and other right-wingers, outright antisemitic manifestations and incidents have been also on the rise since the 1990s. At the beginning of November 2006, the European Jewish Congress issued a report on antisemitic incidents and discourses in Europe during the Israel-Hizbollah War. The section on Germany, compiled by the Central Council of German Jews, describes an “extremely difficult atmosphere for the country’s Jews”.<sup>11</sup> Another report by the Stephen Roth Institute for the Study of Antisemitism and Racism, based in Tel Aviv, noticed a dramatic surge in antisemitic verbal insults, especially involving Jewish students and youth in the German capital Berlin, where the word “Jew” has by now become a popular insult in many schools.<sup>12</sup> On February 25, 2007, a Jewish kindergarden in Berlin-Charlottenburg was the target of an antisemitic assault by Nazi sympathizers. The perpetrators defaced the building with swastikas and slogans recalling the horrors of the Holocaust and threw a smoke bomb into the kindergarden.<sup>13</sup> Much international media coverage received another antisemitic hate crime in Hestia, when a 42-year-old rabbi was stabbed in an attack near the financial district in Frankfurt/Main in September 2007.<sup>14</sup> As in previous years, desecrations of Jewish cemeteries and Holocaust memorials as well as vandalism of Jewish sites were reported for 2007 throughout Germany, sometimes several times weekly.<sup>15</sup>

The contemporary discussion on violent hate crimes in Germany is still very much focussed on the situation in the former communist East, where far-right parties such as the “National Democratic Party” (NPD) made striking gains in recent local and state elections, and right-wing attitudes and violence have developed into an everyday phenomenon in many regions, posing a constant threat to visible minorities and those openly opposed to far-right ideologies. While certain parts of East

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7 The Boston Globe, 24.4.2006.

8 Opferperspektive e.V. 2008: Der Fall Ermyas M., Potsdam, p. 9.

9 Die Zeit, 17.5.2006.

10 Spiegel Online, 22.7.2007.

11 European Jewish Congress 2006: Anti-Semitic Incidents and Discourse in Europe During the Israel-Hezbollah War, Paris, p. 23.

12 Stephen Roth Institute for the Study of of Antisemitism and Racism 2006: Country Report on Germany, Tel Aliv.

13 die tageszeitung, 26.2.2007.

14 Frankfurter Rundschau, 10.9.2007.

15 <http://www.amadeu-antonio-stiftung.de/die-stiftung-aktiv/gegen-as/antisemitismus-heute/chronik-antisemitischer-vorfalle>

Germany such as Berlin, Brandenburg, Saxony or Saxony-Anhalt do stand out for both the frequency and severity of racist and related attacks, the problem of hate crimes, however, is not geographically restricted to the so called new federal states.<sup>16</sup> According to the last annual report of the Federal Office for the Protection of the Constitution, North-Rhine Westphalia and Lower-Saxony (two western states) are leading the statistics of right-wing hate crimes with regard to absolute numbers. 122 cases of violent assaults with a right-wing political motivation were registered by the police in North-Rhine Westphalia for 2007, 110 in Lower-Saxony for the same year.<sup>17</sup>

Furthermore, a closer look at the figures reveals that the targets of assaults by right-wingers are not limited to religious or ethnic minorities. In many cities throughout the country political activists and members of alternative youth cultures are the largest victim group of right-wing violence.<sup>18</sup> In some places left-leaning youth clubs, contact points for the LGBT community or other institutions known for the antiracist and antifascist activities, have been repeatedly attacked and damaged. Bremen, a town in the North of Germany, for example, experienced a wave of violent attacks in February 2008, directed against educational institutions which are known for their antifascist and “multicultural” commitment.<sup>19</sup> Referring to incidents of brutal assaults on journalists during a neo-Nazi demonstration in Hamburg on May 1, 2008, the spokesperson of the German Association of Journalists also warned of a “new quality of right-wing violence and threats” targeting critical representatives of the press.<sup>20</sup> Intelligence agents stated that they have identified a new phenomenon in the German far-right scene: so-called autonomous nationalists who are “significantly more likely to commit acts of violence against political opponents and the police”.<sup>21</sup>

### 1.1.2 Poland

Whereas hate crimes are an issue of sometimes broader media coverage and political discussions in Germany, in Poland the subject is still rarely debated in public. The voices of the targeted groups remain weak, and are almost never heard by politicians. Ethnic minorities constitute only two percent of the Polish population, and they are hardly visible in the media; other victimized groups are socially marginalized as well. They often belong to religious minorities, or dissident youth subcultures with little or no access to channels of mass communication. In fact, the observable silence surrounding the issue of right-wing or related violence can be interpreted in the light of the topic’s highly sensitive nature in Polish society. Hate crime – as an element of the wider problematic of racism, xenophobia and discrimination – clashes with the dominant (internal and external) image of Polish society.

There are no up-to-date official statistics on hate crimes available for Poland, apart from some partial data published by the Police Headquarter’s Office,<sup>22</sup> which do not allow for an accurate assessment of the problem. The most important source which can fill the information gap to some extent remain publications and surveys of nongovernmental organizations, which highlight

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16 See for a discussion of the differences between East and West Germany with respect to right-wing extremism Rommelspacher, Birgit 2006: Rechtsextremismus in Ost- und Westdeutschland im Vergleich, in: Friedrich Ebert Stiftung (ed.): Gegen Rechtsextremismus in Ost und West. Andere Ursachen – Andere Gegenstrategien, Konferenzdokumentation, Berlin, pp. 6-21.

17 Bundesministerium des Innern 2008: Verfassungsschutzbericht 2007, Berlin, p. 27.

18 All interviewed victim support organizations in East Germany as well as some NGOs in Lower-Saxony state that alternative and left-wing youth are a prime target group of right-wing violence, besides refugees and migrants.

19 <http://www.mut-gegen-rechte-gewalt.de/news/chronik-der-gewalt/gewaltchronik-2007-8>.

20 die tageszeitung, 16.5.2008.

21 Spiegel Online, 3.6.2008.

22 Twelve cases of physical assaults were registered for 2006; no data is available for 2007 (see chapter 3).

regular patterns of discrimination and violent manifestations of homophobia, antisemitism and racism throughout the country. For 2007, for example, the association “*Nigdy Więcej*” registered approximately 130 cases of hate crime and hate speech in their “Brown Book”,<sup>23</sup> including incidents of bodily injuries, desecrations of sites connected to religious minority groups such as cemeteries and synagogues, and a long list of cases of verbal incitement to ethnic, national or religious hatred, mainly made in public gatherings, in chauvinist propaganda materials or in the press.<sup>24</sup> Most of the time, the perpetrators of violent attacks belong to far-right organizations and skinhead groups. In January 2007, in the town of Piła, located in the Wielkopolska region, three teenagers were attacked and severely beaten by a neo-Nazi, who shouted “Sieg heil” and stretched his arm in a characteristic (fascist) way. The offender fled from the site of the crime, where he left one of the victims unconscious, when the police arrived. The cause of the attack was his ideologically grounded hatred towards people of an „alternative appearance”. Another violent incident happened in Kraków in April 2007, when on the campus of the Mining-Metallurgic Academy a group of skinheads, openly identifying themselves as neo-Nazis, accosted and attacked a man whose appearance did not fit their fascist ideal of a “true Pole.” The victim, a fan and propagator of alternative culture, was severely beaten, but fortunately he managed to escape. The incident was not reported to the police. In other registered cases of hate crime, members of private security guards were involved, as for example in Białystok, where in November 2007 a man of Chechen origin was severely beaten outside a tavern by a group of Polish men, working as door stewards and security guards in nearby clubs. Only when the offenders dragged out the semiconscious and bleeding victim behind the building, the police – present at the site of the crime – felt compelled to intervene. According to some witnesses of the incident, the reason why the police officers did not step in and arrest the perpetrators, had to do with the ethnic/national background of the victim.<sup>25</sup> Some public leaders, including high-ranking politicians or catholic priests, also add to the problem by openly inciting intolerance and hatred against minority groups. Particularly troubling incidents of this kind caught broader international attention, when, for example, the mayor of Warsaw, President Kaczyński, as well as authorities of Poznań, banned gay pride parades planned for the cities in 2005, and other far-right politicians opposed the right of lesbian and gay people to basic freedoms and equal respect.<sup>26</sup> As a result of the escalation of an anti-gay rhetoric, the number of attacks on members of the LGBT communities and their clubs increased enormously, even death threats were sent.<sup>27</sup> In April 2007, the European Parliament expressed outrage at growing intolerance towards lesbian and gay people across Europe, singling out Poland for special criticism. It passed a resolution calling for worldwide de-criminalisation of homosexuality. The Polish authorities were particularly urged “to publicly condemn and take measures against declarations by public leaders inciting discrimination and hatred based on sexual orientation”.<sup>28</sup>

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23 [http://www.nigdywiecej.org/index.php?option=com\\_content&task=view&id=259&Itemid=20](http://www.nigdywiecej.org/index.php?option=com_content&task=view&id=259&Itemid=20).

24 A separate register includes incidents at sport and football stadiums. “*Nigdy Więcej*” recorded 17 cases of chauvinist (i.e. racist, antisemitic, neo-fascist, xenophobic) incidents in sport stadiums in 2007.

25 All incidents referred to are documented in the „Brown Book“ available at [http://www.nigdywiecej.org/index.php?option=com\\_content&task=view&id=259&Itemid=20](http://www.nigdywiecej.org/index.php?option=com_content&task=view&id=259&Itemid=20).

26 <http://www.globalgayz.com/poland-news05.html>.

27 According to a survey carried out by the „Campaign Against Homophobia“ and the NGO „Lambda Warsaw“, 17.6 percent of all respondents reported that they had been subject to physical violence in 2005 and 2006, and 51 percent stated some experience with hate speech on homophobic grounds (Abramowicz, Marta 2007 (ed.): *Sytuacja społeczna osób biseksualnych i homoseksualnych w Polsce. Raport za lata 2005 i 2006*, Warsaw, p. 15 and 28).

28 <http://www.amnesty.org/en/library/asset/EUR01/010/2007/en/dom-EUR010102007en.html>

In 2007, the Anti-Defamation League asked the Pope to denounce publicly the antisemitism of a Polish catholic priest, Father Tadeusz Rydzyk, „who as the the founder and director of Radio Maryja [...] is responsible for the anti-Semitic comments and concepts the station regularly broadcasts to millions of Polish Catholic faithful“.<sup>29</sup> One year before, the organization had published a report titled „Poland: Democracy and the Challenge of Extremism“. It stated, among others: „Poland has emerged from the repressive years of communist rule as a pluralist democracy. Its accession to membership of the European Union in 2004 confirmed that a robust democratic system is in place, which includes important legislative instruments to protect minorities from hate speech and hate crimes perpetrated by extremist groups.“<sup>30</sup> Nevertheless, the report warned: „In Poland today, the influence of xenophobic political currents has grown to worrying proportions.“<sup>31</sup> It also detailed several cases of violent attacks and other activities of the most important hate groups. With regard to the situation in Poland, the Stephen Roth Institute stated, among others: “While no official data is available for 2006 alone, the magazine *Never Again* identified 227 hate incidents in the latter half of 2005 and first half of 2006, most of them antisemitic, including an assault, desecrations, and violent behavior and antisemitic slogans at football stadiums.“<sup>32</sup>

Only a few hate crime incidents in the past few years, however, aroused interest and action at the highest political level. Such were primarily offences that risked to have a negative impact on Poland’s international reputation. One example was the attack on Poland’s chief rabbi Michael Schudrich on May 27, 2006. The American-born rabbi was punched and attacked with pepper spray in a Warsaw street by a man shouting „Poland for the Polish!“ This was the first widely publicized case of a physical antisemitic assault against a person in many years. The police arrested Karol G., a 33-year-old far-right activist and former parliamentary candidate of the Polish National Party (PPN), who admitted the assault. The attack was condemned by the government and the media, and President Lech Kaczynski apologized personally to Schudrich. Then-Prime Minister Kazimierz Marcinkiewicz expressed his regrets and declared that there is no place for antisemitism in Poland. Three months later, the assailant was convicted to a two-year suspended prison sentence.<sup>33</sup>

Another case that received broader attention happened on May 16, 2006, when an anti-racist activist was stabbed and almost died as a result of his injuries near his home in Warsaw. This attack was widely regarded as being directly linked to the neo-Nazi website „Redwatch“ operated by the Polish branch of the Blood and Honor network, which had included the activist’s name in its „hit list of enemies“.<sup>34</sup> The infamous „Redwatch” site is known for publishing photos and names of people allegedly involved in antifascist and antiracist activities, immigrants, activists of leftist associations, supporters of gay rights and many other people considered as political opponents by the far-right. After an investigation of the attempted murder in Warsaw, the police authorities arrested one of two men who had carried out the attack on the anti-racist activist and several further persons linked to Redwatch.<sup>35</sup> Soon after, the then Minister of the Interior, Ludwik Dorn, together with the national chief of police, Marek Bienkowski, however, called a special press conference where they assured that the attack had been a result of a personal conflict with a purely „hooligan background”, and thus must not be treated as a hate crime. They ridiculed press articles and political statements that expressed alarm.<sup>36</sup>

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29 [http://www.adl.org/PresRele/VaticanJewish\\_96/5109\\_13.htm](http://www.adl.org/PresRele/VaticanJewish_96/5109_13.htm)

30 Anti-Defamation League 2006: Poland: Democracy and the Challenge of Extremism, New York, p. 3.

31 Ibid., p. 1.

32 Stephen Roth Institute for the Study of of Antisemitism and Racism 2006: Country Report on Poland, Tel Aviv.

33 [http://www.nigdywiecej.org/index2.php?option=com\\_content&do\\_pdf=1&id=41](http://www.nigdywiecej.org/index2.php?option=com_content&do_pdf=1&id=41); <http://www.tau.ac.il/Anti-Semitism/asw2006/poland.htm>.

34 [http://www.nigdywiecej.org/index2.php?option=com\\_content&do\\_pdf=1&id=41](http://www.nigdywiecej.org/index2.php?option=com_content&do_pdf=1&id=41).

35 The culprit in the above mentioned attack, a vocalist of the hate-rock skinhead band Awantura, was subsequently sentenced to ten years in prison.

36 <http://www.dziennik.krakow.pl/public/?2006/08.05/Kraj/03/03.html>.

The relatively high level of public interest in the Redwatch hate crime case may be attributed to the fact that creators of the „hit list” also included numerous names and addresses of journalists and other public figures as their alleged enemies. The relevant media and persons were then informed by „Nigdy Więcej”, which resulted in a broader public debate about questions such as neo-Nazism in Poland, and limits to the freedom of speech in the Internet. While the Polish authorities stated to have shut down the website in cooperation with the FBI, a claim repeated in OSCE reports on hate crime,<sup>37</sup> the FBI denied any involvement in the case,<sup>38</sup> and the „hit list” has continued to exist with new data uploaded, well into 2008.

The discussion about the two above mentioned high-profile hate crime cases happened in the highly charged political context during the rule of the right-wing government, headed by the Law and Justice party, that included several well known right-wing extremist groups and individuals. In this sense, the subject of hate crime remains strongly politicized, and can not be completely detached from the question of the political influence of extreme nationalistic, antisemitic and anti-democratic movements in Poland at large. The right-wing politicians and media routinely and forcefully deny the existence of problems such as hate crime and xenophobia in Polish society. This approach is frequently reflected in activities (or their lack) on the part of the judiciary and other state institutions, including local authorities. One very recent example of the reluctance to address the issue is the town of Warka, where in May 2008 a Jewish-American tourist was beaten and intimidated by a group of youths. After the story was published in the press, the local authorities and police flatly denied any problem of antisemitism in the town, despite overwhelming evidence to the contrary.<sup>39</sup> One can see a parallel here with the routine statements such as „there is no tolerance for antisemitism in Poland”, made by the President and the Prime Minister just recently on official visits to Israel.<sup>40</sup>

## 1.2 Concerns Raised by International Organizations

Right-wing and xenophobic attacks are not a merely national matter, since they are violating basic civil and human rights of individuals, and sometimes whole communities. There are a number of supranational bodies as well as international networks of NGOs monitoring the situation in European countries, including Poland and Germany, with respect to hate crimes and respective public policies, mainly based on international human rights conventions, guidelines and standards of the Council of Europe and the European Union which provide a framework for the protection of all people, including Non-EU citizens, against discrimination. Further EU and Council of Europe norms, declarations and resolutions also demand from their member states to pay special attention to the fight against violence motivated by bias and intolerance. The most important with regard to hate crimes, which have been adopted by both national governments, are the International Covenant on Civil and Political Rights, the International Covenant on the Elimination of All Forms of Racial Discrimination, and the European Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>41</sup>

The Council of Europe was the first supranational body to monitor the responses of its member states to the increase of hate crimes. In 1993, it created the European Commission against Racism

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37 [http://www.osce.org/documents/odhr/2006/10/21496\\_en.pdf](http://www.osce.org/documents/odhr/2006/10/21496_en.pdf)

38 <http://www.azcentral.com/news/articles/1118hatesites.html>

39 [http://wyborcza.pl/1,76842,5243642,Nastraszylem\\_tylko\\_Zyda.html?as=2&ias=2](http://wyborcza.pl/1,76842,5243642,Nastraszylem_tylko_Zyda.html?as=2&ias=2)

40 [http://tygodnik.onet.pl/30,0,9095,polska\\_jest\\_potega,artykul.html](http://tygodnik.onet.pl/30,0,9095,polska_jest_potega,artykul.html)

41 See Office for Democratic Institutions and Human Rights (ODIHR) 2004: *International Action Against Racism, Xenophobia, Anti-Semitism and Intolerance in the OSCE Region. A Comparative Study*, Warsaw; Addy, David Nii 2005: *Rassistische Diskriminierung – Internationale Verpflichtungen und nationale Herausforderungen für die Menschenrechtsarbeit in Deutschland*, Berlin.

and Intolerance (ECRI), which stated in its general policy recommendation, that its member states should “ensure that accurate data and statistics are collected and published on the number of racist and xenophobic offences that are reported to the police, on the number of cases that are prosecuted, on the reasons for not prosecuting and of the outcome of cases prosecuted”.<sup>42</sup> The main tasks of ECRI are to review the member’s states legislation, policies, and other measures to combat racism, xenophobia, antisemitism, and intolerance, to propose further action at the local, national and European level, and to formulate general policy recommendations to member states. Since 1994 ECRI has completed three rounds of country reports (the first from 1994-1998, the second from 1999-2002, and the third from 2003-2007), based on both governmental and nongovernment sources.

The European Union followed the Council of Europe in 2002, when it installed the European Monitoring Center on Racism and Xenophobia (EUMC).<sup>43</sup> In 2007 the EUMC was replaced by the Agency for Fundamental Rights (FRA). Its primary objective is the collection of reliable and more comparable data about racism and xenophobia in the European Union. Information is provided by the European Information Network on Racism and Xenophobia (RAXEN) and its so called National Focal Points.<sup>44</sup> The annual German RAXEN reports are compiled by the European Forum for Migration Studies (efms), based at the University of Bamberg, that was appointed as the German National Focal Point in 2001. In Poland the task of the National Focal Point is carried out by the Helsinki Foundation for Human Rights, based in Warsaw, which has compiled the RAXEN reports since the fall of 2003.

In 2003, the Decision on Tolerance and Non-Discrimination taken by the Maastricht Ministerial Council also strengthened the role of the OSCE in the area of combating racism and intolerance by deciding that its human rights body, the Office for Democratic Institutions and Human Rights (ODIHR), should serve as a collection point for information and statistics gathered by participating states on hate crimes, including violent manifestations of racism, xenophobia, discrimination, and antisemitism.<sup>45</sup> One of the main accomplishments of ODIHR’s activities, apart from offering practical support such as law enforcement training and legislative assistance, has been the furthering of the debate on the concept of hate crimes. As the only international body, mentioned so far, it has offered a common working definition on hate crimes, “that can be used across the OSCE region to reflect the diversity of victims targeted”.<sup>46</sup>

All of the mentioned watchdog institutions have a quite limited role with respect to the enforcement of hate crime policy standards, and it is quite difficult to assess how much attention is paid to their recommendations by national governments. As in other policy fields, however, it can be assumed that they are able to put member states and their authorities under some public scrutiny if they do not respond at all to obligations of international conventions and politically binding agreements. Particular in the case of Poland, monitoring activities by supranational bodies have also provided associations representing minority communities and other NGOs committed to the fight against homophobia, racism and antisemitism, with an additional opportunity to present their views on the problem of hate crimes to a broader audience, thus strengthening their position in consultation processes and their lobbying efforts for a broader recognition of their concerns.

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42 European Commission Against Racism and Intolerance (ECRI) 1996: ECRI general policy recommendation No 1 on combating racism, xenophobia, antisemitism, and intolerance, Strasbourg.

43 European Monitoring Center on Racism and Xenophobia (EUMC) 2002: Racism and xenophobia in the EU Member States: trends, developments and good practice in 2002. Annual Report, Vienna, p. 89.

44 According to the FRA the primary objectives of these National Focus Points are „to set up a national information network, which includes cooperation with the main actors in the field of racism, xenophobia and anti-Semitism, being either governmental institutions, NGOs, research bodies, specialised bodies or social partners“, and to „coordinate and structure the national data collection and transmit the information to the FRA according to specific guidelines“ (European Union Agency for Fundamental Rights 2007: Report on Racism and Xenophobia in the Member States of the EU, Strasbourg, p. 4).

45 OSCE 2005: OSCE Human Dimension Commitments, Volume 1, Warsaw.

46 See for the definition the introduction of this report.

## 1.2.1 The Lack of Comparable and Reliable Data

An important theme running through most reports compiled by international institutions and NGOs on hate crimes is the problem of comparable data. Countries vary not only in their definition of what hate crimes are, but also in what kinds of data and information they collect and publish about hate-motivated incidents and offences. Therefore, it is almost impossible to compare hate crime rates between different states.<sup>47</sup>

According to the assessment of the Agency for Fundamental Rights (FRA) of the European Union only two EU member states – Finland and the United Kingdom – have developed criminal justice data collection systems on racist and other hate crimes which can be considered “comprehensive”, with extensive data collection and information on victim characteristics or places of victimization. Despite differences between the German and Polish legal frameworks and law enforcement practices (see chapter 2 and 3) both national official hate crime registration and data collection systems are described as “sufficient” or “good”. A “good” system is defined here as a system that systematically registers incidents/crimes, and/or focuses on right-wing extremism/hate crimes.<sup>48</sup> Concerning recent policies and developments in the field of monitoring of racially motivated or right-wing violence, Germany is considered by the FRA as being amongst the member states with noticeable improvements over the last couple of years, observing that “state and non-governmental initiatives can complement each other to produce a fuller account of the situation”.<sup>49</sup> However, it is also highlighted “that the number of registered crimes might increase if existing laws, which are well placed to prosecute a range of ‘racist’ crimes, were applied more broadly to ‘everyday’ racism that is not affiliated to the activities of extremist groups”.<sup>50</sup> Throughout the reports, positive references are made to the activities of victim support organizations in East Germany, complimenting them for both providing a useful alternative data source and for addressing the needs by those who have been victimized by racist violence, an approach that is considered “as relatively rare” throughout the EU.<sup>51</sup>

Despite the categorization of the Polish registration system as “good”, which is based on the comparison with other countries, where no data on hate crimes is collected and published at all, the current practice displays obvious weaknesses. According to the Polish RAXEN reports (2004 and 2005),<sup>52</sup> the information provided by the Police Headquarter’s Press Office, the Ministry of Justice, and the Ministry of the Interior offer only a fragmentary view of the situation in Poland. They do not indicate precisely what crimes are registered by the authorities, against whom the registered crimes were committed, and whether and what kind of legal steps were taken accordingly. The 2004 report states that there is no government institution in Poland that systematically collects data on antisemitic incidents. In the 2005 report the authors point out that there is also no official or unofficial data available on islamophobic incidents, and that the available data regarding antisemitic hate crimes is still very partial. With respect to attacks on the Roma community it is criticized that

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47 International Centre for the Prevention of Crime 2002: Preventing Hate Crimes: International Strategies and Practices, Montreal.

48 According to the FRA eight other EU member states are falling under the category „good“: Austria, Czech Republic, Denmark, France, Ireland, Poland, Slovakia and Sweden. Nine states are said to have only a „limited system“ (Belgium, Estonia, Hungary, Latvia, Lithuania, Luxembourg, Netherlands, Portugal and Slovenia), while five do not provide any official data (Cyprus, Greece, Italy, Malta and Spain) on hate crimes (European Union Agency for Fundamental Rights: Report on Racism, p. 121).

49 Ibid.; p. 145

50 Ibid.

51 Ibid.; p. 132.

52 Only two of the Polish RAXEN reports, produced since 2003 by the Helsinki Foundation for Human Rights, are available to the public; the most recent one covers the year 2005, and devotes only a few pages to the topic „racist violence and crimes“ (Helsinki Foundation for Human Rights 2004 and 2005: Data Collection. RAXEN National Report, Poland, European Racism and Xenophobia Information Network, Warsaw).

the Ministry of the Interior and Administration „should possess information about racist violence against Roma“, but does not make it public, not even by individual requests.<sup>53</sup> Three national NGOs are mentioned as important alternative data sources with respect to incidents of hate crimes and hate speech in Poland: „Nigdy Więcej“, the Crisis Intervention Society, and the “Open Republic” Association Against Anti-Semitism and Xenophobia.

## 1.2.2 Legislation and Law Enforcement

Besides the need of more sophisticated data collection systems and mechanisms of monitoring, all supranational bodies point to the relevance of appropriate hate crime legislation in place to protect against bias-motivated offences, identifying the adequate implementation by law enforcement agencies as one of the biggest challenges. The reports published by ECRI are often referred to as the most comprehensive accounts of official policy developments since the end of the 1990s.

In its first report (1998) on **Germany**, ECRI positively noted that the authorities had adopted firmer measures to combat racial violence in the wake of the arson attacks in Mölln and Solingen. These measures included improving police methods for monitoring and combating violent right-wings extremists, police surveillance of right-wing groups, banning of several neo-Nazi organizations and investigations by the federal prosecutor on attacks against members of minority groups. In the second report (2000), however, it was criticized that the existing legal framework and policy measures had not proven to be sufficient to effectively deal with the ongoing challenge of violent attacks. The report expressed special concern over the increase in antisemitism in general, and violent assaults on the Jewish community. It also mentioned reports of ill-treatment and misconduct by law enforcement officials, particularly involving individuals of foreign origin. The authors also observed a tendency amongst German authorities and the media to portray racist violence and harassment solely as a problem of the new federal states instead of viewing it as an overall German problem. In the third follow-up report (2003), ECRI showed concern that despite various initiatives taken, racist, xenophobic and antisemitic violence continued to constitute a major problem in Germany, affecting particularly asylum seekers, members of the Jewish community, as well as Roma and Sinti. The report also referred to complaints of German NGOs, that whereas German legislation contains comprehensive provisions to counter organized forms of right-wing extremism, existing legislation and registration systems are not geared towards bringing to light the racist dimension of offences. It also expressed concern that German criminal law does not explicitly provide for the racist motivation to be taken into account by the courts as a specific aggravating circumstance in sentencing. ECRI, therefore, has repeatedly urged the German authorities to define racially motivated crimes or other hate crimes as a specific offence in the Criminal Code and to pass legal provisions according to which penalties would be enhanced for bias-motivated offences.<sup>54</sup>

The main point of criticism raised in the latest German RAXEN reports refers to the lack of proactive measures by police authorities specifically focussing on right-wing offences. With regard to the victims of hate crimes in Germany the authors emphasize the commitment of civil society groups, but note that “measures aiming at providing assistance to victims of racist violence appear significantly less common” than in the past.<sup>55</sup> In a more recent interview with the German

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53 Helsinki Foundation for Human Rights 2004: Data Collection, p. 33.

54 All information is based on the following reports: European Commission Against Racism and Intolerance 1998: First Report on Germany, CRI (98) 22, Strasbourg; European Commission Against Racism and Intolerance 2001: Second Report on Germany, CRI (2001) 36, Strasbourg; European Commission Against Racism and Intolerance 2004: Third Report on Germany, CRI (2004) 23, Strasbourg.

55 Bosch, Nicole/Peucker, Mario 2007: Ethnic Discrimination and Xenophobia in Germany. Annual Report 2006, Bamberg, p. 6.

news magazine *Der Spiegel* one of the authors stated: “In order to ensure the sustainability of the struggle against xenophobia and anti-Semitism [in Germany] respective good practice initiatives and projects (e.g. victims’ support organization) must be supported on a long-term basis and continuously institutionalised.”<sup>56</sup>

In the case of **Poland**, ECRI in its first report (1997) excused many flaws in the legal system and in the official approaches to tackle discrimination and hate crimes with the social, economic and cultural upheavals and transitions Poland, like most other countries of Central and Eastern Europe, was going through. By that time, Poland was still in the process of elaborating a new Constitution and Criminal Code. Incidents of outright manifestations of discrimination or intolerance were said to be rare. In its second report on Poland (1999) ECRI stressed the fact that the Polish government had taken some steps to address the problem of racism and discrimination through the introduction of relevant legislation, as well as moving towards an increased recognition of the existence of national and ethnic minorities due to changing patterns of migration. Despite this progress, however, it was criticized that problems of hate crimes and hate speech were still marginalized and largely unacknowledged in Poland, and that deeply ingrained antisemitic attitudes and insensitivity to diversity still persisted among large segments of the population. ECRI advised the Polish authorities to implement or strengthen programs to counter xenophobia and intolerance, especially legislative and judicial instruments, to institute the training of public officers, to begin monitoring levels of discrimination and the living conditions of minority groups, especially those, like the Roma, most often the victims of intolerance. ECRI also called for a large-scale campaign to increase public awareness of these problems. In its third report on Poland (2005), ECRI expressed concern that the authorities rarely investigated and prosecuted cases of racial hatred, and allowed antisemitic material to freely circulate on the market. ECRI pointed out that in investigating violent attacks against ethnic minorities, such as Roma or migrants, the police often did not take into account the racist motivation of crimes, which resulted in a lighter sentence for the perpetrator, if convicted. Moreover, the Commission critically pointed out that there was still no comprehensive body of legislation prohibiting racial discrimination in all fields of life. Furthermore, the report drew attention to allegations of police violence and abuse directed particularly at ethnic minority groups; to pervasive feelings and manifestations of antisemitism, and a general lack of public awareness of the problems of racism and xenophobia.<sup>57</sup>

On 20 June 2007, the Council of Europe’s Human Rights Commissioner expressed strong concerns about the Polish government’s approach to LGBT people, including the withdrawal from circulation in early 2006 by the Ministry of Education of the Polish version of *Compass – Human Rights Education with Young People*, a Council of Europe anti-discrimination handbook and a manual on human rights for young people. When shown the alternative materials, the Commissioner found “the portrayal and depiction of homosexuality [...] offensive, out of tune with principles on equality, diversity and respect for the human rights of all”.<sup>58</sup> The Commissioner also expressed concerns about proposed measures to penalize the alleged promotion of homosexuality in schools, deplored any instances of hate speech towards homosexuals and called on the Polish authorities not to tolerate such speech.

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56 Interview with Nicole Bosch, in: Spiegel Online, 29.8.2007.

57 All information is based on the following reports: European Commission Against Racism and Intolerance 1997: Report on Poland, CRI (97) 59, Strasbourg; European Commission Against Racism and Intolerance 1999: Second Report on Poland, CRI (1999) 36, Strasbourg; European Commission Against Racism and Intolerance 2005: Third Report on Poland, CRI (2005) 25, Strasbourg.

58 Amnesty International 2007: Poland. Submission to the UN Universal Periodic Review, London, p. 3.

## 1.2.2 Concerns Raised by European NGO-Networks and International Human Rights Organizations

There are various networks of NGOs on the European level, devoted to fighting racism and right-wing extremism, the largest ones being UNITED for Intercultural Action (European Network Against Nationalism, Racism, Fascism and in Support of Migrants and Refugees),<sup>59</sup> and the European Network Against Racism (ENAR). ENAR was founded in 1998, and perceives of itself as the “voice of the anti-racist movement in Europe”,<sup>60</sup> representing 600 NGOs from all EU member states. At the European level, ENAR tries to influence EU legislation and policies related to anti-racism and anti-discrimination by developing policy papers and recommendations, and by undertaking collective lobbying actions. The network has been publishing so called Shadow Reports since 2001, including annual EU-wide Shadow Reports, identifying general trends concerning the phenomenon of racism in the EU, and country-specific Shadow Reports, covering all member states in 2006. These reports deal with a variety of aspects and manifestations of racism and discrimination, ranging from discrimination in the employment, housing, education and health system to policing and racial profiling. One chapter in each report is reserved to the issue of “racist violence and crime”.

The five Shadow Reports on **Germany**, that have been published since 2002, were all produced by authors linked to the “Institut für Migrations- und Rassismussforschung” in Hamburg, with some support from other German NGOs. In ENAR’s latest country reports on Germany (2004, 2005 and 2006), the authors highlight some manifestations of racism and discrimination of minority groups which other organizations tend to neglect, such as special laws for asylum seekers which restrict their right to free movement and choice of residency, or so called “anti-terror” measurements which allow for “racial profiling”. They also point to the particular difficult and vulnerable situation of undocumented migrants, living without any legal protection.

With regard to public policies to combat racist violence and hate crimes the authors are critical about the official approach, which they conceive as much too narrow by focussing discourses and law enforcement activities only on right-wing extremism, and by that attributing racism to the fringes of society. Since institutional and structural forms of racism and discrimination are considered as an integral part of the problem, the latest Shadow Report on Germany concludes with the statement, that “there is a need for the establishment of an independent centre to monitor right-wing extremism, racism and antisemitism in Germany, thereby following EU standards, to override the trivialisation of right-wing extremism and xenophobic movements in Germany”.<sup>61</sup>

The most recent ENAR Shadow Report with the title “Racism in **Poland** 2006” was produced by the NGO Arabia pl., a minority rights organization, which supports and gives advice to bi-national families and couples. The reports identifies as one of the greatest threats to tolerance in Poland the xenophobic and racist views of people and activists associated with the League of Polish Families, some of whom were also members of the previous national government. Furthermore, it points to the deteriorating situation of religious (Jews and Muslims) and sexual minorities which are considered by the report as the main target groups for discrimination and harassment in Poland. Similar to the German ENAR report, the author is very critical about police control and surveillance measures targeting especially Muslims in the context of the “war on terrorism”. The report also includes a short section titled “racist violence and crime” which states: “There are no detailed statistics on attacks and racist violence in Poland. However the anti-racist association

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59 <http://www.unitedagainstracism.org>

60 European Network Against Racism (n.d.): ENAR. The Voice of the Anti-Racist Movement in Europe, Brussels.

61 Hieronymus, Andreas/Schröder, Lena 2007: ENAR Shadow Report 2006. Racism in Germany, Brussels, p. 38.

‘Nigdy Więcej’ mentions more than ten cases a month in the first quarter of 2006 in its catalogue of incidents entitled ‘Brunatna Księga’ (‘Brown Book’). Since few foreigners live in Poland and not all racist crimes are reported (except for the most dangerous ones), we can say that the real numbers remain unknown.<sup>62</sup>

**Amnesty International**, as one of the leading international human rights organizations, has also been active to some extent in the monitoring of hate crimes in Germany and Poland. Given the hostile climate against the LGBT community in Poland, AI showed particular concern about the abolition in 2005 of the Office of the Government Plenipotentiary for the Equality of Men and Women. This Office was responsible, amongst others, for the promotion of equal treatment of individuals belonging to the LGBT community (see chapter 1.3.2).

Amnesty International (AI) also investigates cases of police brutality and misconduct in both countries, which must be considered as a crucial obstacle for a broader reporting of hate crimes. In 1995, the first respective report on Germany listed more than 70 cases of alleged ill-treatment and the use of excessive force by police officers in restraining or arresting people, especially asylum-seekers and members of ethnic minorities.<sup>63</sup> In this and follow-up reports (1997 and 2004) AI has identified a “worrying pattern” of brutality that is often driven by racist motivations and resentments, as well as a systematic failure by German authorities to properly investigate and bring to justice officers responsible for violence and ill-treatment.<sup>64</sup> Both, AI and ECRI, have repeatedly expressed concern about the length of investigations into allegations of police abuse in Germany, as well as the reluctance of prosecutors to press charges against the police, and the practice of filing counter-charges against victims.

In a recent AI-report submitted to the United Nations, the organization also expressed concern over police ill-treatment and racism in Poland.<sup>65</sup> According to AI there were continuing allegations of ill-treatment by law enforcement officials and about incidents of police violence that had gone unreported due to victims’ fear of being prosecuted themselves. It appears that prostitutes, Roma and trafficked persons are most frequently the victims. There are also concerns that incidents of police violence are not always impartially investigated and rarely reach the courts. The authorities have been urged by AI to intensify efforts to eradicate cases of police ill-treatment through training, effective investigation and prosecution of those responsible. According to government information, in the period from January 2003 to September 2006, 3.646 reports on police offences were filed with the prosecutor, including bodily injury, cruelty with an aim of extracting a statement, and infringement of bodily integrity. However, there was not one single conviction by the courts.<sup>66</sup>

Other international human rights organizations such as **Human Rights Watch**, which conducted two fact-finding missions and investigations into right-wing attacks against migrants and refugees in Germany in the 1990s, have also urged European states, including Germany, “to redouble their efforts to combat racism in all its forms and to bring to justice suspected perpetrators of hate crimes”.<sup>67</sup> The authors interpret the recent increase in antisemitic and islamophobic hate crimes in the context of the continuing Middle East crisis, and mention as particularly troubling development for Germany the rising number of attacks on synagogues.

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62 Kubicki, Marek 2007: ENAR Shadow Report 2006. Racism in Poland, Warsaw, p. 12.

63 Amnesty International 1995: Ausländer als Opfer. Polizeiliche Mißhandlungen in der Bundesrepublik Deutschland, Bonn, p. 1.

64 Amnesty International 2004: Back in the Spotlight. Allegations of Police Ill-Treatment and Excessive Use of Force in Germany, London.

65 Amnesty International 2007: Poland. Submission to the UN Universal Periodic Review, London.

66 Stated in Council of Europe Commissioner for Human Rights 2007: Memorandum to the Polish Government, CommDH(2007)13, Strasbourg.

Poland has received particular attention in past years, amongst others, from the **European Roma Rights Center (ERRC)**, which has established in various reports that members of the Roma community in Poland are frequently the targets of racially motivated violence, police abuse and systematic racial discrimination. According to the ERRC, “many Roma live in a climate of fear that pervades all aspects of their lives, from their interaction with authorities to their ability to access public spaces and services, and to participate fully in the lives of the communities in which they live.”<sup>68</sup> The organization also has repeatedly highlighted the failure of public institutions in Poland to protect Roma people, up to the point of institutional denial of justice for Romani victims of racist crimes. “Investigations into racially motivated crimes [...] have frequently been stalled or discontinued altogether, often with the justification that the authorities did not find sufficient evidence to issue arrest warrants, indictments, or judicial sentences – even in cases in which the alleged perpetrators had been identified by victims and/or witnesses.”<sup>69</sup>

The main concerns addressed by supranational bodies and international NGOs and their recommendations to improve public policies with respect to hate crimes can be distinguished between those referring to weaknesses of the official monitoring systems, and the dissatisfactory implementation of hate crime legislation in place. Others highlight the need of more proactive measures by governments, including programs aimed at raising public awareness towards the prevalence of antisemitism and xenophobic violence; others draw attention to racist dispositions within the law enforcement institutions themselves. Whereas we will deal with the legal frameworks and problems linked to the official monitoring systems in Germany and Poland in the subsequent chapters more in detail, we will now take a brief look at programs and instruments at place which have been introduced in the respective countries to further the cooperation with civil society actors in order to counteract right-wing extremism, antisemitism and racism. We will concentrate on those measures which are relevant for the combat of hate crimes.

### 1.3 National Programs in Response to Hate Crimes

International organizations have repeatedly drawn attention to the prominent role of specialized bodies and independent nongovernmental organizations in the fight against hate crimes. The Office for Democratic Institutions and Human Rights (ODIHR), for example, noted in one of its recent reports, „that a small number of NGOs have been instrumental in actively monitoring and recording incidents motivated by hate [...]. While this information does not diminish participating States’ responsibility for monitoring and recording incidents, it does suggest a potential value in state-NGO collaboration”.<sup>70</sup> Other reports have pointed to the need of specialized services to victims of hate crimes, involving community-based associations and other civil society actors.<sup>71</sup>

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67 Human Rights Watch/Amnesty International 2003: Joint Statement at the OSCE Meeting on Racism, Xenophobia and Discrimination, Vienna, 4.-5.9.2003.

68 European Roma Rights Center 2002: The Limits of Solidarity. Roma in Poland after 1989, Country Reports Series, No. 11, p. 8.

69 Ibid.

70 Office for Democratic Institutions and Human Rights 2005: Combating Hate Crimes in the OSCE Region. An Overview of Statistics, Legislation and National Initiatives, Warsaw, p. 101.

71 Human Rights First 2007: Hate Crimes. 2007 Survey, New York.

### 1.3.1 Germany

Public policy responses to the rise of right-wing violence and related hate crimes in Germany since the 1990s have been described by various studies as a mix of repressive and preventive measures, with a high emphasis on funding civic engagement and local initiatives since the early 2000s.<sup>72</sup> The fight against right-wing extremism and racism is supported – with varying intensity and efforts – by all parties represented in the national parliament. In the period following reunification and the surge of far-right activities and racist incidents, the federal government adopted four major action and funding programs with different “philosophies” and approaches to the problem of right-wing violence: the “Action Program Against Aggression and Violence”, launched in 1992 under the conservative Kohl government; the Action Program “Youth for Tolerance and Democracy – Against Right-wing Extremism, Xenophobia and Anti-Semitism”, which was adopted by the German parliament in 2001, and expired in 2006; and, finally, the programs “Diversity Does us Good – Youth for Diversity, Tolerance and Democracy” and “Consultation Networks and Mobile Intervention Against Right-wing Extremism”, which both started in 2007.

Throughout the 1990s, the federal government focused on projects and local initiatives, which were mainly aimed at counteracting the growing trend amongst adolescents to join far-right parties, militant neo-Nazi organizations or right-wing skinhead subcultures. Pedagogical initiatives targeting potential juvenile perpetrators took various forms, from “classical” youth work, sport related programs to action-and adventure-centered activities, following the logic that many youth, especially in East Germany, sympathized with right-wing and xenophobic ideologies because of grim employment outlooks and deteriorating social conditions.<sup>73</sup> This particular youth work approach, however, which was supported by the “**Federal Action Program Against Aggression and Violence**”, came soon under public scrutiny, after evidence had been established that some of these projects were not effective in fostering democratic values, but rather provided right-wing groups with locales for recruiting further members to their right-wing extremist cause.<sup>74</sup>

Following a wave of severe racist and antisemitic hate crimes in 2000 and 2001, a joint motion by almost all parties, represented in the national parliament (SPD, FDP, PDS and Bündnis 90/Die Grünen), formed the basis for new government initiatives and programs. In April 2001 a program to encourage right-wing extremists to leave the movement was launched, which since then has been run by the Federal Office for the Protection of the Constitution.<sup>75</sup> The most important initiative, however, was the establishment of the program “**Youth for Tolerance and Democracy – Against Right-wing Extremism, Xenophobia and Anti-Semitism**”, which incorporated a new political approach, by assuming that extremism does not represent a mere marginal problem of German society.<sup>76</sup> Thus, the attention was shifted from a clear concentration on right-wing perpetrators to the additional support of human rights policies, as well as the civic engagement and commitment by those in civil society opposed to right-wing extremism and intolerance. One particular goal of

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72 Shortly after reunification, the initial reaction of the ruling Christian Democratic Party was to tighten Germany’s asylum laws in order to lower the number of refugees and immigrants in the country. For a short overview on public hate crime policies in Germany see Bleich, Erik 2007: Hate Crime Policy in Western Europe: Responding to Racist Violence in Britain, Germany, and France, in: *American Behavioral Scientist*, Vol. 51, No. 2, pp. 149-165.

73 Rieker, Peter 2006: Juvenile Right-Wing-Extremism and Xenophobia in Germany: Research and Prevention, in: Rieker, Peter/Glaser, Michaela/Schuster, Silke (ed.): *Prevention of Right-Wing-Extremism, Xenophobia and Racism in European Perspective*, Halle, p. 67-79.

74 Scherr, Albert 2000: Gefährliche Nazis, überforderte Sozialarbeiter? Die Bekämpfung des Rechtsextremismus und der Auftrag der Jugendhilfe, in: *Jugendhilfe* 38, pp. 307-314.

75 A similar program, named EXIT, was started already in 2000, as a „private initiative“ of foundations and the German magazine *stern* (<http://www.exit-deutschland.de>).

76 Frindte, Wolfgang/Preiser, Siegfried 2007: Präventionsansätze gegen Rechtsextremismus, in: *ApuZ*, 11/2007, pp. 32-38.

the program was the empowerment and strengthening of marginalized groups, which are mostly affected by discrimination and hate crimes.<sup>77</sup> For the first time, the improved protection and support of victims of xenophobic violence was acknowledged as an important contribution in the combat of racism and right-wing extremism in Germany. The program comprised three sub-schemes: XENOS, devoted to counter ethnic and religious discrimination in vocational training and the work place; ENTIMON, to support projects of civic education, intercultural learning, and NGO networks against right-wing extremist tendencies in all parts of Germany; and, finally, the CIVITAS program, which was created to tackle the particular challenges of right-wing activities and hate crimes in the new federal states.

The **CIVITAS program** allowed, amongst others, for the creation of so called structural projects, all run by NGOs, which have received long-term funding from the federal government since 2001: “Mobile Consultation and Advice Teams” (MBT), “Networking Institutions”, and eight specialized victim support and advice centres, one of them being the association Opferperspektive in the state of Brandenburg. These projects are considered as the basic pillars of a civil society approach to counter right-wing extremism in East Germany.<sup>78</sup> The main task of the MBT is the support of municipal actors, including NGOs, associations, voluntary groups, local alliances, politicians and administrations, who/which are seeking advice and expertise with regard to activities and strategies against right-wing extremist manifestations. The so called “Networking Institutions” are initiatives which offer programs and services to particular towns and regions, especially to local alliances devoted to foster democratic values and tolerance. Their main task is to establish long-lasting and sustainable relationships and links between local actors and institutions, such as schools, youth welfare services, church groups and other community organizations. The victim support organizations were created to account for the particular difficult situation of many victims of right-wing hate crimes in East Germany, „which is characterized by a lack of mobility, much legal uncertainty, communication difficulties due to language restrictions, and profound distrust of state authorities and institutions”.<sup>79</sup> They have adopted a human rights approach, and take the perspective and interests of the victims as the guiding principle for all their activities. Central to their work are low-threshold services and an outreach concept when consulting victims (see for a detailed account of their work chapter 4).

At the beginning of 2007, the program “Youth for Tolerance and Democracy”, including CIVITAS, which had provided a total of 192 million Euros to support and promote some 4.500 NGO projects and initiatives between 2001 and 2006,<sup>80</sup> was replaced by the schemes **“Diversity Does us Good – Youth for Diversity, Tolerance and Democracy”** and **“Consultation Networks and Mobile Intervention Against Right-wing Extremism”**. Whereas most official documents state that both schemes take their lead from the experiences gained during the previous action programs, the new approach and funding structures indicate a notable shift: One of the most important objectives, as formulated by the official guidelines, is now the strengthening of joint initiatives and close cooperation between the federal, state and local governments.<sup>81</sup> The first program (Youth for Diversity) initially funds so called local action plans against right-wing extremism, which are projects and programs, mainly run and controlled by municipalities, with support of local NGOs. It will also provide funding for further pilot projects in the fields youth, education and prevention.

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77 Roth, Roland/Klein, Ludger 2005: Bürgernetzwerke gegen Rechts: Perspektiven des Aktionsprogramms gegen Fremdenfeindlichkeit und Rechtsextremismus, Berlin, p. 2.

78 Bundesministerium für Familie, Senioren, Frauen und Jugend 2006: Leitlinien zur Umsetzung des Programms CIVITAS, Berlin.

79 Bundesministerium für Familie, Senioren, Frauen und Jugend 2003: Leitlinien zur Umsetzung des Programms CIVITAS, Berlin, p. 3.

80 Frindte/Preiser 2007: Präventionsansätze, p. 33.

81 [http://www.kompetent-fuer-demokratie.de/inhalte\\_und\\_aufbau\\_12.html](http://www.kompetent-fuer-demokratie.de/inhalte_und_aufbau_12.html).

Under the latter program (Consultation Networks), networks of representatives of state institutions, law enforcement agencies, experts from youth and social work, academics, and NGOs were asked to set up teams of professionals which can provide “crisis intervention” with respect to right-wing manifestations if needed (see chapter 4). Only after a concerted lobbying effort by a coalition of academic experts, NGOs and politicians, the federal government decided to provide continuous funding to the “tried-and-tested” structural projects in East Germany, namely the mobile advisory teams and the victim support organizations. States and cities, however, must increasingly allocate their own funds to prolong support for these initiatives, raising questions about the longevity of some of the projects.

### 1.3.2 Poland

In Poland, no specialized programs have been adopted so far, which would allow for regular government funding of NGOs involved in activities against right-wing extremism, antisemitism, and xenophobia and/or hate crime victim assistance. Some financial support by state institutions, however, is available for general human rights activities and associations of national, ethnic and religious minorities and their cultural and publishing activities aimed at maintaining and promoting their particular heritage and identity.

In May 2004, the Polish government issued the “**National Program for Counteracting Racial Discrimination, Xenophobia and Related Intolerance (2004-2009)**” in order to fulfill the obligations stemming from its participation in the World Conference against Racism, convened by the United Nations General Assembly and held in Durban in September 2001.<sup>82</sup> The official objective of the program is to perform tasks aimed at combating xenophobia, racism and antisemitism, and spreading a broader culture of tolerance within Polish society. The framework of the program was drafted after consultation with numerous public bodies and NGOs. Representatives of the “Nigdy Więcej” who were also consulted in the drafting process, for example, stressed the need for better implementation of existing legal provisions on hate crimes and hate speech. As the main fields of activities for the first year the draft identified research and analysis of the amount of discrimination in the fields of employment, housing, culture, education etc.; in the second and third year the focus was supposed to be on educational activities (training, publications and campaigns) to raise public awareness on racism and related intolerance on all levels of society, including law enforcement institutions; in the fourth year proposals for changes in the legal framework were to be developed and investigated.

Whereas the Polish government announced, that the results of the program would be assessed regularly in order to adapt it to the real needs and problems existing in the country, there is no evaluation or progress report publicly available with regard to its actual implementation. Most activities, which have been carried out under the framework of the program with respect to hate crime policies so far seem to be related to research and improved information gathering by various government institutions and law enforcement agencies (see chapter 3).

At the beginning of 2004, the Polish government also launched the “**Program for the Roma Community in Poland**”, which was to some extent inspired by a government pilot program for the Roma community in the Malopolska Province (2001-2003). The program was drafted in consultation with representatives of Roma organizations. Its tasks are to improve general living, health and employment conditions of Romani people, and to ensure their security by preventing

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82 Krajowy Program Przeciwdziałania Dyskryminacji Rasowej, Ksenofobii i Związanej z Nimi Nietoleracji 2004-2009, available at [http://www.stopvaw.org/Ethnic\\_Minorities9.html](http://www.stopvaw.org/Ethnic_Minorities9.html).

racist crimes. The program also aims to promote the history, culture and tradition of Roma communities in the majority population. A priority has been placed on the education of Roma children. The Ministry of Interior and Administration is in charge of coordinating the program.<sup>83</sup>

Some commissions and bodies, which have been established by the Polish parliament and on the executive level, are also worth mentioning, because they have served as potential contact points for victims of discrimination and hate crimes, respectively NGOs representing the interests of minority groups. As a constitutional and independent body the **Commissioner for Civil Rights (Ombudsman)**, which is elected by the Polish parliament for a term of five years, has relatively strong instruments to intervene in cases of discrimination as well as civil and human rights violations.<sup>84</sup> It can demand the initiation of disciplinary or administrative proceedings, and undertake certain interventions before the courts. Everyone has the right to apply to the office of the Ombudsman for assistance in protecting his/her civil and human rights infringed by organs of public authority. However, the Ombudsman may also intervene in cases involving non-state actors. In 2000, the scope of its competences was further extended by imposing on the office the obligation to cooperate with associations and foundations active in human rights activities. In 2001, the “Independent Department for Protection of Foreigners’ and National Minorities’ Right” was established within the office. Complaints with regard to hate crimes and related incidents, however, have represented only a relatively narrow margin of cases examined by the Ombudsman’s office until today.<sup>85</sup> One of its rare interventions with regard to hate crime and hate speech was a recent letter sent to the president of the Polish Football Association (PZPN) which expressed concern about incidents of racism in Polish stadiums.<sup>86</sup> In April 2007, a group of representatives of Polish LGBT organizations met with the Ombudsman and complained about ongoing homophobic attacks in public spaces. The Ombudsman promised to initiate actions in the future in case the office is notified about any such incident.<sup>87</sup>

The **Office of the Governmental Plenipotentiary for the Equal Status of Women and Men**, which was founded in 2001 on the basis of an ordinance of the Council of Ministers, was another equality and monitoring body with some competences and instruments to further public policies against discrimination, mainly on the grounds of gender and sexual orientation. In 2002, its powers and tasks were extended in order to prepare the establishment of an institution for counteracting discrimination based on race, ethnic origin, religion, belief and age. During its existence the Plenipotentiary had taken a number of initiatives welcomed by NGOs and international organizations concerned with the issues of racism and homophobia, in addition to its original mandate of working on gender equality. However, the function and the office were abolished by the new right-wing Polish government in November 2005. According to Amnesty International, this suddenly made Poland „the only European Union country without a statutory equality watchdog and put [...] into question its compliance with the EU legislation on prohibition of discrimination.”<sup>88</sup> The Department for Women, Family and Counteracting Discrimination has in the meanwhile taken over a large part of the Plenipotentiary’s duties. However, the emphasis of the work of the new department appears to be on fighting discrimination against women and supporting strong family values, rather than discrimination on all grounds.<sup>89</sup>

There are further government institutions such as the „Team for National Minorities“, an advisory

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83 [http://www.mswia.gov.pl/palm/en/10/55/Programme\\_for\\_the\\_Roma-Community\\_in\\_Poland.html](http://www.mswia.gov.pl/palm/en/10/55/Programme_for_the_Roma-Community_in_Poland.html)

84 Mazur-Rafal, Monika 2007: Report on Measures to Combat Discrimination. Country Report Poland, European Network of Legal Experts in the Non-Discrimination Field, Utrecht/Brussels, pp. 50 f.

85 Ibid., p. 51.

86 <http://www.rpo.gov.pl/pliki/12081602670.pdf>.

87 Rzepliński, Andrzej 2008: Legal Study On Homophobia and Discrimination On Grounds of Sexual Orientation – Poland, Warsaw, p. 40.

88 Amnesty International 2005: Poland: LGBT rights under attack, Public Statement, 25.11.2005, London.

89 De Schutter, Oliver 2008: Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States. Part I – Legal Analysis, European Union Agency for Fundamental Rights, Vienna, p. 49.

body to the Prime Minister, or the „Joint Committee of the Government and Ethnic and National Minorities“, which was established in 2005 on the basis of the „Act on National and Ethnic Minorities and on Regional Languages“ (see chapter 2), that should, amongst other tasks, protect minority groups in Poland from racism and ethnic discrimination.<sup>90</sup> None of the mentioned bodies, however, with the exception of the Ombudsman, are independent monitoring institutions which are separate from the government. None of them has a clear focus on tackling hate crimes either, since the Polish authorities have not given any priority to the problem as such. Even in the field of the promotion of equality policies the Polish system remains rather weak, because the responsibility for different grounds of discrimination are scattered among several authorities, which has prevented the development of an overarching and comprehensive approach so far.

## 1.4 Summary/Conclusions

Figures on recent incidents of right-wing and related violence, provided in the first part of the chapter, point to the relevance of the problem of hate crime and hate speech in both countries. According to NGO reports the groups mostly affected by hate crimes in Poland are ethnic minorities such as members of the Roma community, gay people as well as alternative youth and activists of anti-racist/progressive social movements. Antisemitic manifestations such as the desecration of Jewish sites and incidents of antisemitic hate speech are also reported to be quite common. In Germany, refugees, migrants and non-ethnic Germans definitely belong to the most vulnerable groups, targeted by racists, skinheads and other right-wingers; outright antisemitic manifestations and incidents have been also on the rise since the 1990s. Similar to Poland, political activists and left-leaning young people are also frequently the target of physical attacks carried out by far-right extremists.

However, comparing the amount and severity of hate crimes in different countries, is a quite difficult, if not impossible task as has been emphasized by various supranational bodies, mainly due to different national monitoring and registration systems and other factors such as differences in the public and official recognition of the problem. International organizations have raised a number of concerns over the weaknesses of hate crime policies in both countries, mainly focussing on the responses of law enforcement agencies, which are considered as a crucial element in the combat of right-wing extremism, homophobia and racism. Whereas the German authorities have been credited for having stepped up their efforts and having taken more pro-active measures over the years, the influence of far-right politicians in previous Polish governments has obviously stalled programs and legislation in place to counteract hate crimes and to protect the rights of minority groups. As has been highlighted by numerous incidents, open hostility towards the LGBT community and antisemitic attitudes could gain ground at the highest political level.

Government programs providing financial support for NGOs, active in the field of monitoring right-wing violence and assisting the victims, were introduced for the first time in Germany in 2001, following a new wave of particularly severe antisemitic and racist incidents. The federal CIVITAS program (2001-2006) allowed, amongst others, for the creation of specialized hate crime victim support organizations, but only in the Eastern parts of the country. No comparable programs have been launched in Poland so far, where a general lack of publicly accessible information and research on government and law enforcement activities against right-wing violence and hate groups makes a more precise assessment of public policies rather difficult.

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<sup>90</sup> Mazur-Rafal 2007: Report on Measures, p. 52.

## 2 The Legal Framework for Monitoring and Fighting Hate Crimes

National legislation to address hate crimes through the criminal justice system can provide one tool in a broader struggle to combat manifestations of right-wing extremism, antisemitism, racism and homophobia. Whether laws can be used as an „important weapon“ in this struggle and as a remedy for the ones targeted, seems to be linked to a variety of factors, ranging from specific national legal and civic cultures, the competences, willingness and attitudes of police officers, public prosecutors, judges and lawyers to address the complexity of the problem, to the particular social and political standing of the communities and groups mostly affected by those crimes.

Especially for the post-communist countries of Central and Eastern Europe, it seems to be quite common to have very extensive legal frameworks and provisions in place, which formally protect individuals and minority groups from civil and human rights violations, but in many regards do not correspond with dominant political ideologies and the actual implementation of the laws. Different experiences of NGOs with state and law enforcement institutions seem also to have an influence on how they perceive the relevance of legal frameworks. Whereas in the German case, some organizations frequently assist victims of hate crimes with taking legal steps against their perpetrators and accompany them through court proceedings, anti-racist groups in Poland, for example, have traditionally not been very active in developing litigation strategies.<sup>1</sup> Furthermore, the provisions in the Polish legislation against hate crimes and their implementation have not been the subject of any systematic assessment or research, carried out by independent legal aid associations or academics.<sup>2</sup> Government reports dealing with law enforcement activities and the implementation of provisions in the field of antisemitic, racist and xenophobic crimes are usually not publicly available.

In the following we will look at the national legislation in both countries, and how they treat bias-motivated attacks. In each country chapter we start with a brief account of the most important constitutional and criminal law provisions in place, followed by some information on the rights of crime victims in court proceedings and available compensation and legal funds, which are or might be relevant for litigation strategies of NGOs and hate crime victims.

### 2.1 Germany

#### 2.1.1 Laws Relevant for the Prosecution of Hate Crimes

##### *Constitutional Provisions*

The German „Basic Law“, which became the *de facto* German Constitution on October 3, 1990, after reunification, defines some basic rights which are relevant to the legal prosecution of hate crimes. According to Article 1 (1) the human dignity of all people shall be inviolable; protected are the right to free development of personality without violation of the rights of others (Art. 2 [1]), as well as the right to life and physical integrity (Art. 2 [2]). Article 3 (3) prohibits any discrimination on the grounds of sex, parentage, race, language, homeland and origin, faith, religious or political opinions, and disability. According to Article 1 (3), these basic rights are directly applicable law.<sup>3</sup>

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1 See ENAR 2006: Responding to Racism in Poland, Brussels, p. 6.

2 One rare example is the „Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation“ by Andrzej Rezeplinski, prepared for the European Union Agency for Fundamental Rights in 2008.

3 German Bundestag 2000: Basic Law for the Federal Republic of Germany, Berlin.

The „prohibition of discrimination“ refers directly to the relevant dimensions of hate crimes. However, the application of this anti-discrimination clause is confined to state institutions and specific areas of private and public life as defined by the „General Equal Treatment Act“<sup>4</sup> and other laws. The other basic rights first and foremost apply to any individual without differentiation, and do not provide further details for a legal definition of hate crimes.

### *Provisions of the Criminal Code*

This reluctance to spell out detrimental dimensions for social interaction is shared by the German Criminal Code. Whereas the general protection of basic rights of all individuals is detailed in the criminal law, there is no specific legislation referring to „politically motivated“, „hate“ or „biased“ crimes.<sup>5</sup> There is also no law in force in Germany according to which a criminal offence is explicitly recognized as racist, xenophobic, antisemitic or homophobic.<sup>6</sup> The only relevant provision in the German criminal law which directly refers to crimes on grounds of nationality, ethnicity or religion is **section 130 of the Criminal Code**.<sup>7</sup> It bans incitement to hatred or violence against “parts of the population or a national, racial or religious group”, and prohibits assaults on “the human dignity of others by insulting, maliciously maligning, or defaming segments of the population” (incitement of the people). Holocaust denial, antisemitic insults and the justification of hatred against Jews, or naming all migrants “asylum cheaters” are typical cases of incitement of the people and a violation of section 130 of the Criminal Code. The maximum penalty is imprisonment for three years. In legal practice the section is being applied rather cautiously in order not to collide with the basic right to freedom of expression.

Furthermore, **section 86 and 86a of the Criminal Code** prohibit dissemination of propaganda material of anti-constitutional organizations (§ 86), and the use of symbols of a range of anti-constitutional organizations (§ 86a). Nevertheless, the list of prohibited symbols is limited to organizations of the “Third Reich” and a few associations declared illegal after 1945. Hence, the paragraph does not apply to most symbols used by right-wing extremist today, and is not fit to combat all expressions of right-wing extremism. As right-wingers use codes, modernized symbols, trade marks and brands, legal measures are easily avoided.<sup>8</sup> Nevertheless, right-wing insignia – be they declared illegal or not – displayed by an offender are an important indication for victims and witnesses for proving his or her right-wing orientation.

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4 The „General Equal Treatment Act“ was passed by the German parliament in 2006, following EU equal treatment and anti-discrimination directives. It prohibits discrimination on grounds of race or ethnic origin, sex, religion or philosophy of life, disability, age, or sexual identity, and refers mainly to aspects of public and professional life (education, employment, access to goods and services).

5 The reluctance of German law to specifically address „hate crimes“ is a controversial issue of criminological and legal debates. According to one position, the German Criminal Code puts the offence, not the offender, at the centre of examination (Seehafer, Silvia 2003: *Strafrechtliche Reaktionen auf rechtsextremistisch/fremdenfeindlich motivierte Gewalttaten – Das amerikanische „hate crime“ Konzept und seine Übertragbarkeit auf das deutsche Rechtssystem*, Dissertation, Humboldt-Universität zu Berlin, Berlin, p. 72). This is to avoid politicized legislation and judiciary, and represents a „lesson learned“ from German history. Proponents of this position argue that political motivations of an offender are difficult to determine and might open doors for a persecution of political thought (ibid., p. 77). A diverging position sees the offence-based Criminal Code as a mere model of orientation. Numerous examples illustrate that the perpetrator’s intention can not be clearly separated from the act itself (Tolmein, Oliver 2001: *Neue strafrechtliche Reaktionsmöglichkeiten auf rassistisch motivierte Gewaltdelikte*, in: *Zeitschrift für Rechtspolitik*, 2001, p. 319).

6 Tolmein: *Neue Reaktionsmöglichkeiten*, p. 321.

7 Germany’s International Criminal Code is rarely employed to racist or antisemitic acts within Germany.

8 Examples are digit-codes (88 for „Heil Hitler“) and clothing brands like „masterrace“, „consdaple“ (encoding the abbreviation of the NSDAP). For years the German brand „Thor Steinar“ has been popular among the right-wing scene, not only in Germany, without any serious legal responses so far.

**Section 46 of the Criminal Code** does not define the racist, xenophobic or homophobic motivation of the perpetrators as such as an aggravating factor for sentencing in court.<sup>9</sup> Nevertheless, it provides the legal basis for taking into account the perpetrator's motivation, aims and attitudes (as reflected by the criminal act) for the determination of the punishment. Whereas the law prescribes that "expected effects of the sentence on the life of the perpetrator have to be taken into account" (§ 1), it identifies further factors which shall be used pro or against the perpetrator, such as his/her attitudes as symbolized by the offence; the way of executing the offence and the inflicted damage; the life of the perpetrator up to the act, his/her personal and economic conditions as well as his/her behaviour after the act, respective his/her endeavour to redress caused damages and to reach compensation settlements with the victim. The judge, thus, has to decide on a case-by-case basis whether the motivation of the perpetrator is introduced into the procedure and whether it should be taken into consideration as an aggravating factor or not. Public prosecutors are also important for the evaluation of the offender's motivation, as they are heading investigations which have to provide evidence for the perpetrator's intentions, innocence or limited criminal responsibility. Thereby, the existing legislation allows for the perpetrator's motivation to be considered and investigated, thus complying with directives of the European Union.<sup>10</sup>

In 2007, the federal states Brandenburg and Saxony-Anhalt, both located in East Germany and featuring the highest numbers of right-wing offences per capita, proposed legal modifications to section 46 of the Criminal Code.<sup>11</sup> The existing catalogue of criteria to be considered for evaluating the perpetrator's motivation was to be amended with an explicit reference to political motivations or biases.<sup>12</sup> According to the draft bill the enhancement of sentences should safeguard "that discriminating and dehumanizing motives will be sufficiently investigated and examined by the judiciary in *every respective case* and, if detected, considered as an aggravating factor for the sentence."<sup>13</sup> By doing so, for the first time hate crime legislation would be introduced into the German Criminal Code.

Critics, including victim support organizations, have raised doubts whether the proposed amendment would really lead to the desired results, given that judges and public prosecutors can already apply provisions for the enhancement of sentences.<sup>14</sup> It was, however, recommended that, similar to regulations in Great Britain, investigating authorities in Germany should be obligated to examine the background of an offence in any case, where the victim states a right-wing or related motive. NGOs have also demanded, that in all of these legal proceedings the crime victim should be admitted as a "joint plaintiff", according to the legal instrument of "joint action" which will be explained next.

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9 In cases of bodily harm with fatal consequences and (attempted) homicide, „hate against foreigners“, however, is regarded as a „base motive“ and thus as an aggravating circumstance, as was ruled by the Federal Court of Justice in 1999 (Seehafer: Strafrechtliche Reaktionen, p. 34).

10 According to Article 8 of the „Proposal for a Council Framework Decision on Combating Racism and Xenophobia“ from 2001, all EU member states must provide for the effective, proportionate and dissuasive punishment of offences involving racism and xenophobia (<http://europa.eu/scadplus/leg/en/lvb/l33178.htm>).

11 The bill was passed by the Federal Council, its adoption by the Lower House of the German Parliament, however, is uncertain.

12 Gesetzesantrag der Länder Brandenburg und Sachsen-Anhalt: Entwurf eines Gesetzes zur Änderung des Strafgesetzbuches – Strafrechtsänderungsgesetz, introduced to the Bundesrat in September 2007. The list of criteria included in this bill refer to political attitudes, nationality, ethnicity, race, skin colour, religion, world view, origin, outward appearance, disability or sexual orientation of the crime victim. By this, the bill goes even further than the „Hate Crimes Sentencing Enhancement Act“, adopted in the US in 1994, which does not consider disability, gender and sexual orientation.

13 Gesetzesantrag der Länder, p. 3.

14 Opferperspektive e.V. 2007: Standortbestimmung der OPP zum Vorschlag der Strafschärfung bei rechtsextremen Gewalttaten, Potsdam.

## 2.1.2 Options for Victim Support Within the Legal System

### *Joint Action*

The instrument of “joint action”<sup>15</sup> (sections 395-402 of the Criminal Code) provides the opportunity for crime victims to take an active part in court proceedings. Joint action is admissible for persons who have suffered from attempted murder or homicide, assault and battery, offences against sexual self-determination and similar offences.<sup>16</sup> Joint action is applicable in the majority of hate crime offences, victim support organizations are dealing with. Joint action provides the joint plaintiff and his/her lawyer with certain rights, such as access to case files, to file petitions concerning the investigation, to direct questions at the defendant, to submit evidence, to object to expert testimonies and judges assigned to the trial. The lawyer of the plaintiff supports his/her client when giving statements in court, and protects him/her from impermissible or offensive questions by the defense lawyer.

Regarding the often unpleasant role of witnesses in lawsuits (without any rights), the instrument of joint action must be considered a „cornerstone“ for the development of litigation strategies, as it enables hate crime victims to take a pro-active role. Accessing case files, furthermore, provides a possibility to learn about the offenders’ background and attitudes, even if the offenders have the right to refuse to testify their motives in the courtroom.<sup>17</sup> „Without joint action, many law suits would have been discontinued or the right-wing background would not have been brought up. Especially in a difficult political environment, like in the 1990s, the instrument of joint action is indispensable.“<sup>18</sup>

subsidiary prosecution

### *Benefits and compensation for victims*

All crime victims in Germany have the opportunity to apply for a so called „adhesive procedure“ (section 403-406c of the Code of Criminal Procedure). Their civil rights claims, for instance, the redress of material damage inflicted by the perpetrator, can be brought forth within criminal proceedings. The preconditions are less demanding than in civil actions, economic risks are low, no lawyer is required. Furthermore, the accused are more likely to settle the claims than within a civil law proceeding.<sup>19</sup> However, the adhesive procedure has to be accepted by the court, and is dependent on the actual outcome of the criminal lawsuit.

Victims of violent crimes can also try to receive compensatory damages in a civil action. Civil lawsuits usually follow criminal proceedings, and provide an additional opportunity to lodge financial claims against the perpetrators. These civil lawsuits are subject to other legal rules, for instance rules of evidence, and are dealt with by other courts. In the meanwhile, there is a third way how victims of right-wing assaults can apply for compensatory damages. A decision in the national parliament in 2001 led to the establishment of a special fund under the auspices of the

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15 The instrument „joint action“ seems to be similar to the legal provision of „subsidiary prosecution“ in Poland (see chapter 2.2.2).

16 A joint action is not admissible if the offender is under 18 years old and is tried under juvenile law. In proceedings for older youth (between 18 and 21), a joint action is still possible, even though they are being tried under juvenile law. This also applies to proceedings where youth and older youth are being tried concurrently. However, a joint action against an older youth is only valid during the trial portion of the proceedings.

17 Opferperspektive e.V. 2007: Perspektiven nach einem rechten Angriff. Ihre Rechte und Möglichkeiten, Potsdam. p. 15 f.

18 Interview with Miteinander e.V.

19 Herbst, Kai-Uwe/Plüür, Georg 2008: Das Adhäsionsverfahren, Berlin.

Federal Office of Justice, that supports particularly victims of right-wing violence in a fast and unbureaucratic manner. Everybody who has suffered physical and health damages by a right-wing attack, including family members of people killed by right-wing perpetrators, and persons that got injured while trying to assist victims of right-wing violence can apply. The only precondition is that the crime had an obvious right-wing background. It is not necessary that the perpetrators have been traced by the police. However, the beneficiary has to cede to the state all respective civil rights claims for compensation by the offender; it is at the discretion of the state to raise claims against the offender.<sup>20</sup>

According to the new „Victim Compensation Act“, all victims of a violent act can claim compensation for medical treatment and related services like replacement of glasses, but no compensation for damages to property. Filing a criminal complaint against the perpetrators is a precondition for compensation. Moreover, people who suffered injuries while assisting the victim are eligible for compensation. The claim is restricted to citizens and other persons who have a residence permit, excluding many refugees and undocumented migrants, who belong to the group quite frequently affected by hate crimes, and usually have limited access to the health system. Finally, there are also private initiatives that support victims of right-wing or racist attacks financially. The „CURA Fund for Victims“, coordinated by the Amadeu-Antonio-Stiftung, is one example. Depending on donations, the fund pays for medical treatment that is not covered by health insurance (particularly for refugees), rehabilitation following an assault (i.e. psychological counselling), legal costs and other expenses linked to the assault. It also assists in cases of financial emergencies, and helps with the repair of property damaged by physical attacks.

### *Other forms of legal aid*

„Der Weiße Ring“ (White Circle), a nation-wide NGO working on behalf of crime victims, offers a cheque for initial legal counselling. The “Foundation Contra Right-wing Extremism and Violence” of the German Bar Association, established in 2000, aims to support victims of right-wing extremist or political motivated violence in claiming their legal rights by means of solicited assistance. The victim’s lawyer can turn to the foundation in order to receive an advancement of 300 Euro. After the end of the legal proceedings, the foundation will cover the solicitor’s remaining fee, less any fees available from state funds or private legal defence insurances and reasonable contributions by the victim. Alternatively, crime victims of low-income can claim “counselling benefits” from state institutions. Victims, defendants and other parties involved in lawsuits, no matter whether they are citizens of the country, can claim “assistance for legal fees”. It will be granted at discretion of the respective local court, if the applicant can prove economic neediness and that he/she has a reasonable chance of winning the lawsuit.<sup>21</sup>

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20 Bundesministerium der Justiz 2007: Merkblatt Entschädigungsleistung aufgrund rechtsextremistischer Übergriffe, Berlin.

21 All information is based on the legal aid manual of the association Opferperspektive (Opferperspektive: Perspektiven nach einem rechten Angriff, pp. 17 ff).

## 2.2 Poland

### 2.2.1 Laws Relevant for the Prosecution of Hate Crimes

#### *Constitutional provisions*

The current Constitution of the Republic of Poland was passed by the National Assembly on April 2, 1997, and accepted in a national referendum on May 25, 1997. It was a key element in the consolidation process of the democratic system in Poland, establishing the nation as “a democratic state ruled by law and implementing the principles of social justice.”<sup>22</sup> It contains a general anti-discrimination clause, according to which all persons shall be equal before the law, have the right to equal treatment by public authorities, and that no one shall be discriminated against in political, social or economic life for any reason whatsoever (Art. 32). This principle, however, does not specify the criteria for the prohibited forms and grounds of discrimination.<sup>23</sup> In addition to this general anti-discrimination clause, the Polish Constitution contains further specific equal-treatment provisions for women, children, consumers, war veterans and invalids, religious associations, and national and ethnic minorities. It should be mentioned that sexual minorities are not listed among the protected groups.<sup>24</sup> Article 79 provides the right to a constitutional complaint, which however, to a large extent, remains a theoretical right only, because in Poland there is not much tradition to invoke constitutional provisions directly.<sup>25</sup> However, Article 80 of the Constitution guarantees the right to every person to appeal to the Commissioner for Civil Rights Protection (Ombudsman) for assistance in the protection of his/her freedoms or rights infringed by organs of public authority (see chapter 1).

The introduction of **Article 13**, which allows for the prohibition of political parties and other organizations which refer in their programs “to totalitarian methods and procedures, such as Nazism, Fascism and Communism“, and/or promote or allow racial or national hatred, resulted from a joint campaign of the association „Nigdy Więcej” and the Polish Union of Jewish Students for a constitutional ban on racist and neo-Nazi activities.<sup>26</sup> Article 13, however, has never been used in practice.<sup>27</sup> Just recently, the National Prosecutor’s Office came to the conclusion that there are „no organizations based on antisemitic or racist ideology operating in Poland“,<sup>28</sup> that call for legal action, despite enough evidence to the contrary. The investigation by the National Prosecutor was carried out under the framework of the „National Program for Combatting Racial Discrimination, Xenophobia and Related Intolerance“. Again it shows the reluctance of the Polish government institutions to acknowledge the threat posed by various far-right organizations and hate groups.<sup>29</sup>

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22 <http://www.concourt.am/hr/ccl/vestnik/2.24-2004/mazurkiewicz.htm>

23 ECRI, for example, has recommended several times to the Polish government to amend this part of the Constitution by including a list of grounds for discrimination such as, *inter alia*, race, religion, ethnic or national origin and skin color (ECRI 2005: Third report on Poland, p. 8).

24 According to organizations representing the LGBT community, the rejection of a founding draft bill that clearly contained a prohibition of discrimination based on sexual orientation indicates that there is a strong tendency in Poland to deny the principle of equality before the law for gay people (Stowarzyszenie Lambda 2001: Report on Discrimination Based on Sexual Orientation in Poland, Warsaw, p. 32).

25 Mazur-Rafal, Monika 2007: Report on Measures to Combat Discrimination. Country Report Poland, European Network of Legal Experts in the Non-Discrimination Field, Utrecht/Brussels, p. 7.

26 The formulation in the original proposal was different and referred only to racist and fascist parties/organizations.

27 The article 13 of the constitution has been invoked, however, by right-wing politicians and journalists attacking some organizations of the far left in Poland, especially those using names or symbols referring to communism.

28 Cited in UN Committee on the Elimination of Racial Discrimination 2008: Reports Submitted by States Parties Under Article 9 of the Convention. Poland (CERD/C/POL/19), Geneva, p. 34.

29 Another explanation for the inactivity in this respect might be that attempts to label right-wing nationalist extremist organizations „fascist“ or „neo-fascist“ is often received with reluctance even by some moderate commentators; in their opinions, probably, there can „really“ be no fascist organizations or neo-Nazi groups in post-World War II Poland, a country that suffered from the Nazi occupation itself.

### *Provisions of the Criminal Code*

Even if there is no chapter in the Polish Criminal Code that explicitly refers to hate crimes, a few articles in chapter 16 (“Offences against peace, humanity and war crimes”) are relevant for the prosecution of right-wing and related hate crimes. **Article 118** foresees particular penalties for the murder or physical injury on the grounds of ethnic racial, political or religious affiliation (genocide aimed to annihilate a group). § 1 states that whoever, acting with an intent to destroy in full or in part, any ethnic, racial, political or religious group, or a group with a different perspective on life, commits homicide or causes a serious detriment to the health of a person belonging to such a group, shall be subject to the penalty of the deprivation of liberty for a minimum term of 12 years, the penalty of deprivation of liberty for 25 years or the penalty of deprivation of liberty for life. According to § 2, whoever, with the intent specified under § 1, creates, for persons belonging to such a group, living conditions threatening its existence, shall be subject to the penalty of the deprivation of liberty for a minimum term of five years or the penalty of deprivation of liberty for 25 years. § 3 states that anyone who makes preparations to commit those crimes (§ 1 or 2), shall be subject to the penalty of the deprivation of liberty for a minimum term of three years.

**Article 119** punishes the use of violence or threats against a group or a person on ethnic racial, political or religious grounds. § 1 states that whoever uses violence or makes unlawful threats towards a group of persons or a particular individual because of their national, ethnic, political or religious affiliation, or because of their lack of religious beliefs, shall be subject to the penalty of the deprivation of liberty for a term of between three months and five years. According to § 2, the same punishment shall be imposed on anyone, who incites commission of the offence specified under §1.

**Articles 194, 195 and 196** penalize actions against the freedom of conscience and religion. Restricting persons from exercising the right of freedom of or from religion (Art. 194) or maliciously interfering with religious ceremonies, funerals, mourning ceremonies or rites (Art. 195) are declared illegal. Article 196 prohibits the „offending of religious feelings“ through public calumny of an object or place of worship in public.

The introduction of these articles resulted from the experience of oppression of religion expression under the communist rule. They can be useful for the protection of religious minorities, e.g. when their members are harassed by the extreme right, or when their religious ceremonies are interrupted or prevented. At the same time, they have been also applied by extreme right-wing parties, such as the League of Polish Families, to prosecute feminists or other progressive activists/movements on the grounds of promoting blasphemy.<sup>30</sup>

**Articles 256 and 257** of the Polish Criminal Code punish incitement to hatred and the public insult of a group or a person on the basis of their national, ethnic, racial or religious origin. Article 256 penalizes anyone who publicly promotes a fascist or other totalitarian state system or incites hatred based on national, ethnic, race or religious differences or for reason of lack of any religious denomination. The offender is subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to two years. Article 257 penalizes anyone who publicly insults a group within the population or a particular person because of his national, ethnic, race or religious affiliation or because of his lack of any religious denomination or for these reasons breaches

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30 In July 2003, a Polish court found a feminist artist guilty of „offending religious feelings“. She had been sued by the League of Polish Families for producing and showing a video with the close-up of the face of an exercising bodybuilder, together with a cross on which a photograph of male genitalia has been placed. The artist, who had been also physically attacked by a far-right militia before, was sentenced to a half-year „restriction of freedom“, community work, and to pay all trial expenses. Her gallery was closed as punishment. When the judge read the sentence, members of the League of Polish Families packing the courtroom applauded ecstatically. The artist has been appealing to have the sentence overturned on free speech grounds (Leszkowicz, Pawel 2005: Feminist Revolt: Censorship of Women’s Art in Poland, available at: [http:// bad.eserver.org/reviews/2005/leszkowicz.html](http://bad.eserver.org/reviews/2005/leszkowicz.html)).

the personal inviolability of another individual. The offender shall be subject to the penalty of deprivation of liberty for up to three years. A recent draft bill to amend Article 256 would also allow for the criminalization of the production, acquisition, storage or dissemination of racist and antisemitic material. The draft was discussed at the meeting of the Committee of the Council of Ministers in March 2007 and then recommended to the Council of Ministers.<sup>31</sup>

Articles 256 and 257 address the issue of hate speech, that often precedes and accompanies acts of bias-motivated violence in Poland. From the point of view of the victims and the targeted communities, it is important to determine the ideological background and motivation of the perpetrators. However, as has been pointed out by various supranational bodies, the Polish Criminal Code neither contains any general penalty enhancement provisions for crimes committed on grounds of biases as an aggravating circumstance, nor does it further the investigation of antisemitic, xenophobic or homophobic motivations. As has been also highlighted, particularly by representatives of the LGBT community, Articles 256 and 257 do not protect sexual minorities from hate speech. Offences involving hatred or intolerance, for reasons other than national, ethnic, racial or religious affiliation, are treated as common crimes, such as insults, physical injuries and other punishable threats. Gay people affected by hate speech, however, can try to apply Article 212 of the Criminal Code, which penalizes acts of defamation.<sup>32</sup> This is illustrated by a case in which, after members of the Law and Justice Party had compared homosexuality with paedophilia, necrophilia and zoophilia, in a debate of November 2004 concerning the Equality Parade, four lesbians filed a private bill of indictment according to Article 212.<sup>33</sup> Similar to Article 196, criminal defamation provisions, however, can be also used by individuals and parties, including state authorities, to muzzle not only criticism, for example, by left-leaning journalists and authors, but also harmless statements by ordinary citizens, as has been pointed out by the Helsinki Foundation in their latest report on human rights violations in Poland.<sup>34</sup>

One of the greatest concerns of NGOs, raised for example also by the European Commission against Racism and Intolerance (ECRI) and the Commissioner for Human Rights of the Council of Europe, however, refers to the fact that most reported incidents of hate crimes and hate speech are not taken very seriously by the law enforcement institutions. According to the latest ECRI report, „crimes that fall within the ambit of articles 256 and 257 are rarely investigated and its perpetrators are rarely prosecuted. The reason most often provided by the prosecuting authorities for this failure is that such crimes [i.e. hate speech] cause little social harm and that punishing them would be an infringement of the right to freedom of speech and expression.“<sup>35</sup> The possibility provided under the Polish Criminal Code to determine that an illicit act carries insignificant social harmfulness does not apply only to the propagation of racial hatred or discrimination, but seems to be especially relevant in such cases. Criminal proceedings may be discontinued or not even initiated on the grounds that the „social harmfulness“ of the offence are considered insignificant. „In other words, even though one may feel offended by a particular anti-Semitic comment, society at large has not been affected, therefore the social consequences of the crime are minimal. According to NGOs, this concept of ‘insignificant social harmfulness of an act’ is often used by prosecuting authorities as a reason for discontinuing or not bringing forward the prosecution in cases with racist

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31 UN Committee on the Elimination of Racial Discrimination: Poland, p. 32.

32 Rzepliński, Andrzej 2008: Legal Study On Homophobia and Discrimination On Grounds of Sexual Orientation – Poland, Warsaw, pp. 35 f.

33 In September 2006 the parties entered into settlement in the course of a trial before the District Court in Poznań. The accused had to apologize for their statement (Rzepliński: Legal Study, p. 62).

34 Helsinki Foundation for Human Rights 2007: Annual Report on Human Rights Violations (Poland), Warsaw, p. 130.

35 European Commission against Racism and Intolerance (ECRI) 2005: Third Report on Poland, Strasbourg, pp. 10-11.

or anti-Semitic elements.”<sup>36</sup>

Similarly, the terms “hooliganism” and “vandalism” are often applied to minimize the importance of racist and antisemitic crimes. The Polish Criminal Code refers to “acts of vandalism” in Article 115 §21. Various forms of hate crimes are often labelled as mere “vandalism”, for example cases of desecration of Jewish cemeteries or churches of other religious minorities. In this context, an official response to an ECRI report highlights the position of the Polish government. It denied the seriousness of the issue of racist violence by claiming that „a breeding ground for misdemeanours or felonies [...] are conflicts with local communities or incidental acts of a hooligan nature which may affect Polish citizens or white aliens to the same degree.”<sup>37</sup> In the rare cases, the perpetrators of hate crimes do get convicted (see for the number of convictions chapter 3), there are usually punished on the basis of “ordinary” criminal code provisions. A recent decision issued by the Supreme Court might also influence the judgements rendered in the future by the courts of lower instances. It dismissed the charges of incitement of antisemitic hatred pressed against a man, that had raised a placard reading “We shall liberate Poland from Euro-traitors, Jews, Masons and government mafia” during the celebration of the National Independence Day. It was decided that the defendant had not incited hatred, but merely expressed his own opinion, which he can lawfully do under Article 54 of the Constitution of the Republic of Poland.<sup>38</sup>

## 2.2.2 Options for Victim Support Within the Legal System

The following account briefly describes provisions in the Polish system with respect to the general rights of crime victims in legal proceeding. Polish law also provides for the possibility that social organizations actively participate in administrative settlements and lawsuits. However, in Poland there are currently no lawyers or NGOs specialized in representing victims of racial discrimination or right-wing hate crimes in court or administrative matters. Legal aid programs providing assistance to victims of national or ethnic discrimination are usually offered by NGOs with a broader mandate, such as human/civil rights or humanitarian aid. Overall, the experiences with assisting victims of right-wing and related violence in bringing their cases to court must be considered as very limited. This is also due to a general lack of willingness on the part of many victims to press charges against their perpetrators in order to seek justice, which can be explained by a general mistrust not only in the effectiveness of the existing legislation and law enforcement system, but also with fears of „secondary victimization“.<sup>39</sup> Furthermore, the Polish legal system is known for the enormous length and clumsiness of judicial proceedings, that generally hinders human rights protection.<sup>40</sup> There also seems to be a shortage of lawyers and an unmet need for legal services, including legal aid.<sup>41</sup>

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36 Council of Europe 2007: Memorandum to the Polish Government. Assessment of the progress made in implementing the 2002 recommendations of the Council of Europe Commissioner for Human Rights, Strasbourg, p. 7.

37 [http://www.coe.int/t/e/human\\_rights/ecri/5-Archives/1-ECRI's\\_work/5-CBC\\_Second\\_reports/Poland\\_CBC2\\_en.pdf](http://www.coe.int/t/e/human_rights/ecri/5-Archives/1-ECRI's_work/5-CBC_Second_reports/Poland_CBC2_en.pdf)

38 Ruling of the Supreme Court, 5.2.2007, docket no. IV KK 406/06.

39 According to one recent survey by Lambda Warsaw 85 percent of those respondents who indicated they had been subject to homophobic violence did not report to the police. „Among the most frequently mentioned reasons for not informing the police about the experience of violence, were the following: I do not trust in police's effectiveness in such cases; I was afraid that the police would not treat my case seriously; I feared verbal harassment and maliciousness from the police concerning my sexual orientation, and I was afraid of the perpetrators' revenge“ (Abramowicz, Marta [ed.] 2007: Sytuacja społeczna osób biseksualnych i homoseksualnych w Polsce. Raport za lata 2005 i 2006, Warsaw, pp. 15 f.).

40 Council of Europe: Memorandum, p. 2.

41 Bojarski, Lukasz 2003: Access to Legal Aid in Poland. Monitoring Report, Helsinki Foundation for Human Rights, Warsaw, p. 10.

### ***Subsidiary prosecution***

The criminal law and criminal proceedings reform in 1997 significantly changed the status of the victim in criminal and preparatory proceedings. The victim's status used to be limited to the status of a witness. In the event of public prosecution, however, a victim may now also serve as a "subsidiary prosecutor" (Art. 53 of the Criminal Proceedings Code). For this purpose, a "private accusation" must be written and signed by an advocate. This enables the victim to have a better control over the case and a more active role in the course of the criminal proceedings (e.g. by asking questions, supporting the accusation against the offender). An essential element is also the victim's right to fair and intelligible information on procedural guarantees. In accordance to Polish criminal law a victim may claim for damages in criminal proceedings – that is to institute an 'adhesion claim'.<sup>42</sup> The investigating authority should advise the participants in the proceedings of their duties and rights vested in them.

### ***Victim and witness protection***

According to the law the victim as well as his/her family and his/her private life shall be protected. The judicial and police agencies should treat a victim with special care and gravity. Polish jurisdiction has developed some guidelines for the police and judicial authorities which stipulate the proper treatment of victims. In practice, however, particularly in cases of hate crimes both victims and witnesses frequently have to fear that their personal data becomes known to the perpetrators or their supporters. This is why the police and the public prosecutor have the duty to protect the personal safety of the victim. As a protective measure a victim may claim for keeping his personal data secret, and testify as an incognito witness. In this matter the Criminal Proceedings Code stipulates that if there is a justified suspicion that the life, health, freedom or property of the witness or his relatives can be in considerable danger, the court or the prosecutor may issue an indictment to keep the identity secret, unless they are not decisive for issuing the judgement in the case. The proceedings shall be continued without the participation of the parties and shall be subjected to state secrecy. In the decision, the circumstances referred to in the first sentence shall be passed over (Art. 184 §1). If there is a justified concern for the possible use of violence or unlawful threat against a witness, the victim or witness may restrict details regarding his or her place of residence to the exclusive knowledge of the state prosecutor or the court. The pleadings shall be then served at the institution where the witness is employed or at another address indicated by the witness (Art. 191 §3). According to the „Press Law Act” of 1984 publishing of the images and personal data of witnesses, victims and offenders is prohibited unless they expressed their consent for such publication (Art. 13 §2).<sup>43</sup> This applies especially to reporting on ongoing court cases.

### ***Social organizations in court proceedings***

Community organizations may also participate in civil actions and criminal procedures in order to defend community or social interests within the statutory purposes of such an organization.<sup>44</sup> According to Article 90 § 1 of the Criminal Proceedings Code, the participation of a representative has to be petitioned prior to the commencement of the judicial examinations. The court is to admit

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42 Banach, Joanna/Gwizdalska, Anna (n.d.): Victim Protection in Criminal Proceedings Legislation: A pan-European Comparison<sup>66</sup>, Country Report: Poland, Warsaw.

43 Journal of Laws, 7.2.1984.

44 Mazur-Rafal: Report on Measures, p. 46 f.

a representative of a non-profit social organization, if it finds that his or her participation in court proceedings is needed „to protect public interest or important individual interest falling within the statutory objectives of the organization, in particular the need to protect human rights and freedoms“ (Art. 90 § 3). The representative of a social organization who has been admitted to court proceedings, may participate in the trial, make statements and submit motions in writing. It seems clear that this provision can be particularly useful for hate crime victim support organizations in the future, provided they have adequate resources to make appropriate use of it.<sup>45</sup>

### 2.2.3 Legal Aid and Compensation for Victims

#### *Remedies available to victims*

According to the Polish Criminal Code the hate victim can make claims for pecuniary compensation if suffered material and non-material damages (pain, suffering, medical expenses etc.). In the case of conviction for causing death, serious detriment to health, offences against property and similar offences, the court, upon a motion from the injured person, shall impose the obligation to redress the damage caused, in whole or in part (Art. 46 Criminal Code). Compensatory damages can be also imposed on the perpetrator in favour of an institution, association, foundation or social organization. The Minister of Justice keeps a list of institutions or social organizations whose primary objective and statutory goal is to provide services directly related to the protection of health where compensatory damages are to be paid to. The compensatory damages shall be adjudicated in the amount of up to PLN 100 000 (Art. 48 Criminal Code.). Entry on the list of institutions shall be upon the request of the interested entity. The list is published at least once a year by the Minister of Justice (Art. 49a §2 Criminal Code). According to the Polish Civil Code it is possible to raise a civil complaint against a person who violated somebody's personal welfare (e.g. freedom, dignity etc.). For a long time this was the main possibility of achieving compensation for victims of discrimination.<sup>46</sup> Secondly, the crime victim may also claim financial remedy or payment of compensation for specified purposes with the help of the Commissioner for Civil Rights Protections. According to a report of the Helsinki Foundation for Human Rights the current legislative framework in Poland does not provide sufficient protection of the right to legal aid.<sup>47</sup>

#### *Polish Crime Victim Charter*

The Polish Crime Victim Charter was drafted in 1999 by the Ministry of Justice, other governmental agencies, non-government organizations and institutions. The charter was signed by organizations, institutions and individuals who deal with crime victims. The Charter is a compilation of previously existing regulations and it has legal little significance of its own. Its importance is rather symbolic than legal. The idea was summarized by Hanna Suchocka, Minister of Justice by that time:

„The Charter is a set of prevailing regulations to which crime victims are entitled together with

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45 The Helsinki Foundation for Human Rights made already use of this provision, and engaged in some discrimination cases both as *amicus curiae* and on behalf of the complainant in 2005 and 2006 (Mazur-Rafal: Report on Measures, p. 47).

46 Filipek, Pawel/Pamula, Maria 2005: Poland Executive Summary Country Report, European Commission, Brussels, p. 4.

47 Bojarski: Access to Legal Aid, p. 8.

the instruction what and from whom can be claimed by the crime victims. The Charter is intended to offer support to each victimized person in a situation where his/her rights are not respected and to remind police officers, prosecutors and judges, that in pursue of collecting evidence and determining and judging the actual offenders, they should not overlook the particular situation of the victim.<sup>448</sup>

The Charter is general in nature and as such it does not name hate crimes specifically. However, by emphasizing victim's perspective, rights and dignity, it may constitute not only a crucial point of reference for victims themselves and organizations/institutions representing victims of hate crimes, but also an instrument of prevention against denial of proper assistance by law enforcement agencies and officers. In the context of "blaming-the-victim" or secondary victimization tactic of justification of ideologically motivated crimes (e.g. as in cases of anti-Roma crimes reported by the European Roma Rights Center), especially the following passage might be useful: "One cannot justify a crime with tradition, culture, [or] stereotypes minimizing the perpetrator's guilt."

### *The National Program for Crime Victims*

In July 2004, the Commissioner for Civil Rights Protection (Ombudsman) submitted to the Minister of Justice, the "National Program for Crime Victims".<sup>49</sup> It was drafted with the help of NGOs, which stressed the need for better information on services available to crime victims and improved practical support by government institutions. Information about contact points and different forms of support offered to crime victims was already collected in 2003 from the voivodships; it was updated in 2005 and subsequently published on the website of the Ombudsman. The information was supplemented with data of certain victim support and legal aid organizations, including government centres providing support to the crime victims (Local Support Centres).<sup>50</sup> The association "Nigdy Więcej" participated in the consultation process and provided a draft for Chapter XII of the program, titled "Victims of crimes related to difference – Victims of chauvinist crimes". The strategic objectives and demands included:

- special support for victims of hate crimes,
- access to free legal aid,
- legal aid and representation for the victims which appear in legal proceeding as trial parties,
- reimbursement of the expenses to the victims (witnesses, parties) incurred in connection with the participation in the penal proceedings,
- the right to be protected,
- personal and privacy protection for the victims, their families and relatives,
- indemnification from the perpetrator; immediate return of victim's property,
- protection of non-Polish nationals: support and remedy,
- international cooperation to help hate crime victims,
- support for NGOs providing assistance to crime victims,
- training of the persons participating in legal and other proceedings or otherwise maintaining contacts with the victims, and
- measures to counteract re-victimization and pressures being exerted upon the victim.

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48 [http://www.elblag.policja.gov.pl/p\\_d\\_f/karta\\_praw\\_ofiary.pdf](http://www.elblag.policja.gov.pl/p_d_f/karta_praw_ofiary.pdf).

49 <http://www.pomoc.rpo.gov.pl>.

50 <http://www.pomoc.the Commissioner for Civil Rights Protection.gov.pl>.

The specific aims referred to in the program were the following: social campaigns and lobbying for the interests of the crime victims, prevention, and an in-depth analyses of the phenomenon of chauvinism in Poland. The following measures should be executed in the first place: social campaigns, „court watch“ (legal monitoring), the establishment of a court information system, a new police work catalogue (to be developed), and improved cooperation between police departments and NGOs. According to the Ombudsman’s website “the National Program for Crime Victims is one of the most important legislative measures undertaken by the Ministry of Justice in 2008”.<sup>51</sup> However, the main demands of NGOs, as described above, were not fulfilled. Moreover, the National Program issued in 2008 is hardly comparable to the draft. It remains unclear, which organizations and institutions should be responsible for its implementation.

### 2.3 Summary/Conclusions

In both countries, constitutional, criminal and civil law provisions do – to a varying extent – permit the persecution of discrimination and hate crimes based on certain alleged or real characteristics of the victims. In both countries, the respective constitutions also allow for the ban of openly anti-democratic, racist and fascist parties and organizations. Poland’s Criminal Code contains two articles (Art. 118 and 119) which treat bias-motivated violence as separate offences. Further articles (Art. 256 and 257) criminalize incitement to hatred on national, ethnic, racial or religious grounds, but do not protect members of sexual minorities from hate speech. The German Criminal Code, in contrast, does not define bias-motivated crimes as distinct offences, but also prohibits incitement of violence, incitement of arbitrary discrimination as well as the violation of people’s human dignity on grounds of nationality, race, religion or ethnicity (§ 130). Both states have been repeatedly criticized by supranational bodies for not having passed legal provisions according to which penalties would be enhanced for bias-motivated offences. Victim support organization in Germany and other experts, however, have raised doubts whether the enhancement of sentences would lead to the desired results.

Procedural instruments enabling the active participation of crime victims and their legal representatives in lawsuits are in place in both countries (Germany: “joint action”, and Poland: “subsidiary prosecution”). In the German case, the instrument of “joint action”, which accords to victims the status of a “joint plaintiff” with certain legal rights (access to case files, the right to file petitions concerning the investigation, the right to question the defendant, to submit evidence etc.), has proved to be a vital tool that can safeguard the interests of hate crime victims in court procedures, prevent the premature discontinuation of investigations or make sure that the ideological background of the offence is considered and addressed. In Poland, where representatives of non-profit social organization are under specific circumstances also allowed to actively participate in court cases, the potential of these procedural instruments on behalf of hate crime victims needs further attention and exploration.

In general, litigation and advocacy strategies of NGOs have always to take into account the ambivalence of legal provisions and law enforcement systems in their respective countries. On the one hand, the legal framework defines how right-wing, racist or homophobic attacks are supposed to be treated by the state and its law enforcement agencies, and what kind of protection should be provided to minority groups. Legal systems can both: They can affirm the opposition of a society to right-wing extremism and xenophobia, and send a clear message to potential perpetrators, or by poorly implementing the laws be part of the problem, contributing to the disregard and downplaying of the severity of ideologically motivated attacks. On the other hand, not all hate

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51 <http://www.rpo.gov.pl/index.php?s=1>.

crime victims might be interested in pressing charges against their perpetrators. For others, looking for remedy, compensation and the public recognition of their suffering as well as the bias-motive of the offence, however, legal procedures can constitute a crucial instrument. In cases, where they allow for the addressing of the broader political and social dimension of hate crimes, lawsuits can be also used as advocacy and educational platforms, and might contribute to the public rehabilitation and the strengthening of the individual victim and the community it represents. If and how far experiences from German NGOs with litigation policies can be meaningful for hate victim assistance in the Polish context, should be further explored and discussed.

### 3 Official Monitoring of Hate Crimes

After having described the relevant national legislation in both countries for prosecuting and convicting hate crimes as well as the legal rights of victims, we will now turn to the official national monitoring and registration systems in place. As the European Network against Racism has rightly emphasized “underreporting and lack of data remain two of the critical impediments to the effectiveness of the law [addressing hate crimes].”<sup>1</sup> In general; it can be assumed that the extent of right-wing and related violence in Germany and Poland is, to a varying extent, underestimated.

According to international research there are various reasons for a high rate of underreporting by hate crime victims: fear of reprisal by perpetrators; fear and mistrust of law enforcement staff; belief that victimization will not be taken seriously or fear of further victimization by the police; fear of secondary victimization by others (members of the gay community might fear having their sexual orientation revealed); failure to classify reported incidents as hate crimes because of insufficient evidence of motivation, or failure to investigate the context of an incident.<sup>2</sup> Some authors have claimed that the “dark figures” of hate crimes vary from offence to offence, and may run as high as 95 percent for certain crimes.<sup>3</sup>

Beyond underreporting, shortcomings in the quality of data collection, registration and monitoring systems by governments and law enforcement agencies exist, which often demonstrate that these institutions are still unprepared and/or unwilling to address the problem appropriately. International human rights organizations have raised particular concern over the huge information deficit on hate crimes in Europe.. Their main point of criticism is that too little attention has been paid so far to establishing official monitoring mechanisms and channels for public reporting on hate crimes and right-wing or related violence. They also observe a stark contrast between non-governmental registration and reporting, media coverage, and reports available from official bodies, with government sources often either unavailable, highly misleading, or years out of date.<sup>4</sup> According to supranational bodies such as OHDIR, flawed official data on most affected victim groups also limit the potential of governments and NGOs in developing policies to provide support and protection to vulnerable communities.<sup>5</sup>

In the following we will take a look at relevant official data sources in Germany and Poland, as well as the figures provided by government institutions on registered incidents and related legal proceedings. We will also summarize the discussions surrounding the official monitoring systems, including the main concerns expressed by legal experts, NGOs and activists.

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- 1 European Network Against Racism (ENAR) 2007: Racism in Europe. ENAR Shadow Report, Brussels, p. 25.
  - 2 Janhevich, Derek 2001: Hate Crimes in Canada: An Overview of Issues and Data Sources, Canadian Centre for Justice Statistics, Ottawa.
  - 3 Roberts, Julian V. 1995: Disproportionate Harm: Hate Crime in Canada. An Analysis of Recent Statistics, Executive Summary, University of Ottawa, Ottawa, p. 1.
  - 4 McClintock, Michael 2004: Everyday Fears. A Survey of Violent Hate Crimes in Europe and North America, A Human Rights First Report, New York/Washington D.C., p. 29.
  - 5 Office for Democratic Institutions and Human Rights (ODIHR) 2007: Hate Crimes in the OSCE Region: Incidents and Challenges. Annual Report for 2006, Warsaw, p. 77.

## 3.1 Police Registration Systems and Relevant Official Data Sources

### 3.1.1 Germany

#### 3.1.1.1 Police Classification and Registration System

The police classification and registration system of right-wing offences and related hate crimes has been the subject of intensive discussion for almost a decade now in Germany. In the following we will present a brief account of its transformation since 2001 and the problems of its current implementation.

Though the criminal law does not refer explicitly to bias-motivated crimes, the recording system of the criminal police<sup>6</sup> has contained some registration rules for racially motivated assaults since 1992, and for antisemitic offences since 1993.<sup>7</sup> Given the changed nature and quantity of right-wing attacks in the aftermath of reunification, however, it turned out that the police classification and recording system had major flaws which needed to be addressed. An important impact had the already mentioned documentation on victims of right-wing hate crimes in Germany, first published in 2000 by the newspapers *Frankfurter Rundschau* and *Der Tagespiegel*, which revealed a much higher number of violent deaths caused by right-wing and racist offences than had been recorded by the criminal police.<sup>8</sup> The enormous discrepancy between this chronology and police figures sparked a public uproar. Even high-ranking police officers, such as the then vice president of the Federal Criminal Investigation Office, concluded that “the real number of right-wing extremist, antisemitic and xenophobic offences [in Germany] must be higher than displayed by police statistics.”<sup>9</sup> The critique focussed on the layout of the official registration system, i.e. its criteria and definitions, as well as on the actual implementation of these criteria by local police officers. Obviously, it was quite common “that a xenophobic background was not registered although the perpetrator was clearly affiliated to the skinhead milieu or neo-Nazi groups – just because the offenders refused to admit his [racist] motives.” Furthermore, the recording system of the criminal police, in charge of registering xenophobic and antisemitic offences, was primarily focussed on state security-related “extremist crimes”, defined as offences aimed at threatening or overthrowing Germany’s democratic constitutional system.<sup>10</sup>

#### *The revised criminal police registration system*

Following internal and external enquiries a new criminal police registration system was finally introduced in 2001, based on an agreement between the Federal Ministry of the Interior and state governments. The core criterion of the new classification system is the category of “politically motivated crimes”. Hate crimes represent a specific sub-category of politically motivated crimes, divided further into the two categories xenophobic and antisemitic offences. “Politically motivated criminal acts are considered hate crimes if (1) – taking into consideration the circumstances of

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6 The Criminal Police Recording System (Kriminalpolizeilicher Meldedienst/KPMD) is a data base of ongoing police investigations, and does not consider, in contrast to the Police Criminal Statistics (PKS), results of investigations.

7 Bundesministerium des Innern/Bundesministerium der Justiz (BMI/BMJ) 2001: Erster Periodischer Sicherheitsbericht 2001, Berlin, p. 269.

8 By that time, the documentation listed 93 cases of violent deaths for the years 1990 to 2000, in contrast to 25 casualties registered by the police for the same time period.

9 Vice President of the Federal Criminal Office, Bernhard Falk, cited in: BMI/BMJ: Erster Periodischer Sicherheitsbericht, p. 272.

10 Ibid., p. 262.

the act and the attitude of the perpetrator(s) – indicators occur which imply that the crime was directed against a person because of his or her nationality, ethnicity, race, skin colour, religion, origin, sexual orientation, disability or because of his or her outward appearance or social status and that (2) the act is in causal relationship to this.”<sup>11</sup> Xenophobic acts are defined as those hate crimes “which were committed due to the victim’s actual or alleged nationality, ethnicity, race, colour of skin, religion or origin.” Antisemitic offences are understood as offences “which were committed because of an anti-Jewish sentiment.”<sup>12</sup> “Politically motivated violence”, a further sub-category for the classification of hate crimes, refers to homicides, assaults and battery, deprivation of personal freedom, blackmailing, resistance to law enforcement officers and sexual offences.<sup>13</sup>

The new police registration system was to ensure “that due to nation-wide standardized and comprehensive criteria all relevant facts of the case are registered, assessed and reported by local police units to the Federal Office of Criminal Investigation according to a nation-wide agreed procedure.”<sup>14</sup> According to the German RAXEN report, “the strong emphasis on the xenophobic or antisemitic motivation of the perpetrator was reduced”, making it easier to register a criminal offence as a hate crime, even if the perpetrators refuse to admit their motives, and the offence is not considered to have an “extremist” background.<sup>15</sup> Generally, the reform is considered as a major improvement which has led to some considerable changes in police practice. Progress is being attested by many victim support organization especially with regard to the categorization of racist attacks, targeting migrants and non-ethnic Germans.<sup>16</sup>

Whereas the revised system considered much of the concerns raised by NGOs and legal experts before 2001, it still displays obvious weaknesses. The detailed criteria for the assessment and categorization of offences by local police officers as well as the “detailed instructions for action”, authorized by the Federal Office for the Protection of the Constitution, are not available to the public.<sup>17</sup> Five years after the introduction of the new registration system, the Federal Ministries of the Interior and Justice admitted a sustained discrepancy between police figures and number of hate crime incidents reported by unofficial sources: “Due to an unknown number of criminal offences which were not reported to the police, respective due to different classification criteria applied by police and legal authorities and victim support organizations their data vary to some extent considerably.”<sup>18</sup> Continued flaws in the implementation of the new regulations by local police departments, and underreporting by hate crime victims obviously add to the limited validity of official data.

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11 Peucker, Mario 2006: The hate crime concept in Germany and how to improve the knowledge on the extent of hate crimes, Bamberg, p. 1, citing Bundeskriminalamt 2004: Informationen zum polizeilichen Definitionssystem Politisch motivierte Kriminalität (PMK), p. 8.

12 Ibid.

13 Ohms, Constance 2003: Hasskriminalität gegen Lesben und Schwule, in: Forum Kriminalprävention, 4/2003, p. 44.

14 BMI/ BMJ: Erster Periodischer Sicherheitsbericht, p. 268.

15 Peucker: The hate crime concept, p. 2.

16 Interviews with Miteinander e.V., ReachOut, and Opferperspektive e.V.

17 Peucker: The hate crime concept, p. 2, fn 6.

18 Bundesministerium des Innern/Bundesministerium der Justiz (BMI/BMJ) 2006: Zweiter Periodischer Sicherheitsbericht 2006, Berlin, p. 151.

### *Reasons for non-reporting by victims*

Victims are partially afraid to reveal their personal data required for reporting as these data are usually accessible to the legal defence of right-wing perpetrators.<sup>19</sup> Individuals, who are already personally known to the offender, are sometimes afraid of revenge or the escalation of conflicts caused by filing a criminal complaint. Persons who have reported to the police before without tangible consequences are likely to be either frustrated or, at least, cautious given the considerable time and effort involved in filing a lawsuit. Others, especially adherents of left-wing groups, are concerned that they will not be treated as crime victims claiming their legal rights, but might become the object of police enquiries themselves. Some persons, finally, simply seek to avoid any further experiences of victimization.<sup>20</sup>

### *Categorization practice*

Alternative and antifascist left-wing youth, being one of the biggest target groups of right-wing offences in Germany, report to the police less frequently than victims of racist attacks.<sup>21</sup> One reason for that is linked to the fact, as has been highlighted by NGOs and researchers, that police officers often categorize right-wing motivated attacks on adolescents as acts of “youth delinquency” or “rivalries between youth gangs”.<sup>22</sup> In cases where the ethnic origin of a perpetrator is other than German, police tend to classify the attack as “criminality of foreigners”, but not as an antisemitic or racist assault.<sup>23</sup> Criminal offences which are not foreseen in the catalogue of politically-motivated violence are often not considered as hate crimes, either, even if a bias-motivation of the attacker evidently played a role. According to victim counsellors, cases without injuries (stalking, threatening graffiti and other) are often not registered at all, or are not reported to the state criminal investigation department.<sup>24</sup> By failing to take into account more systematically the perception of victims and witnesses, as done in some other countries such as the United Kingdom or the United States,<sup>25</sup> the German system is obviously still very much underrecording the real extent of hate crime incidents.

### *Awareness and knowledge of police officers*

The official definition of hate crimes do not seem to be familiar to all police officers. Many consider a case as “right-wing motivated” only if the perpetrator is directly affiliated to a far-right organization.<sup>26</sup> Many officers are not trained and show a certain lack of awareness and information<sup>27</sup> on manifestations and symbols of right-wing extremism. Furthermore, constant allegations of police abuse and mistreatment of migrants and refugees, as registered and published by local NGOs and human rights organization such as Amnesty International (see chapter 1), reveal xenophobic attitudes within the law enforcement agencies themselves. According to one interviewed

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19 Ibid., p. 157.

20 Interviews with various victim support organizations.

21 Ibid.

22 BMI/BMJ: Zweiter Periodischer Sicherheitsbericht, p. 157; interviews with Opferperspektive e.V., AMAL, Miteinander e.V.

23 Interview with ReachOut.

24 Ibid.

25 Peucker: The hate crime concept, p. 5.

26 Interview with Opferperspektive e.V.

27 Peucker: The hate crime concept, p. 2.

police officer and gay activist, prevailing prejudices with regard to the LGBT community are also a considerable problem: “Homosexuality has been illegal for most of the time, also in the GDR. Especially elder colleagues have, therefore, difficulties to accept homosexuality as normal.”<sup>28</sup> One victim counsellor summarized the difficult relationship of police officers towards their “clients”: “Since victims of right-wing attacks are often marginalized and seen as problem-laden, they often do not get treated with much lack understanding on the side of police officers.”<sup>29</sup>

### *Institutional and political influences*

Attitudes of individuals police officers are, however, only one obstacle for a more appropriate treatment of hate crime incidents and their victims. Numerous studies and authors have identified structural and political factors which undermine an adequate response to hate crimes by law enforcement institutions, including the lack of available staff and resources, as well as bureaucratic and political pressures.<sup>30</sup> Every offence, categorized as “politically motivated”, results in considerably more work for the respective police officer, constituting a strong disincentive for the correct classification. In contrast to other countries, special training programs for police and other law enforcement officials, which can help with raising general awareness towards different forms of hate crimes and victim groups, are also still not a top priority in many federal states of Germany.<sup>31</sup> Furthermore, dealing with such a highly politicized matter as right-wing violence can also create pressures on local police departments to underreport the amount of hate crimes due to concerns regarding the reputation of a particular region, town, or police district. A recent scandal in Saxony-Anhalt, which was also covered by international media reports,<sup>32</sup> highlighted that in some regions German police is still routinely ignoring racially motivated attacks. The chief of police in Saxony-Anhalt was forced to resign in June 2007 after it had emerged that he was responsible for the manipulation of statistics in order to hide the soaring number of racist and right-wing incidents in the region. He had apparently instructed police officers not to classify offences as hate crimes unless the perpetrators were caught. About twohundred “unreported” offences, mainly propaganda delicts, were omitted.<sup>33</sup> Similar accusations with regard to the adjustment of police statistics were made in the state of Thuringia, where the police are also known for their reluctance to deal with the problem of right-wing extremism more seriously.<sup>34</sup> Several interview partners observed similar problems in other federal states, both in East and West Germany, where leading police officers and politicians have been also accused for trying “to keep official figures of right-wing offences low”.<sup>35</sup>

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28 Interview with Andersartig e.V.

29 Interview with Opferperspektive e.V.

30 Bleich, Erik/Hart, Ryan K. 2008: Quantifying Hate: The Evolution of German Approaches to Measuring Hate Crimes, in: German Politics, Vol. 17, No. 1, pp. 63-80; Schellenberg, Britta 2008: Strategien gegen Rechtsextremismus in Deutschland. Analyse der Gesetzgebung und Umsetzung des Rechts, Centrum für angewandte Politikforschung, München, pp. 12-14; MANEO 2007: Gewalterfahrungen von schwulen und bisexuellen Jugendlichen und Männern in Deutschland. Ergebnisse der MANEO-Umfrage 2006/2007, Berlin, p. 12.

31 Schellenberg: Strategien gegen Rechtsextremismus, p. 13.

32 The Telegraph, 12.6.2007.

33 Tagesspiegel, 28.11.07. At a different occasion, a local police chief in Saxony-Anhalt actively encouraged his subalterns to slow down investigations into right-wing offences (Die Welt, 1.11.2007). Furthermore, individual local police units reacted inadequately to right-wing offences, partly hampering effective legal prosecution (<http://www.npd-blog.info>, 28.11.2007). Another example was the failure of local police in Halberstadt (Saxony-Anhalt) to secure evidence and round-up the obvious perpetrators of a brutal attack on a group of theatre actors. As a result, the state prosecutor experienced serious problems with proving the guilt of the defendants.

34 Schellenberg: Strategien gegen Rechtsextremismus, p. 13; <http://www.npd-blog.info>, 7.02.2008.

35 Interview with various victim support organizations.

### 3.1.1.2 Demands and Recommendations by Legal Experts and NGOs

Various demands have been raised by legal experts and NGOs which could improve the existing provisions for police registration and classification of hate crimes in Germany. Especially, victim support organizations recommend a general shift of focus: Given the nature of hate crimes, it seems essential that the criteria for the police assessment of a hate crime should be less (right-wing) perpetrator-oriented and more victim-oriented. Such a shift would diminish the problematic concentration on the affiliation of a perpetrator to the extreme right-wing or neo-Nazi milieu, and enable the police to register antisemitic or xenophobic hate crimes irrespective of the political background of the perpetrator. This proposal reflects upon a system applied in Great Britain according to which the perception victims or third person determines the initial assessment of the police.<sup>36</sup>

Other experts have pointed to the need of further training programs for all police units – not only for specialized task forces – in order to improve the initial assessment of hate crimes. These programs should also “impart information on, among other things, the registration system and how to apply it in practice, about the potential perpetrator groups (e.g. meaning of neo-Nazi symbols), and typical patterns of offences, but also about the potential victim and their perception.”<sup>37</sup> Specialized police commissioners with explicit expertise in dealing with victims of hate crimes, are also seen as a way to improve the trust in law enforcement institutions. Representatives of LGBT organizations are in favour of the establishment of contact persons/points (within and outside the police departments) focussed on concerns and needs of gay crime victims.<sup>38</sup>

Another issue raised, is the process of information exchange between NGOs, police authorities and other law enforcement agencies (public prosecutors, judges etc.), that should be improved and more institutionalized.<sup>39</sup> Monitoring activities by non-governmental actors are also considered as crucial by many legal experts and supranational bodies. The party “Die Linke/PDS” has repeatedly raised the need for the creation of a nation-wide independent monitoring body on right-wing extremism, xenophobia and antisemitism, that could coordinate and support the activities of regional/local organizations, in order to get a more comprehensive picture of the amount and severity of hate crime incidents throughout Germany.

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36 Ibid.; Peucker: The hate crime concept, p. 4f.; similarly Oakley, Robin 2005: Policing Racist Crime and Violence. A Comparative Analysis. European Monitoring Centre on Racism and Xenophobia, Vienna, p. 6.

37 Holzberger, Mark/Kleffner, Heike 2004: War da was? Reform der polizeilichen Erfassung rechter Straftaten, in: CILIP, No. 77/2004, pp. 56-64; Peucker: The hate crime concept, p. 4.

38 Interview with AndersArtig e.V.

39 Peucker: The hate crime concept, p. 4.

### 3.1.1.3 Official Data on Hate Crimes

The most frequently cited source for hate crimes in Germany are the annual reports of the Offices for the Protection of the Constitution<sup>40</sup>, which are published for the federal level and for the sixteen states by the Ministers of the Interior. They are based upon data provided by the Regional and Federal Criminal Police Offices. While regional and local police departments in Germany do in the meanwhile collect data on crimes perpetrated against victims based upon sexual orientation, disability, social status, ethnicity and religion, this information is usually not made public.<sup>41</sup> The Ministers of Justice of the 16 federal states determine what statistics will be released in formal reports. Only limited data on the victim groups is available in the annual reports of the Offices for the Protection of the Constitution, while they offer – as some of their other publications and studies – useful information on right-wing extremist organizations, parties and their main activities and strategies. Official data on right-wing extremist motivated political crimes (PMK/right-wing) are also published at least once a year by the Federal Minister of the Interior. These comprehensive press releases, based on the annual police statistics, provide information on the number of “politically motivated right-wing offences”.

*Table 1: Politically motivated criminality – right-wing:  
Violent acts and other offences with an extremist background 2005-2007*

Type of crime	2005	2006	2007
<b>Violent offences (total)</b>	<b>958</b>	<b>1.047</b>	<b>980</b>
Attempted murder/ manslaughter	0	0	1
Bodily harm	816	919	845
Arson attacks	14	18	24
Causing an explosion	3	1	1
Other violent crimes	123	109	109
<b>Other (non-violent) offences (total)</b>	<b>14.403</b>	<b>16.550</b>	<b>16.196</b>
Damage of property	445	391	821
Threat/coercion	90	150	146
Propaganda offences	10.881	12.627	11.935
Disturbing the peace of the dead	30	14	18
Other crimes, mainly incitement of the people	2.957	3.368	3.276

*Source: Annual Reports of the German Federal Office for the Protection of the Constitution (2005, 2006 and 2007); numbers based on statistics of the Federal Criminal Police Office.*

*Table 2: Crimes with antisemitic and xenophobic background 2005-2007*

Background of crime	2005	2006	2007
<b>Xenophobic (total)</b>	<b>2.493</b>	<b>3.294</b>	<b>2.866</b>
Xenophobic: violent offences	373	511	440
<b>Antisemitic (total)</b>	<b>1.682</b>	<b>1.662</b>	<b>1.561</b>
Antisemitic: violent offences	50	44	61

*Source: German Federal Ministry of the Interior (press releases on politically motivated crimes for the years 2005, 2006 and 2007); available at <http://www.bmi.bund.de>*

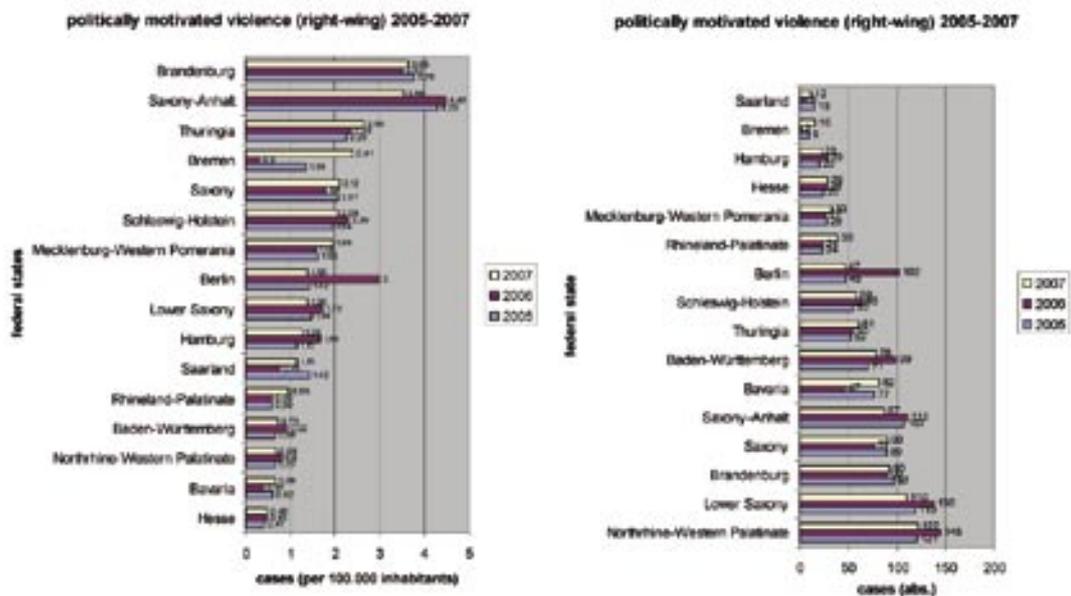
40 The main function of these offices is the surveillance of anti-constitutional activities in Germany and to observe organizations that are considered a threat to the „free and democratic basic order“.

41 In response to criticism raised by international bodies on this information gap, the German government has cited privacy and data protection concerns for not reporting on the nationality, ethnic background, religious or sexual orientation of the victims of an attack (European Commission Against Racism and Tolerance 2001: Second Report on Germany, Strasbourg, p. 30).

Table 3: Politically motivated violent offences (right-wing) 2005-2007

absolute figures			relative (per 100.000 inhabitants)				
Federal state	2005	2006	2007	Federal state	2005	2006	2007
North Rhine-Westphalia	121	145	122	Hesse	0,41	0,46	0,48
Lower-Saxony	119	138	110	Bavaria	0,62	0,38	0,66
Brandenburg	97	90	93	North Rhine-Westphalia	0,67	0,8	0,68
Saxony	89	77	90	Baden-Württemberg	0,66	0,92	0,73
Saxony-Anhalt	107	111	87	Rhineland-Palatinate	0,59	0,59	0,96
Bavaria	77	47	82	Saarland	1,42	0,76	1,15
Baden-Württemberg	71	99	78	Hamburg	1,15	1,66	1,25
Thuringia	53	55	61	Lower-Saxony	1,49	1,73	1,38
Schleswig-Holstein	55	65	59	Berlin	1,42	3,00	1,38
Berlin	48	102	47	Mecklenburg-W. Pomerania	1,63	1,58	1,95
Rhineland-Palatinate	24	24	39	Schleswig-Holstein	1,94	2,29	2,08
Mecklenburg-W. Pomerania	28	27	33	Saxony	2,07	1,8	2,12
Hesse	25	28	29	Bremen	1,36	0,3	2,41
Hamburg	20	29	22	Thuringia	2,25	2,36	2,64
Bremen	9	2	16	Saxony-Anhalt	4,29	4,49	3,56
Saarland	15	8	12	Brandenburg	3,78	3,52	3,65

Source: German Federal Ministry of the Interior (press releases on politically motivated crimes for the years 2005, 2006 and 2007); available at <http://www.bmi.bund.de>



Source: German Federal Ministry of the Interior (press releases on politically motivated crimes for the years 2005, 2006 and 2007); available at <http://www.bmi.bund.de>

## 3.1.2 Poland

### 3.1.2.1 Official Data on Hate Crimes

Unlike in Germany, so far there has been no broader discussion in Poland with respect to police registration systems focussed on hate crimes. Relevant data and figures seem to be collected by government and law enforcement institutions in a rather non-systematic way, they are dispersed and not easy to research and compile. There is no centralized system of data collection and evaluation, and no regular reports or press releases issued by the police exist which would constitute an attempt to give an overview of recent trends, and which could serve as a base for a critical public discussion. Nor do the special services responsible for state security, the Agency for Internal Security and its predecessor, the Office for the Protection of the State, publish annual public reports on political extremism and hate crimes. The Police Headquarters Office and the public prosecutor statistical computer services remain the main official sources of data concerning incidents of racist violence and hate speech. Some of the data is published on the Headquarter's website. No information is collected and published which would focus on the bias motivations (xenophobia, antisemitism etc.), and the victim groups affected.

*Table 4: Police data on racist or xenophobic crimes (including hate speech) reported under different legal articles for the years 2005-2007*

	2005	2006	2007
Crimes against freedom of conscience and religion (Art. 194, 195 and 196 Criminal Code)	104	61	74
Hate speech/incitement of people (Art. 256 and 257 Criminal Code)	52	82	115
Hate crimes against individuals/groups based on national, ethnic, political, or religious affiliation (Art. 118 and 119 Criminal Code)	16	12	no official data (86 incidents, according to the Plenipotentiary of the High Police Commissioner for Human Rights Protection, between January and September 2007) <sup>42</sup>
<b>Total</b>	<b>172</b>	<b>155</b>	<b>189</b>

*Source: Mikulska, Agnieszka 2008: Xenophobia and Ethnic Discrimination in Poland – Outline of the Situation, Helsinki Foundation for Human Rights, Warsaw, p. 12 (based on data from the “Temida” police and the public prosecutor statistical system).*

A relatively new source of data and information concerning racist violence and hate crimes in Poland is the Team for Monitoring Racism and Xenophobia, established in November 2004 within the structures of the Department of Denominations and National and Ethnic Minorities at the Ministry of the Interior and Administration. Since December 2007, the Team has functioned within the Ministry's Department of Control, Complaints and Petitions. The Team was formed in order to ensure „the most effective realization of tasks imposed on the Ministry of Interior and Administration by the National Program for Counteracting Racial Discrimination, Xenophobia and Related Intolerance.“<sup>43</sup> Among the Team's tasks are:

- to develop a data base on ethnic discrimination, racism and xenophobia;

<sup>42</sup> European Union Agency for Fundamental Rights 2008: Anti-Semitism. Summary overview of the situation in the European Union 2001-2007, Vienna, p. 16.

<sup>43</sup> Helsinki Foundation for Human Rights 2005: 2005 Data Collection. RAXEN National Report. Poland, Warsaw, p. 47 f.

- to develop and implement, in cooperation with other government administration units, a system of collection and analysis of socio-demographic data in order to monitor incidents of racism, xenophobia and discrimination;
- to develop and update educational materials for the police, border guards and government units operating at the voivodship (provincial) level, raising anti-racist awareness and preventing xenophobia and intolerance;
- to analyze and prepare public reports on racism, racial discrimination and xenophobia in Poland;
- to initiate and implement programs and strategies to prevent and combat racism, ethnic discrimination and xenophobia.<sup>44</sup>

The Team's tasks are to be realized in close cooperation with non-governmental organizations that are active in the field of prevention and fighting racism, antisemitism, racial discrimination and xenophobia. The Team is working on building a database on cases of racial discrimination and violence, which should also provide some information to the public. So far, to our knowledge at least, the database has not been created. Some information, however, have been made available by request of the Helsinki Foundation for Human Rights: In the period between January and October 2005, the Team received 23 notifications, of which nine concerned incidents of battery and eight related to cases of hate speech. The remaining six cases had to do with complaints of mistreatment by public officials. The Ministry of Interior and Administration referred the latter cases to administrative institutions for resolution. Eight out of the nine cases of battery were reported to the police. In one case a victim did not want to report the incident to the police. Charges were filed in two cases, and the police were still investigating in the remaining cases by the time of the report. Three of these reported violent attacks targeted Roma, the other victims were foreigners, including one Israeli citizen. Of the eight reported cases of hate speech, most of them of antisemitic nature, five were submitted to the prosecutor's office and three were discontinued. Notifications addressed to the team have various forms; at times they are only e-mails informing the team about an incident, without further details of the circumstances. The Team itself does not try to verify the validity of the reports made, nor does it judge the xenophobic character of the incidents.<sup>45</sup>

Two further bodies, established within the police structures, constitute new potential sources of information with regard to hate crimes: the **Plenipotentiaries for Human Rights Protection Issues**, active in the voivodship (provincial) police headquarters and police academies since December 2004, as well as the **Plenipotentiary of the High Police Commissioner for Human Rights Protection**. Their tasks are set out in the „Police action schedule in the domain of human rights for 2005“ and include the collection of information on cases of racial and ethnic discrimination, antisemitism and xenophobia, on instances of hate speech as well as activities of far-right and neo-fascist groups. According to information obtained, in 2005, the plenipotentiaries identified 15 hate crimes with a xenophobic background, two of them cases of antisemitic hate speech. In two cases investigations were ceased because the perpetrators could not be identified. Other preliminary proceedings had not been completed. In one case the perpetrator was charged, but no racial basis for the attack was identified by the court. The victims of the reported cases were mostly persons of dark skin colour and members of the Roma community.<sup>46</sup> More recent information prepared on request by the Plenipotentiary of the High Police Commissioner for Human Rights Protection Issues from all voivodships police headquarters in Poland show 86 cases of hate crimes between January-September 2007, of which at least 18 were of antisemitic nature.<sup>47</sup>

As reported by ODHIR, by June 2006 a special unit had been established at the Polish Police

44 <http://www.mswia.gov.pl/portal/pl/99/204/Dzialalnosc.html>.

45 Helsinki Foundation for Human Rights: 2005 Data Collection, p. 47 f.

46 Ibid., p. 48.

47 European Union Agency for Fundamental Rights: Anti-Semitism, p. 16.

Headquarter to monitor and investigate potential threats to ethnic and religious minorities in Poland.<sup>48</sup> The organization was also informed by the Polish government of newly assigned officers to support efforts to combat right-wing extremism, but nothing is known about their fields of activities. Furthermore, Poland has been participating in ODIHR's **Law Enforcement Program on Combating Hate Crimes** which was developed in cooperation with police experts from six member states of the OSCE. The implementation of the program in Poland was preceded by a study visit of ODIHR experts in November 2006 to analyse the needs of Polish authorities with respect to the issues covered by the program. A series of consultations were held, during which the ODIHR experts met with representatives of government administrations, police agencies and some NGOs. The discussion focused on five areas: policies and strategies with respect to counteracting hate crimes, training of police officers in this respect, collecting information on hate crimes, the legal framework, as well as the consultation and involvement of local communities in the fight against hate crimes.

It remains, however, unknown how many Polish police officers have received special training within the framework of the program, and whether the program led to changes within the registration system. Whereas some selected NGOs were asked to be part of the consultation process, no follow-up information was provided to them. No specific proactive measures have been taken by the Polish police and other law enforcement agencies to respond to the particular needs of communities affected by hate crimes, and no new strategies or programs have been devised, similar to the ones already in place to deal with victims of domestic violence and rape.<sup>49</sup>

### 3.1.2.2 Concerns of Supranational Bodies and NGOs

In addition to the low informative value of the provided official data and statistics, there seem to be further major problems with the actual practice of police registration and the treatment of victims of hate crimes. As has been reported by some of our interview partners many police officers either do not have any knowledge of the concept of hate crime, are completely uninformed about far-right organizations and their activities, or are often not very helpful, sometimes even hostile towards minority groups (see chapter 4). According to an assessment of ECRI, in most cases racist and other biased motives of a crime are simply ignored by the Polish police and other law enforcement agencies, and the offences are therefore treated as any other crime. „One of the reasons given for this [by the Polish authorities] is that the police are reluctant to take the racist motive into account as they consider they should be blind to a person's race.“<sup>50</sup>

A representative of the Russian Cultural and Educational Association in Bialystok also highlighted the problem of police officers' reluctance to recognize the racist or neo-fascist background of crimes as the authorities do not want to admit the scale of the problem. In such situations organizations or individuals attempting to intervene are left with the task to investigate and provide the needed evidence:

„There is a necessity to collect information to prove that violent attacks are not a rare phenomenon, as it is claimed by the police officers. [...] It is convenient for the police to show once or twice a year that it was a marginal group or simply to categorise such crimes as „hooliganism“ and not treat them seriously. It is necessary to prove that such cases can not be simply considered as hooliganism, but have a ethnic, racial or religious bias, but in the Polish realities it is almost impossible.“<sup>51</sup>

Another NGO spokesperson, representing the Union of Jewish Religious Communities in the

48 Office for Democratic Institutions and Human Rights (ODIHR) 2006: Challenges and Responses to Hate-Motivated Incidents in the OSCE Region (Period: January-June 2006), Warsaw, p. 36.

49 Helsinki Foundation for Human Rights: 2005 Data Collection, p. 50.

50 European Commission against Racism and Intolerance 2005: Third Report On Poland, Strasbourg, p. 10.

51 Interview with the Russian Cultural and Educational Association.

Republic of Poland, mentioned similar difficulties in the context of antisemitism:

„Unfortunately there were many cases of antisemitism which were not considered as such by the police. Thus, for example, there was a case when a person, being Jewish himself, was attacked, but it was impossible for the family to prove that it was antisemitism that motivated the perpetrators to commit the crime.“<sup>52</sup>

Even in very obvious cases, eg. Nazi-skinhead violence against African people accompanied by racial slurs, the police have reportedly been reluctant to record and investigate the racist background of the attack. In November 2006, following several anti-Semitic and anti-gay incidents in Warsaw and Wrocław, the local non-governmental organization „Open Republic of Poland - Association against Anti-Semitism and Xenophobia“ appealed to the Ministry of Interior to provide clearer guidelines to police on how to respond to these types of complaints. The NGO accused the police of being inattentive and helpless in reacting to societal abuse and harassment.<sup>53</sup>

Since homophobic attacks are not defined by the Polish Criminal Code as hate crimes, they also do not feature in the police statistics. As one member of the Polish „Campaign Against Homophobia“ explains, the registration system and handling of cases does not encourage reporting, and is flawed in many respects:

„For example, an incident of a racially motivated rape will be put in the rape statistics and not in the statistics of racial violence. Often the victims of violence, while talking with the police, hide that the reason of the attack was their sexual orientation. For example, when somebody is attacked or robbed, she or he will not say that it happened in a gay club, because she or he will be ashamed of this. I got a letter from Gdańsk that in a gay club, heterosexual persons as a matter of fact, and only looking like homosexual, were attacked. The motive was that they were dykes. They wrote, that they do not want to report it to the police and want to forget it“.<sup>54</sup>

Moreover, the police do not keep records on ideologically motivated violence targeting other victim groups such as antifacist activists or alternative youth which are considered „anti-national“ by the perpetrators. Even information on criminal cases resulting from the Criminal Code provisions directly relevant to the issue of racist or antisemitic hate crimes is not published regularly in a publicly accessible form. It is collected and revealed – by institutions such as the Ministry of Justice or the Police Headquarters Office – only occasionally, mostly upon special requests by other official bodies or journalists.

Thus, for example, the daily newspaper *POLSKA The Times*<sup>55</sup> was recently able to obtain some more current police statistics on far-right activities/offences according to which there were 82 „nazi incidents“ in 2007, 35 more than recorded for the previous year, while in 2005 there were only 18 registered incidents. In addition, the newspaper reported about six cases of right-wing violence dealt with by the Agency for Internal Security (ABW) in the period 2006-2007. Characteristically, the Agency refused to provide any details to the journalists.

Another key issue within Polish society, as in other post-communist countries, is that of the legitimacy of the police. Law enforcement agencies are still regarded by many with deep suspicion as a remnant of a repressive past when the police were servants of the state and communist party, and were seen as such. At the same time, experiences of regular police abuse, as reported by members of the Roma community or other ethnic or sexual minority groups, do not help to strengthen the trust on the side of potential victim groups either that incidents of individual assaults will be taken seriously by police officers. Whereas Amnesty International has repeatedly urged the Polish

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52 Interview with the Union of Jewish Religious Communities in the Republic of Poland

53 US Department of State 2005: Poland. Country Reports on Human Rights Practices, Washington D.C., p. 3.

54 Interview with Campaign Against Homophobia.

55 POLSKA. The Times, 21.4.2008.

authorities to intensify efforts to eradicate cases of police ill-treatment through training, effective investigation and prosecution of those responsible (see chapter1), NGO representatives and activists are still observing that most victims of hate crimes do not report to police departments, leaving many incidents and assaults unregistered and offenders unpunished.

## 3.2 Data on Legal Proceedings and Convictions

Data on legal proceedings and convictions constitute another important source for the assessment of state responses to the problem of right-wing violence and related hate crimes. However, this kind of information is only provided by special requests either by members of the parliament, as in the case in Germany, or by request of supranational bodies or human rights organizations, as in the case of Poland.

### 3.2.1 Germany

All legal authorities of the states are obliged by the Federal Ministry of Justice to register cases of investigations launched by the state prosecutors due to – alleged or actual – right-wing extremist, xenophobic or antisemitic crimes. The most recent statistics available are from the years 2001-2003.

*Table 5: Investigations launched by the public prosecutor related to (alleged) right-wing extremist and/or xenophobic hate crimes 2001-2003*

	2001	2002	2003
Propaganda offences (Dissemination of propaganda material; use of symbols of anti-constitutional symbols, §§ 86, 86a StGB)	19.875	14.171	12.554
Propaganda offences (incitement of people and representation of violence, §§ 130, 131 StGB)	4.746	3.334	3.123
Breach of the peace (§§ 125, 125a StGB)	480	231	184
(Attempted) murder (§§ 211, 212 StGB)	19	14	27
Bodily harm (§§ 223 StGB)	1.070	942	833
Arson attacks (§§ 306 StGB)	46	53	96
Antisemitic offences	656	609	316
Offences against foreigners	3.553	2.276	1.796
Other offences	2.470	2.063	1.987
<b>Total</b>	<b>29.362</b>	<b>21.417</b>	<b>19.120</b>

*Source: German Parliament, printed matter 16/1353 (27.4.2006)*

*Table 6: Closed investigations of the public prosecutor related to (alleged) right-wing extremist and/or xenophobic offences*

	2001	2002	2003
Number of closed proceedings	27.590	21.771	17.832
Total number of convictions	2.623	2.805	2.334
Proportion of all closed proceedings	9,5%	12,9%	13,1%
Number of convictions due to offences against foreigners	939	644	437
Total numbers of acquittals	365	217	154

*Source: Ibid.*

In contrast to the police registration system, information and research on the question how public

prosecutors deal with the issue of hate crimes in Germany is rather rare. The same applies to the respective performance of courts and the ruling of judges. In her doctoral thesis, Sylvia Seehafer summarized some findings concerning arson attacks, incidents of assault and battery, and the legal treatment of organized right-wing extremist groups since the early 1990s. Accordingly, the growing experience with right-wing arson attacks, for instance, led to increased pressures on public prosecutors to press charges of attempted murder. As a result, arson attacks on private homes are now regularly treated as conditional premeditated manslaughter. This definition is taking into account the political character of the attacks, as perpetrators deny their victims human dignity and the right of existence for ideological reasons. This evident change in jurisdiction, however, did not result in increased sentences, presumably due to the large share of juvenile perpetrators.<sup>56</sup> At least in the field of juvenile law, sentencing is predominantly orientated at the educative goal and re-socialisation of the offender.

Assumably, the stance of state prosecutors on the problem of hate crime does have a decisive influence on police investigations as well as on the examination by the courts. Interviews with victim support organizations support this argument. For the federal state of Brandenburg, it was stressed that the performance of the public prosecution improved in the past years, notably under the guidance of a particular committed General State Prosecutor.<sup>57</sup> Other victim counsellors from Saxony-Anhalt emphasized the lack of knowledge and commitment in their regional justice system: “Sometimes we observe that prosecutors [trained for] economic law are supposed to press charges [due to right-wing motivated offences] against neo-Nazis with a long-standing criminal record. They have no idea about right-wing extremism.”<sup>58</sup> This is why some NGOs lobby for the installation of public prosecutor offices specialized in right-wing extremism,<sup>59</sup> a demand which is also supported by some legal experts.<sup>60</sup>

As has been depicted in the previous chapter, the German Criminal Code does not explicitly address and define hate crimes, and thus provides no clear standard for the prosecution. But, even if measures for sentence enhancement in cases of bias-motivated crimes should be introduced into the legal system, the question remains of how to prove the xenophobic motive. The examination of the interrelation of perpetrator’s motives, the offence and the actual effect of the offence on the victim requires an intricate understanding of, for example, racist ideologies and manifestations. A concrete case highlights the problem:

In April 2006, shortly before the Football World Cup was to take place in Germany, Ermyas M., a German citizen of Ethiopian origin, was attacked and severely injured in a fight which had a clear racist dimension according to the victim. In June 2007, after investigations and a criminal procedure which were highly publicised and debated nationally and internationally, the two only suspects were acquitted for want of evidence. In the verdict the court also commented on the racist dimension of the case. The term “Nigger”, which had been used by the accused against the victim, was not necessarily racist motivated, the judge explained. “The intention could also have been limited to the aim of offending the opponent.” The judge also assumed that calling white people a “pig sod” would be of comparable impact.<sup>61</sup> According to victim counsellors of the association Opferperspektive, the case shows that “the lack of objective standards leaves [the judges] with a

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56 Seehafer, Silvia 2003: *Strafrechtliche Reaktionen auf rechtsextremistisch/fremdenfeindlich motivierte Gewalttaten – Das amerikanische „hate crime“ Konzept und seine Übertragbarkeit auf das deutsche Rechtssystem*, Dissertation, Humboldt-Universität zu Berlin, Berlin, p. 32.

57 Interview with Opferperspektive e.V.

58 Interview with Miteinander e.V.

59 Ibid.

60 Seehafer: *Strafrechtliche Reaktionen*, p. 36 (Specifically institutionalized state prosecution departments are „a beginning“ to support an adequate judicial examination of the events of the offence).

61 A detailed account of the case in German language is provided by Opferperspektive e.V. 2008: *Der Fall Ermyas M. Chronik einer Debatte*, Potsdam.

considerable power of definition. [...] Obviously, legal skills are insufficient to assess the problem.” Furthermore, victim counsellors observed differences between comparable rulings which show inconsistency in the identification of right-wing motivations.<sup>62</sup>

### 3.2.2 Poland

Information on legal proceeding and convictions with regard to hate crimes in Poland is collected by the Ministry of Justice. In Poland, the offenders, if convicted at all, are usually punished on the basis of “regular” Criminal Code provisions, for example, Art. 115 (§21) which refers to “acts of vandalism”. Only in some exceptional or high-publicity incidents (see chapter 1), the perpetrators of hate crimes have to face longtime prison sentences. As has been noted before, the Polish Criminal Code does not contain any penalty enhancement provisions for bias-motivated offences. One of the rare official sources currently available on court cases and convictions related to racist hate crimes and hate speech is a report that was compiled as part of the „National Program for Counteracting Racial Discrimination, Xenophobia and Related Intolerance 2004-2009” (see chapter 1). It contains some information on legal procedures and final court decisions related to xenophobic crimes (article 119 § 1, articles 256 and 257 of the Polish Criminal Code), prepared by the Ministry of Justice in cooperation with the Government Plenipotentiary for the Equal Status of Women and Men.<sup>63</sup>

The following statistic is based on research done by the Helsinki Foundation for Human Rights which collected and compiled information from the Police Headquarters Office, the public prosecutor and the Ministry of Justice, and published it in their most recent report on „Xenophobic and Ethnic Discrimination in Poland“ in February 2008:

Table 7: *Legal proceedings in cases of racist offences 2004-2006*

Year	Number of offences (Art. 118, 119, 256 and 257 Criminal Code)	Proportion of requested indictments	Proportion of discontinuation due to failure to identify the perpetrators	Number of convictions
2006	94	47%	34%	35
2005	68	71%	21%	22
2004	42	64%	31%	18

Source: Mikulska, Agnieszka 2008: *Xenophobia and Ethnic Discrimination in Poland – Outline of the Situation*, Helsinki Foundation for Human Rights, Warsaw, p. 12 (based on data from the “Temida” police and the public prosecutor statistical system).

While the Ministry of Justice declared only recently that the figures of prosecutorial practice and jurisprudence have once again proved the marginal nature of the hate crime phenomena in Poland, some NGOs have repeatedly pointed out to the fact that incidents of violence and hate speech are still downplayed by law enforcement agencies, amongst others by too often applying the principle of „insignificant social harmfulness“ of an act (see chapter 2). Why legislation in place to prosecute xenophobic or antisemitic hate crimes is hardly used by police departments and public prosecutors, as has been critically highlighted also by supranational bodies such as ECRI, needs definitely further public attention and research.

62 Interview with Opferperspektive e.V.

63 Mikulska, Agnieszka 2008: *Xenophobia and Ethnic Discrimination in Poland – Outline of the Situation*, Helsinki Foundation for Human Rights, Warsaw, p. 12.

### 3.3 Parliamentary Inquiries

Since the annual publications of law enforcement and intelligence agencies are not able to adequately display and warn of current developments in the field of far-right activities and hate crimes, parliamentary inquiries have become a very important monitoring instrument in Germany. The most active political party with regard to those inquiries on the federal level is the party “Die Linke”. The answers of the national government to monthly inquiries of the party’s MP, namely Petra Pau, Ulla Jelpke and other colleagues, deliver the most up-to-date figures on politically motivated crimes/right-wing registered by the police in Germany, broken down to information on where they occur (which state), on the number of people injured as a result of these crimes, and on the number of alleged offenders and arrests made by the police. The same MPs make also more data available on registered antisemitic crimes via further regular parliamentary inquiries (every three months).<sup>64</sup>

Some members of the regional parliaments, including politicians from “Die Linke”, the Green Party, the Social Democrats and also the far-right National Democrats,<sup>65</sup> are also using queries on the regional level to force the state governments to report more frequently and more detailed on incidents of racist, antisemitic and right-wing offences and the prosecution of these crimes. According to information, provided by the association Opferperspektive in an interview with the authors, the instrument of parliamentary inquiries is much more frequently applied in the new federal states (Berlin, Brandenburg, Saxony-Anhalt, Saxony, and Thuringia) than in West Germany. In the old federal states Bremen, Bavaria, Hesse, Rhineland-Palatinate, Saarland and Schleswig-Holstein it is not used at all by regional MP, despite the fact that some of these states face severe challenges posed by right-wing extremist activities.

In Poland, the instrument of inquiries has been also applied, however without any satisfying results so far. Over the last decade several formal questions were posed by parliamentarians who try to raise awareness on the issues of racism and neofascism in Poland, often on the basis of publications such as the magazine *Nigdy Więcej*. The figures which were quoted in the official government responses are almost universally considered insufficient in the light of the small number of cases of actual hate crimes that are dealt with by the Polish legal system.<sup>66</sup>

An example is a response given in January 2008 by an undersecretary of the Ministry of Interior and Administration to a parliamentary query, submitted by the MP Janusz Krason of the Democratic Left Alliance (SLD), concerning the combat of right-wing hate speech in the Internet. The undersecretary Adam Rapacki referred to the Police System of Crime Statistics „Temida“ and stated that in the period January-November 2007 the following numbers of preparatory proceedings were launched: 10 preparatory proceedings concerning violation of article 119 § 1 and 2 of the Criminal Code (violence, unlawful threat towards a group or individual); , out of which 3 were submitted to a court with indictment, 1 was suspended, 2 were discontinued due to impossibility to determine the perpetrators, 2 were discontinued due to lack of criminal traits, 1 was finalized before a launching decision was issued (based on article 308 § 1 of the Criminal Proceedings Code) and 2 were directed to family court; 66 preparatory proceedings concerning article 256 of the Penal Code (propagating fascist or other totalitarian state system), out of which 1 was submitted to court with indictment, 1 was shifted to another law enforcement agency, 1 was suspended, 2 were discontinued due to reasons excluding prosecution, 20 were discontinued due to impossibility to determine the perpetrators, 1 was discontinued due to „little social harm“, 20 were discontinued due to lack of criminal traits, 3 were finalized before a launching decision was issued (based on article 308 § 1 of the Penal Proceedings Code), and 9 were directed to a family court.<sup>67</sup>

64 [http://www.petrapau.de/16\\_bundestag/index\\_anfragen\\_rechts.htm](http://www.petrapau.de/16_bundestag/index_anfragen_rechts.htm).

65 According to information provided by interviews with victim support organizations, the motive of the NPD for these inquiries is to criticize regional NGOs for overreporting on hate crimes, by comparing police and unofficial figures.

66 Examples: <http://orka2.sejm.gov.pl/IZ6.nsf/main/4556597A>.

67 See: <http://orka2.sejm.gov.pl/IZ6.nsf/main/4556597A>.

Despite the hitherto observable reluctance of the national government bodies in Poland to make available more detailed information on incidents of hate crimes, the instrument of parliamentary inquiries on the national and regional level seems to have some potential that has not been tapped to full extent so far. It should be examined further by NGOs willing to cooperate with (oppositional) parties and individual politicians whether and how it could be applied more effectively to further the public debate on hate crimes and put more pressure on Polish authorities, including the law enforcement agencies, to improve their registration and monitoring systems.

### 3.4 Summary/Conclusions

Compared to other states, particularly those with a longer tradition of hate crime policies and legislation such as Canada, the United States or the UK, both countries, Germany and Poland, have a rather limited monitoring system in place. In both countries, hardly any information is provided by the authorities on the characteristics of the victims affected by bias-motivated violence (religion, language, gender, sexual orientation, nationality and ethnic origin) or other circumstances of the attacks (places of victimization etc.).

Whereas in Poland the number of convictions with regard to hate crimes is very low (35 cases of convictions in 2006), and many legal procedures are discontinued, the German jurisdiction seems to be inconsistent and strongly influenced by the stance of public prosecutors, differing from state to state. There are no up-to-date statistics available on convictions with regard to right-wing hate crimes in Germany, and not much research on the question how public prosecutors and the jurisdiction in general deal with hate crime dimensions in criminal proceedings.

For Germany, it can be maintained that the police system of registration and data collection has been somewhat strengthened since 2001 due to a mix of internal and external pressures, including criticism raised by legal experts, journalists and a number of civil rights and victim support organizations over the low quantity and quality of police data on hate crimes. The most important improvement was the introduction of the category “politically motivated right-wing offences”, with its sub-categories xenophobic and antisemitic crimes, which became an integral element of the German police registration and classification system in 2001. Before, the previous registration rules stated that ideologically motivated crimes had only to be recorded by the police as such if the “perpetrator showed intentions of disturbing fundamental democratic principles of the state”.

While in Germany the system of data collection has been improved over the years, and government agencies are regularly reporting on current figures and trends, so far there has been no broader discussion in Poland with respect to the police registration and official monitoring system of hate crimes. Authorities in Poland provide only inconsistent and insufficient information on right-wing violence and related offences, and often only upon request by supranational bodies, the media or other institutions. Furthermore, the data seems to be collected in a rather non-systematic way. More comprehensive information on hate crimes in Poland still comes from the media and from specialized non-governmental organizations, not from the official sources such as police or public prosecutors.

The lack of reliable and up-to-date statistics on hate crimes is, therefore, a major obstacle not only for research, but also for a broader public acknowledgement and awareness of the problem of bias-motivated violence and hate speech in Poland. The fact that the numbers of reported cases are still very low seems also to be related to a general lack of faith by many victim groups in the effectiveness of the law enforcement agencies to bring to justice the perpetrators and address the grievances of affected individuals and communities.

A similar mistrust can be still observed in Germany. Although the treatment of hate crimes victims by police and legal authorities seems to have improved in some places, and the definition of the

category “politically motivated crime” has been broadened, hate crimes in Germany are still very much discussed and viewed through the prism of right-wing extremism. Whereas the revised system considered much of the NGO criticism from before 2001, some experts have noted a persistent reluctance by the law enforcement officers to take bias motives – others than far-right and openly extremist ones – seriously, and to invest more time and energy in the proper registration and investigation of reported cases and alleged perpetrators. Others are suspecting a general neglect by officials of “everyday” racist, antisemitic, homophobic or other bias-motivated harassment and attacks committed by offenders which may not be directly attached to an extremist organization or to specific social environments such as the right-wing skinhead or hooligan scene.

In both countries, underreporting by hate crime victims for various reasons poses a serious challenge not only for the groups mostly affected, but also for the legal and justice system and democratic society as a whole. As long as law enforcement agencies do not improve and intensify their efforts with respect to awareness raising within the administrative and law implementing structures, outreach activities to victim groups, and other confidence-building measures, NGOs representing minority groups and/or active in monitoring and support activities remain a crucial and sometimes the only actor which can strengthen the position and voice of the victims.

## 4 Activities of Non-governmental Organizations

In the following we will present the results of our study with respect to activities of NGOs operating in the field of monitoring of right-wing violence and offering assistance to victims of hate crimes in Poland and Germany. As will be shown further below, the approaches of both research teams had to be somewhat adjusted to the particular situation of non-governmental organizations in the respective countries. Whereas some parts of the NGO sector in Germany active in countering right-wing extremism, racism, homophobia and discrimination have gone through a process of professionalization and specialization over the past decade, often due to new government and state programs and funding opportunities, there have been hardly any efforts by the Polish government or other institutions so far to support activities in this field, leaving NGOs in Poland with much fewer resources to develop monitoring strategies and specific support programs for victims of hate crimes.

Therefore, we agreed that for the Polish part of the study it was reasonable to broaden the scope of the research by also contacting and interviewing organizations and groups which have not been involved in such programs so far, but should have a certain interest and expertise with regard to right-wing activities and hate crimes in Poland, because they are either representing the interests of particular minority communities and/or as welfare or human rights organizations have regular contacts with potential victim groups such as refugees or the Roma community. In order to identify and discuss viable forms and fields of transnational cooperation it appeared crucial to us to learn in a first step more about the general perspectives and assessments of various NGOs of the issues at stake: Whether these groups recognize right-wing violence and hate crimes in Poland as a significant social and political problem; whether and to what extent the members of their communities have been affected by discrimination and attacks; and if so how the the groups and community networks have dealt with these incidents and experiences of harassment so far.

In the German part of the study we concentrated right from the beginning more on organizations already active in the field of monitoring and hate crime victims' assistance, paying less attention to informal/self-help groups or general welfare or human rights associations. As described in the respective chapter more in detail, the biggest challenge for Germany was the identification of NGOs in the old federal states where in contrast to East Germany no specialized support organizations for victims of right-wing violence have been set up so far. Here, we also decided to expand our survey by including groups in our interview sample which have other primary objectives than hate crime monitoring but can and do already serve in their region as important contact points for potential victims such as anti-discrimination offices.

There are, of course, further apparent structural differences between the two countries, apart from the funding and legal framework, that have to be taken into account when analysing and discussing the problem of hate crimes, and the specific make-up of the national NGO sectors and civic engagement against right-wing extremism, antisemitism and racism in both countries. Some have to do with a different history and different patterns of migration. Although a new ethnic diversity can be observed in Poland today, due to opening borders, movements of refugees and transit migrants as well as the establishment of international traders' networks, the size of migrant communities and national/ethnic or religious minority groups is still very small compared to Western European countries.<sup>1</sup> Organizations and manifestations of right-wing extremism in both countries also differ to some extent. While in Poland far-right and nationalistic groups have also gained influence, violent-prone neo-Nazi and skinhead scenes might be still smaller and more concentrated in certain

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1 See Iglicka, Krystina 2005: Active Civic Participation of Immigrants in Poland, Country Report for the European Research Project POLITIS, Oldenburg.

regional areas than in Germany. Some of these issues will be briefly addressed in the following country chapters by representing the views of our interview partners, but they could not – mainly due to time restrictions – be dealt with in a more systematic way. Overall, the study focussed on four research question:

1. What are the perspectives of the selected Polish and German NGOs on right-wing violence/hate crimes and their operational definitions?
2. Which groups are active in monitoring of hate crimes and what approaches/methods are applied?
3. Which NGOs do offer assistance to victims of right-wing violence and related crimes? And what kind of services are offered?
4. What forms of transnational cooperation and support could be useful, based on the needs, experiences and resources of the interviewed NGOs?

Both country chapters have a similar structure. We start the account with a short introduction, presenting an overview of NGO activities, campaigns and networks devoted in both countries to counter discrimination, right-wing extremism, racism, antisemitism and homophobia. In a second sub-chapter we will briefly describe the “research design”. The third part of each country chapter deals with different perceptions of the problem of hate crimes, and if and how the groups and organizations studied in both countries apply and use the term. In the fourth and fifth sub-chapter we present our research results with regard to monitoring activities and support services to victims. The chapter on Polish NGOs also discusses more in length the demands and needs for monitoring and support activities, as expressed by the interviewees. Furthermore, it tries to identify the main reasons why hate crimes in Poland have not been addressed more openly so far, including obstacles and barriers within Polish society as well as limited resources and capacities of many NGOs. Each country chapters concludes with an overview of the perspectives of interviewed organizations with respect to transnational cooperation, a typology of studied NGOs, and finally with a summary of the most important research results.

## 4.1 NGOs in Poland

*“There is still lack of discussion on the problem [of hate crime] in Poland. Some institutions research the problem but very often this is only a lip service, which is connected with the international obligations assumed by Poland. Besides, a few NGOs run a few projects on the hate crime phenomenon. And of course, some media objectively inform about the problem. Until now, the state administration has officially registered very few incidents.”*  
(Marcin Kornak, “Nigdy Więcej”)

In Poland, there is a growing number of NGOs<sup>2</sup>, grassroots social movements and non-institutionalized political groups that are active in the field of countering racism and antisemitism, homophobia, intolerance and xenophobia, discrimination etc. These organizations and groups have been forming since the 1990s. In most cases the major focus so far seems to be on education, which ranges from general campaigns for tolerance (such as the “T-shirt for Freedom” campaign), specific action days and action weeks (such as the “European Action Week Against Racism”, the “European Day Against Fascism and Antisemitism”, “Refugees’ Day” etc.), antiracist workshops offered by NGOs, and numerous other activities that not necessarily have antiracism or hate crime awareness as their major focus but yet provide space for these subjects (e.g. educational activities on “multiculturalism”, minorities, Polish-Jewish relations and the Holocaust etc.).

In face of the worsening situation of the LGBT community in Poland in recent years – a process which can be explained in terms of a conservative backlash against the mobilization of gay/lesbian and feminist movements and demands for the emancipation of sexual minorities on the one hand, as well as against broader cultural modernization resulting from transnational exchange and European integration on the other – a number of campaigns have been initiated of more overtly political nature (e.g. “Parade of Equality in Warsaw”, “Equality Marches” in Poznań, “March for Tolerance” in Kraków etc.). Relatively broad political mobilization, including groups of middle- and high-school pupils (“Pupils’ Initiative”) was initiated in 2006 against the far-right Minister of Education, Roman Giertych. The campaign “Giertych Must Go” drew a number of progressive, antifascist, leftist and left-libertarian organizations.

There are also organizations that apart from educational or public-campaigning activities focus on public intervention against ideologies of hatred and particular cases of hate crimes, as well as on some forms of assistance to victims of hate crime and discrimination. The latter activity is also a part – yet minor (if not marginal) – of the work of organizations whose primary focus is legal assistance in administrative matters or welfare aid to migrants/refugees and other underprivileged social groups. Such is also the case with organizations focussed on crisis intervention or victim assistance in the field of domestic violence.

Some of the more active organizations countering racism, homophobia and other forms of group-based hatred and discrimination are:

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2 According to the survey „The Condition of the Non-Governmental Organizations Sector in Poland in 2006“ (carried out by the Centre for Social Opinion Research of the Klon/Jawor Association) there were over 55.000 associations and more than 8.000 foundations registered in Poland. 12.8 percent of them indicated „culture and art“ as their main field of activity, 10.3 percent „education“, 9.9 percent „welfare and social aid“ (these fields are most likely to include NGOs focussed on dealing with hate crimes, racism, homophobia, discrimination etc.). 34 percent of all NGOs belong to various thematic, regional or national federations, coalitions and unions, and only 16 percent of those unaffiliated groups would like to join broader structures. Only 10 percent of all Polish NGOs belong to international coalitions and networks, and among those non-affiliated internationally only 25 percent would like to join. The surveyed NGOs most often declare cooperation with local government (85%), public institutions such as schools, hospitals or museums (77%) and local media (50% of NGOs). Other NGOs are less frequently a partner of cooperation, and one third of all surveyed NGOs declared that they have no contacts with other non-governmental organizations (<http://badania.ngo.pl>).

- antifascist/antiracist groups, organizations and networks
- organizations countering intolerance and promoting the idea of multicultural society
- general human rights organizations
- LGBT organizations
- feminist and women's organizations
- crisis intervention and crime victim support organizations
- popular alternative media.

#### 4.1.1 Research Design

For the Polish part of the study, 28 organizations were selected. Most of them are officially registered associations, while others are foundations, religious organizations or informal groups. 27 representatives<sup>3</sup> of 25 organizations were eventually interviewed, and 25 interviews (with representatives of 23 organizations) were eventually used for the analysis.<sup>4</sup> Most organizations or their representatives had been known before to the Polish research team members, and in some cases the “snow ball” sampling procedure was used, when new respondents were recommended by persons already interviewed. There has been a predominant focus on organizations operating in larger urban areas. Almost half of all organizations included in the survey are based in Warsaw, while others are active primarily in the Eastern (mainly Białystok) or Southern parts of Poland (cities such as Białystok, Kraków and Oświęcim, as well as Lower Silesia and Opole region). The following types of organizations have been selected for the present study:

1. **NGOs involved in systematic monitoring of hate crimes** (“Nigdy Więcej”)
2. **general human rights and welfare organizations**  
(Helsinki Foundation for Human Rights, Polish Humanitarian Action, Association for Crisis Intervention)
3. **organizations of potential victims of attacks/self-help groups:**
  - organizations of officially recognized and registered ethnic or national minorities (Russian Cultural and Educational Association, German Students’ Union, Association of Roma in Poland, Lemko Song and Dance Ensemble, Union of Jewish Religious Communities in the Republic of Poland, Social and Cultural Society of Jews in Poland, Jewish Cultural Association Beit Warszawa)
  - organizations of immigrant minorities (Foundation “Ocalenie”, Ingush Unity, Society for African Affairs at the Jagiellonian University, “Solidarity and Friendship” Association of the Vietnamese in Poland, Muslim Centre for Education and Culture, Mongolian Student Community, Arabia.pl Association, Kazach Community)
  - LGBT organizations (Campaign Against Homophobia, Lambda-Warsaw)
4. **informal groups:**
  - minority groups (Ingush Unity, Mongolian Student Community)
  - antifascist groups (anti-Nazi group from Piła, “Nigdy Więcej” group from Oświęcim).

3 In a couple of cases more than one representative from an organization was interviewed. See appendix for the full list of organizations included in the study.

4 One representative of a national minority organization refused to give an interview because „they are afraid to talk about discrimination and hate crime“.

## 4.1.2 Different Operational Definitions and Perspectives on Hate Crimes

As could have been expected, all of the interviewed NGO representatives and activists recognized the fact that members of minority communities and other groups can be subject to various forms of mistreatment either by members of majority communities, institutions or organized groups in Poland. Although with a differing emphasis and openness to the issue, all the interviewees identified problems such as individual and institutional discrimination, stereotypical imaging of minorities in public discourses, as well as the existence of majority-minority tensions. How NGO representatives approach the problem, both in terms of understanding and tackling it, is shaped by the specific historical and contemporary situation of their communities and organizations in Poland, by their personal experiences, as well as by their training (formal or informal) in the field of antiracism/antifascism, pro-tolerance activism, human rights education, political involvement etc.

There is a strong conviction among most NGO representatives who were interviewed, that xenophobia, prejudice, intolerance, racism and discrimination of minorities are persistent patterns of Polish social and cultural life. This view was expressed mostly by representatives of organizations dealing with “visible” minority groups, such as refugees and migrants occupying marginal or underprivileged positions in the Polish society (for instance, due to lack of linguistic skills, shortage of legal and administrative knowledge etc.), people with visible physical difference (people of colour, people wearing religious or ethnic symbols etc.), groups with a long history of stigmatization in Poland (e.g. Roma, Jews), sexual minorities, or people involved in alternative or radical action for social and cultural change (e.g. antifascist activists, punk subcultures etc.).

For example, Malika Abdoulvakhabova, the vice-president of the **“Ocalenie” Foundation** that works with the Chechen diaspora community in Poland, pointed out that attacks against Chechen migrants and refugees in recent years were motivated by

“strong xenophobia, fear of people coming from the North Caucasus, lack of knowledge about Chechen people. [...] Xenophobia exists everywhere. These are widespread slogans: Russia for Russians, Poland for Poles, Germany for Germans. At the same time xenophobia is stronger in Poland than in Western Europe, and it is connected with the unstable economic and social situation. People do not want newcomers. This is my opinion and the opinion of those Chechens whom I met.”

A particular striking assessment and recognition of hate crimes comes from communities that have a long history of stigmatization and experience with political and cultural hatred: Roma and Jews. Responding to the question concerning the relevance of hate crimes in Poland Roman Kwiatkowski of the **Association of Roma in Poland** outlined the dramatic situation of the Roma communities in the Silesia province:

“Perpetrators of Roma assaults are people of extremely nationalistic views. (...) There are no skinheads in Oświęcim [where the interviewee lives], but in Chrzanów, Żywiec, Kęty there are strong groups of skinheads. Those groups are quite well organized in the Silesia district. The Roma are being constantly attacked there. They have adopted a victim’s attitude, which is the worst thing that can happen.”

Among representatives of Jewish organizations, there is, of course, a large concern about antisemitism. Jan Gebert, who is the Public Affairs representative of the **Union of Jewish Religious Communities in the Republic of Poland** referred to the results of a recent opinion poll, highlighting that Jews are considered to be the most hated group in Poland, followed by Russians. Anna Mazgal, representing the **Jewish Cultural Association Beit Warszawa** said:

“Antisemitism has been always a problem in Poland, it is a part of the daily life, culture and folklore. It is so deeply embedded that people can look at antisemitic images but do not treat them as such. It is antisemitism against Jews that are no longer here and can be manifested against those who are not Jewish. Ultranationalists and skinheads are attached to the Nazi ideology, and antisemitism is a part of it. It can be manifested violently or non-violently, through different gestures and symbols. These are people coming from the small villages who have never seen anyone different. Therefore, anyone who does not fit the ‘normal frames’, for example, handicapped or disadvantaged people, can be attacked by the skinheads.”

An account of group-based prejudice and discrimination comes from the representative of the **Arabia.pl** association, Marek Kubicki. He talked about various forms of anti-Arab incidents and Islamophobia. While the number of hate crime incidents against Arabs and Muslims in Poland is relatively small, according to Mr. Kubicki, most incidents have been committed by state functionaries (intelligence and military services) as well as groups of youngsters.

Great concern with hate crime is also expressed by leaders and representatives of LGBT groups and organizations. Robert Biedroń, the president of the **Campaign Against Homophobia** argues that “the problem of homophobia in Poland is so general and widespread that there can be many examples found in various structures of social life”. The perpetrators of violent attacks on gay persons are usually single individuals, though some of them are organized in formal or informal groups like the “All-Poland Youth” or people connected with the neo-Nazi website “Red Watch”, but also “stadium hooligans, who use hate speech to taunt homosexual persons. They sometimes also physically attack them. These are sport fans and members of extreme right-wing parties or youth organizations of these parties”.

Presenting a general interpretative framework for understanding hate crimes in the Polish context, Marcin Kornak of “**Nigdy Więcej**”, the oldest and the major contemporary antiracist and anti-Nazi organization in Poland, attempts to group various problems under a single notion:

“In my opinion, everything [concerning hate crimes] is rooted in the culture. [...] The dark side of the Polish culture is the deepest background of prejudices and ideologies which induce crimes of hate. These prejudices and stereotypes concerning certain ethnic, national and social minorities linger on for decades, sometimes even centuries. They are embedded in the way people perceive reality and use the Polish language. It is not only the domain of the poorer and less educated social strata, often they apply to nominal elites.”

### 4.1.2.1 Three Types of Operational Approaches to the Problem of Hate Crime

In spite of a broad recognition of problems related generally to prejudice, xenophobia and discrimination, we identified three different approaches to the problem of hate crime as expressed by the interviewees:

1. Countering hate crimes as an explicit part of organization's agenda
2. Hate crime replaced with other terms
3. The term hate crime found problematic, avoided or seen as a relatively insignificant issue

#### 4.1.2.1.1 Countering Hate Crimes as an Explicit Part of Organization's Agenda

Among the organizations and groups included in the study there are four that consciously and overtly use the terminology and perspective of hate crime as the essential part of their agenda: the Association for Crisis Intervention, “Nigdy Więcej”, the Campaign Against Homophobia, and the Polish Humanitarian Action.

Anna Lipowska-Teutsch of the **Association for Crisis Intervention** said: “Our organization was among the first in Poland, which began promoting the term hate crime.” At first the association used the Polish translation *zbrodnie z nienawiści* while carrying out the project “Against Hate Crime” in 2002. Then the Polish term was slightly changed to *przestępstwa z nienawiści* in 2006, when implementing a further project of hate crime prevention. Despite the change, the Polish term was still misunderstood and provoked “adverse connotations”. Police officers, whom the association's staff talked to, believed that violence in the family is an example of hate crimes. In Lipowska-Teutsch's opinion, the term biased crimes and its translation *przestępstwa motywowane uprzedzeniami* are much better suited for the Polish context.

“I would say that we are at the starting point. [...] It is important for us, as the society, to negotiate hate crime definition that will reflect the actual state, this means what kind of groups are particularly exposed to hate crimes [in Poland]. [...] Everyone talks to everybody using hate speech. There is strongly aggressive and vulgar language convention at social interactions.”

Marcin Kornak, of the antiracist association “**Nigdy Więcej**” explained how hate crime can be recognized:

“It depends on the motives of the person who committed the crime. If somebody is attacked because he or she is “different”, we are dealing with an evident hate crime. If the attack is accompanied by racist or chauvinist insults, then there are no doubts.”

In the interview, Mr. Kornak elaborated on various types of hate crimes that occur most frequently in Poland. They can generally be considered as physical violence (but also all sorts of “symbolic violence” and forms of discrimination) against people who do not match the far-right's criteria of “true Polishness”. As Marcin Kornak puts it: “Grounds of ideologically motivated assaults include different skin colour, looks, non-Polish nationality, culture or a different way of life.” Real and potential target groups are:

- **Alternative youth** expressing their rebelliousness and difference from “mainstream society” by means of, for example, their non-standard appearance. Racists very often use violence against those people. Fascists denounce alternative youth as bad, or unworthy Polish, or “slovens”, and target them with ideologically motivated violence. Examples include attacks on reggae music fans, hated for listening to „black” music.
- **Homeless people;** the association’s “Brown Book” includes reports of vicious assaults and even murders of homeless people, so called “crimes of contempt”. Sometimes fascist groups would overtly refer to such actions as “cleaning up the city”. According to Marcin Kornak, it is a big problem in Poland, largely ignored and not acknowledged as hate crime, although it should definitely be qualified as such.
- **Football players of colour and of foreign nationality,** foreign football fans or supporters of antagonistic clubs who are subject to racist attacks, often accompanied by the rhetoric of antisemitism (being called “a Jew” is the strongest offence for hooligans). This form of bigotry is so widespread because fascist or far right organizations – such as Narodowe Odrodzenie Polski (NOP – National Rebirth of Poland), Blood and Honour (B&H) or Młodzież Wszechpolska (MW – All-Polish Youth) – have infiltrated the environment of football fans. Some racist football fans also committed murders.
- **Roma people.** In some Southern regions of Poland hate crimes directed against Roma communities are a severe problem. In many cities of the region – most recently in Zywiec or Brzeg – arson attacks and assaults targeting Roma are commonplace.
- **Feminist, liberal, environmentalist, gay and lesbian** movement’s demonstrations or alternative music concerts and modern critical art’s presentations attacked by neo-fascist fighting squads.

Marcin Kornak also added desecrations of graveyards of Jewish or other national and religious minorities (Ukrainian, Russian, German, Greek-Catholic, Orthodox, Muslim), and of gravestones or monuments of Soviet soldiers, and also racist, antisemitic and neo-fascist graffiti and acts of vandalism as examples of hate crimes. He also mentioned cases of mistreatment and discrimination against people with disabilities as a serious problem.

In their practical work various groups and organizations are also confronted with the problem of hate speech which is regarded by them as a significant issue since it creates a symbolic and ideological “climate” in which the likelihood of hate crime rises. As Katarzyna Nowak, a member of the Oświęcim “Nigdy Więcej” group, explains: “We speak about hate speech more often than about hate crimes because in Oświęcim, a place where our activity is focused on, [since the time the group was formed] there have been no crimes [i.e. acts of physical violence] motivated by ethnic hatred.” Marcin Kornak gives numerous examples of popular publications containing antisemitic, nationalistic or racist contents, as well as neo-Nazi Internet sites, such as “Redwatch” created by the Polish branch of the organization “Blood and Honour”. On the Polish Redwatch website one can find pictures, personal descriptions, addresses and other data on a few hundred antifascist, leftist, LGBT and feminist activists and journalists from places all over the country. As Marcin Kornak explained, the reason for creating such a website was to make the enemies of far-right movements targets of attacks and harassment.

Robert Biedroń of the **Campaign Against Homophobia** stated: “We use this term hate crime and we are very much engaged in promoting it. We organized one of the few conferences in Poland

on the subject of hate crimes and hate speech.” Both terms are not very well recognized in Poland, and the Campaign Against Homophobia tries to propagate them. They use the English version along with the Polish translation of the term (*zbrodnie z nienawiści, mowa nienawiści*).

The problem of hate crime is also used in the Kraków chapter of the **Polish Humanitarian Action**. The organization’s programme “Humanitarian Education” is aimed mainly at young people, and it includes workshops covering issues such human rights, tolerance, civic engagement and global education (about the South). As the programme’s co-ordinator, Tadeusz Szczepaniak, explained:

“Within the programme we run workshops devoted to the problem of racism, and we try to explain young people how stereotypes are being conceived, how they are being transformed into prejudices, and how prejudices, fear and ignorance can lead to racist attitudes and hate crimes. We try to share our knowledge about hate crimes with the youth.”

#### 4.1.2.1.2 Hate Crime Replaced With Other Terms

In this second category, several patterns can be traced, which displace the use of the term hate crime in discourse of some organizations’ or groups’ leaders. Sometimes the term hate crime is recognized as a broad concept, but is operationally used only in a particular community context. Other NGOs understand hate crimes as one aspect of discrimination or intolerance.

The representative of the **Social and Cultural Society of Jews in Poland** stressed that due to the fact that many members of the organization are older people who do not speak English, the term hate crime may not be clear for them. Therefore, the terms racism and antisemitism are used interchangeably instead. Also, while speaking about hate crimes activists of Jewish organizations were concerned not merely with physical attacks on individuals, but also with acts of vandalism and desecrations of Jewish cemeteries, as well as anti-Jewish and neo-Nazi graffiti in the streets.

Whereas representatives of the **Association of Roma in Poland** and of the **Arabia.pl** association referred to the particular ethnic (Roma, Arabs) or religious (Muslims) backgrounds of experiences with hate crimes, Bogaudin Bokov of the **Ingush Unity** had not known the term hate crime before. He intuitively associated it with his community’s predominant experience: the war in Chechnya. Yet he recognized the general meaning and the context of the term as xenophobic acts against ethnic or religious minorities. In contrast, in the **Russian Cultural and Educational Association**, although one of their activities is anti-discrimination work, they have never used or discussed the term hate crime. Instead, the terms discrimination and racist incidents (*wypadki rasistowskie*) are being used interchangeably. The term hate crime is understood in the broader context of discrimination. A similar approach was presented by the president of the **Kazach Community** organization, Balli Marzec, who said that while it is difficult to give an exact definition of hate crime, the term can be “intuitively” defined as a discrimination and violence on an ethnic or racial basis. A suggestion by the representative of the **Arabia.pl** association went in the same direction: That hate crime can be categorized as discrimination, but it is “the most severe form of discrimination, when someone is beaten or killed.”

The term hate crime is also hardly used by grass-roots antifascist organizations such as the **Anti-Nazi Group in Piła**, although the activists are well aware of the ideological background of right-wing skinheads’ attacks they have to deal with on a daily basis. The group is involved in activities under the broader notion of promoting tolerance and fighting xenophobia on the local level.

Here, a quote from the representative of a LGBT organization **Lambda Warsaw**, expressing the difficulty with the operational use of the term hate crime, while at the same time recognising its significance: “We sometimes deal with criminal offences and crimes targeting homosexual persons. We are familiar with the terms hate speech and hate crime, but on a daily basis we are occupied with something else.”

#### 4.1.2.1.3 The Term Hate Crime Found Problematic, Avoided or Seen as a Relatively Insignificant Issue

The problem was more broadly elaborated by representatives of the **Helsinki Foundation for Human Rights** (HFHR). The HFHR does not have an operational definition of hate crimes, and does not use the term often. As Zbigniew Holda explained: “It depends on the situation, and I think it makes sense to use it with reference to the Criminal Code.” Agnieszka Mikulska pointed out the difficulties the organization is having with the whole concept:

“We have a kind of intuition-based thinking about the definition of hate crimes, which considers the ethnic, religious or racial bias of an offence. However it is still not very clear to us what ‘hate crime’ really means. And here the point of view of victims is important. If we compare Poland with other countries in Europe, then according to the official statistics, the number of hate crimes is definitely smaller in Poland. This is a problem of the definition of hate crimes. In fact, only crimes that have been committed on the basis of ethnicity, religion and race are covered by the Criminal Code, and there are official statistics in this regards. But it is more complicated to get statistics on attacks committed against homosexuals, homeless or disabled people, for example.”

Both representatives of the HFHR stressed that hate-motivated incidents in Poland were rather rare in Poland and affected mainly Africans or Black people as well as the Roma population. According to Professor Holda, not too many refugees and migrants complain about racist attitudes or violent attacks. Agnieszka Mikulska supported the opinion that physical attacks are not so frequent in Poland, “at least on the basis of ethnic origin.” She added:

“Minor incidents such as pushing happen more often, but usually such incidents are not registered cases. Victims do not go to the police station. Also there are attacks against property and cases of hate speech which happen more often, but most of them are not registered and investigated.”

Ms. Mikulska also admitted that Roma organizations and individuals regularly request help from the HFHR in cases of discrimination. While Africans or other migrants usually would contact them with administrative and legal questions, many Roma would raise attention to the problem of racism (in media, workplace etc.). In these cases “we can only intervene through writing a letter to the authorities or prepare a description of the problem for the press.” At the same time, she pointed to “the problem of Islamophobia and discrimination of Arab people which is very spread in Poland.” Antisemitism, in her opinion, is less characteristic for Poland than for other countries with a higher number of Jewish inhabitants.

For the **German Students’ Union**, a group focussed on promoting German culture, xenophobic violence is no an issue at all. Despite some forms of discrimination experienced on the local

level (related mainly to anti-German prejudice among older generation of Poles as well as public institutions), the association's representative finds the problem of hate crime in the context of the German community as virtually non-existent. However, its chairman, Małgorzata Koszyk has shown interest in the cooperation on issues of discrimination and hate crime monitoring.

More striking than the perception of the German student's association is the assessment of some representatives of ethnic and religious communities that actually are counted among those "visible minorities" that are most threatened by hate crime: Asian migrant communities (Vietnamese and Mongolian), Arabs and Muslims as well as African students<sup>5</sup>. Nguyen Van Thai of the **"Solidarity and Friendship" - Association for the Vietnamese in Poland**, for example, stated: "We do not deal with hate crimes. The Poles are good people and I do not see a problem." According to him most offences he knows of committed against the Vietnamese community are not motivated by racial hate or right-wing ideology, but are rather related to their difficult legal situation which perpetrators take advantage of.<sup>6</sup> At the same time, Mr. Nguyen Van Thai told the interviewer about numerous cases of abuse and ill-treatment directed against the Vietnamese community in Poland, mainly carried out by law enforcement officers, border guards or other private security services on the streets and markets (as a large number of Vietnamese migrants are retail merchants).

A similar discrepancy between the assurance of a peaceful and stable situation of the Muslim and Arab community and the actual experiences as reported elsewhere, can be seen in an interview with Ali Abi Issa, an imam of the Muslim congregation in Wrocław and the director of the **Muslim Centre for Education and Culture**. The imam claimed that among the priorities of the Centre's activity is the promotion of inter-cultural understanding and tolerance. Even though, Ali Abi Issa admitted that "activity against discrimination and xenophobia is our daily bread", he seemed to be purposefully mild on the issues of hate crime up to the point of arguing that Polish Muslims do not talk about hate crime because the problem does not concern them and he himself never heard of any anti-Muslim crimes in Wrocław: "What's more, Muslims say that Wrocław is a very open city and they live here well"<sup>7</sup>. Ali Abi Issa is persuaded that Polish people (or rather generally Slavic people) are more tolerant and open to Muslims than other European countries. This judgement stands in stark contrast to more open and critical attitude towards the hate crime problem by Marek Kubicki of the **Arabia.pl association**, who spoke not only about popular stereotypes and anti-Muslim media discourses (in the context of the neo-conservative politics of the "war on terror"), but also emphasised involvement of state security services in the harsh treatment of Muslims and Arabs in Poland.

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- 5 One exception in this group of organizations of immigrant communities is the Belarussian Social and Cultural Society in Białystok, representing a large, established and legally recognized national minority. Leaders of this association refused to give an interview because they „are afraid to talk about discrimination and hate crimes.“
  - 6 According to Nguyen Van Thai, 70 percent of the Vietnamese in Poland do not have legal documents and the right to live and work in the country. They crossed the border illegally and cannot apply for the refugee status, because most of them are no victims of political oppression in their country. By staying in Poland undocumented, they take the risk of being deported to Vietnam and losing their property here. In order to avoid this some Vietnamese enter into fictional marriages or try to hide their identity when the police arrest them.
  - 7 At least two cases of anti-Arab incidents that took place in the city of Wrocław have been reported to "Nigdy Więcej" and are recorded in the „Brown Book“. At night, October 3-4, 2001, a local fire brigade had to intervene with a fire set in an Arab restaurant in Bogusławskiego Street. It was the second attempted arson attack directed against an Arab restaurant within a few days. On September 29, around 4 am, somebody broke the window and threw a bottle filled with petrol into another restaurant, in Odrzańska Street, yet owned by the same man, a Syrian resident of Poland. It was revealed that in the October incident somebody poured 20 liters of petrol through the chimney. The interpretation of „Nigdy Więcej" is that both incidents had as their context the 9/11 terrorist attacks in the United States (<http://www.nigdywiecej.org>).

Somewhat less distinct forms of downplaying the problem of hate crime can be noticed in the interviews with representatives of the African and Mongolian student groups. Filip Kitundu of the **Society for African Affairs** at the Jagiellonian University in Kraków, recognized the problem of racism, yet he was very moderate when speaking about hate crime incidents experienced by himself and his colleagues: “I can not be a spokesman of the others but in my case racist acts were accidental.” He talked about verbal assaults (“Niggers stink”, “Poland for Polish”), but also mentioned physical attacks such as pushing. Mr. Kitundu has lived in Poland for five years and remembers “only” two racist acts against him (once he was attacked by black metal fans). He explained that it is maybe because he does not have as dark skin as his colleagues who had much more problems with racists (mostly verbal assaults). However, Kitundu recognized those incidents as hate crimes.

Nomondalai Erdenechimeg of the **Mongolian Student Community** admitted that for people from her environment the very term hate crime is unknown, yet she recognized the problem of discrimination of Mongolians and other Asian groups in Poland. Ms. Nomondalai Erdenechimeg thinks hate crime is not the largest problem for the Mongolian community, because cases of aggressive violence against the Mongolians are rather rare. According to her, physical and verbal attacks are not so much an issue for Mongolian students and doctors as for undocumented workers and retail merchants, e.g. in the stadium market in Warsaw. Yet she added: “I do not know if we could consider it as a hate crime, these are [rather] internal fights among the traders and sellers.”

#### 4.1.2.2 Possible Structural Causes for the Diversity of Approaches

Differences in understanding and using the term hate crime have been largely discussed above. However, apart from overt declarations by the leaders/representatives of NGOs interviewed, one can assume a number of “structural” factors that might affect the specific approaches taken. Such factors can not always be traced directly from the interviews, but can be inferred from contradictions appearing in leaders’/representatives’ discourses, e.g. a striking contrast between the firm denial of a problem of hate crime and the actual predicament of particular communities (e.g. undocumented legal status, widespread of negative stereotypes and prejudice about a group in the society, reality of institutional discrimination etc.). These factors can roughly be grouped as follows:

1. “Positive” factors for using and accepting the term hate crime: forms of social and cultural capital (knowledge, professional competence, experience etc.) that allow for or enable groups to address the problem of hate crimes:
  - organization’s profile or professional experience,
  - international contacts with experienced organizations or institutions dealing with hate crimes,
  - community’s relatively stable legal situation – it concerns mainly those ethnic or national minorities in Poland that due to being minority groups officially recognized and registered by the Polish state, can use this fact as a framework for anti-discrimination work or antiracist campaigns.
2. “Negative” factors for using and accepting the term hate crime: the ambivalent situation where oppressive social/political conditions can be countered within a particular “context of recognition”, where the latter can be understood as:
  - relatively widespread (or growing) public recognition of suffering experienced by certain minority communities during their long history in Poland,

- refugee and migrant aid institutions, organizations or programs that provide a “recognition context” for tackling unstable legal and social situation of refugees and migrants in Poland.
3. “Positive” factors that make the context where a community is not preoccupied with hate crimes but can focus on other issues (e.g. promoting its own culture):
- relatively low level of discrimination in Poland,
  - relatively stable socio-economic situation in Poland,
  - relatively low degree of group’s/community’s distinctiveness (or its individual members’ distinctiveness) from the Polish society (especially in terms of physical difference, symbols used in daily life etc.),
  - organization’s profile.
4. “Negative” factors for rejecting or silencing the problem of hate crime:
- community’s unstable legal situation in Poland (especially the necessity to keep “low profile” due to undocumented residence and work status),
  - community’s unstable cultural and daily life situation in Poland, especially intensity of a threat of racism and harsh forms of discrimination, as well as lack of linguistic skills, cultural “competence” and links with native people (shortage or lack of “legitimate” forms of cultural and social capital),
  - difficult and unstable political situation, including broader geopolitical context of stigmatisation of certain groups.

Organization’s specific profile in some cases can also be regarded as a context in which the term is seen as problematic or not highly useful for managing standard or routine tasks of a given organization.

### **4.1.3 Monitoring of Hate Crimes by NGOs**

Most of the organizations and groups whose representatives were interviewed are not involved in systematic forms of monitoring of hate crimes in Poland. However, practical needs related to the assistance of victims of prejudices or discrimination as well as to the prevention of social antagonisms often lead to a certain interest in receiving a broader picture of the existent amount of hate crimes and discrimination. In some of the studied organizations monitoring is an effort undertaken by leaders or other committed individuals in a community. In various cases, occasional monitoring serves strictly the purpose of intervening with legal institutions, law enforcement agencies or the media with regard to particular incidents. In the following account we therefore distinguish between individualized”/occasional practices of monitoring within particular communities, and regular and organized initiatives.

#### **4.1.3.1 “Individualized” and Occasional Practices of In-Community Monitoring**

As most of the organizations studied do not run systematic monitoring activities and do not record hate crimes in a form of data base, what some interviewees referred to as “monitoring” was basically an attitude taken by leaders or other committed individuals of getting orientated with what is going on inside or around a particular community in terms of various forms of menace or actual incidents.

For instance, Malika Abdoulvakhabova of the **Foundation “Ocalenie”** is very well informed about all cases of violence against Chechens and Ingushes in Poland for the last years, yet her organization does not systematically monitor hate crimes and does not assist victims. Monitoring activity is mostly her personal commitment. Information about hate crimes comes directly from members of the Chechen diaspora in Poland or from the media.

Also the **Kazach Community** organization does not systematically document cases of discrimination or hate crimes. However, they have been informed about such cases directly by the victims. An example can be the case with the market in Lublin, when several dozens of sellers of different nationalities, which included Armenians, Vietnamese, Africans, Chechens, were not allowed to enter the market, even though they had all necessary documents. The Kazach Community attempted to intervene, after the request received from the Armenian community. According to Balli Marzec, the police officers and representatives of the local authorities were not helpful in this case. The case was not well publicised in the media, and therefore did not have any outcomes. There are much more similar cases, but the organization does not have enough financial resources and knowledge to deal with them.

Activists of the **Polish Humanitarian Action (PAH)**, which run the workshop-based “Humanitarian Education” program, are aware of local “sites of tensions”, especially in youth environments and in particular among students of vocational schools in one of the districts of Kraków, Nowa Huta, who expressed negative attitudes towards the local Roma community. The Polish Humanitarian Action itself is not involved in systematic monitoring, but based on educators’ knowledge the subject of hate crime, including organized far-right and neo-fascist groups and Internet hate speech (such as in a form of the “Redwatch” site), is discussed during the organization’s educational activities. Materials exposing hate crime are also published in the PAH’s Internet newsletter *Pomagamy* as well as in paper version of the magazine for grammar schools. A bulk of information used by PAH comes from the “Brown Book” published by “Nigdy Więcej”. In fact, Tadeusz Szczepaniak, in an interview recognized that the only organization doing systematic monitoring of hate crimes in Poland is “Nigdy Więcej”.

The **Russian Cultural and Educational Association (RSKO)** also does not monitor hate crimes, and has no program for victims’ assistance. However, victims of discrimination have repeatedly approached the organization. The RSKO also gathered information on racist graffiti and desecration of a Soviet soldiers’ monument in Białystok, and handed it over to the police. Yet since the police was reluctant to intervene in such cases, it was only after the organization submitted complaints to the Ministry of Internal Affairs, the Parliamentary Commission on Minority Rights and to the provincial administration that the investigation was launched. Therefore RSKO attempts to collect information, mainly articles from the newspapers related to acts of discrimination in the region, not merely discrimination against ethnic Russians. Information is being provided by the members of the organization, friends, and colleagues.

### 4.1.3.2 Regular and Organized Monitoring

Four “types” of organized monitoring activities can be distinguished among actions undertaken by organizations and groups whose representatives were interviewed:

- informal local monitoring and public intervention campaigns (undertaken by grassroots antifascist groups)
- community-based monitoring (here concerning acts of antisemitism and anti-Roma hatred)
- community-oriented research/victimization surveys (carried out by major LGBT organizations)
- comprehensive nation-wide hate crime monitoring (carried out by the leading antifascist/antiracist NGO).

These activities take various forms depending on conditions that include the very needs or profile of a given group or organization, their time and financial resources, the scope of a network of activists/volunteers involved in the activity, as well as skills and experience. It should be stressed that in some of the presented examples monitoring is not the major objective or specialization of organizations, but rather results from the immediate needs for intervention in circumstances of individual incidents or in an atmosphere of menace in a community in a certain period of time. Therefore the organized monitoring of hate crimes should, at least in some cases, be understood as a “by-product” of interventions against the spread of racist or xenophobic violence (such as in the case of grassroots anti-Nazi groups) as well the co-process of crisis intervention to assist victims of hate crime. Still, these examples can be considered organized forms of monitoring due to the fact that they require mobilisation of groups of community members, skills and resources and are aimed at having public impact. The five “types” of organized monitoring campaigns are discussed below in a form of seven short case studies. Each of them represents a distinct approach shaped by the conditions mentioned above.

#### 4.1.3.2.1 Informal Local Monitoring and Public Intervention Campaigns

The anti-Nazi group (GAN) in Pila came to existence in 1994 as an informal group of adolescent punk musicians who wanted to create an active antifascist opposition to skinheads. They were painting slogans on the walls and formed hit squads attacking skinheads from Pila. Eventually the group gave up the confrontational approach and became a part of an anti-Nazi movement, which was the basis for creating the association “Nigdy Więcej”. The group from Pila has worked towards preventing the expansion of skinheads’ activities in their city several years ago. Because there are no foreigners in Pila, members of punk subculture became a natural enemy for Nazi skinheads. Their unusual clothes and haircuts attracted the attention of skinheads who often insulted them by calling them slobs. Punks were also victims of intimidation by threatening telephone calls and letters. The interviewed representative of GAN-Pila, Joanna Naranowicz, said that there were telephone calls to her family threatening that she will be killed and obituaries put all over on the trees nearby her house with the information of her death. She was beaten up three times, and once the attackers broke her rib. Because similar incidents happened to other punks they decided to take action against neo-Nazi and skinheads’ violence by launching anti-Nazi campaigns. They spread information leaflets in their city, met with local authorities and the police, and informed them about every case of a neo-Nazi group attacks. Pila is not a big city, so the members of the anti-Nazi group usually knew the perpetrators of the attacks. All information gathered was then handed over to the police and to Warsaw to be published in the “Brown Book” (see below) edited by “Nigdy Więcej”.

Particularly, cooperation with “Nigdy Więcej” helped to bring about the significant change. The incidents of attacks were conveyed to the press, which resulted in the presence of journalists at every meeting with local authorities. The police and the authorities could not stay indifferent any more and had to take action. The police launched investigations in every reported case. Because the victims usually knew the perpetrators, the police immediately came to their houses and took them for questioning. Some of them were respectively punished, thanks to which skinheads became visible and stigmatized by the local community. Families of skinheads put pressure on them to change their style of life. This helped to weaken the strength of the neo-Nazi group and to stop their attacks, however according to Joanna Naranowicz some ex-skinheads have joined other far-right organizations, and are active in the Internet.

Another example of locally-focused activities in the field of hate crime monitoring and public intervention is an **informal group of “Nigdy Więcej” in Oświęcim**. The group started in the 1990s, and their first public intervention case concerned an attack of a group of local skinheads against a young German man. As a member of the group, Katarzyna Nowak, who was interviewed, says, the group prepared a public statement. “We wrote [...] that we were outraged about it, that the city [authorities] should in some way support persons [...] who are victims of such assaults.” The statement was presented at the meeting with persons from the municipal office, and the German young man was publicly apologised.

Other public intervention cases of the group were:

- A conference for the police and representatives of educational institutions organized in 1996. As Ms. Nowak says, the group “noticed that there is a great need to educate them. We saw that they had no basic knowledge when it comes to symbolism and youth movements but they were open to cooperation”.
- Filing an offence notice to the court in 1999 against Kazimierz Świtoń, a far-right religious fanatic who incited a campaign antagonising to Catholics and Jews. A cross raised at the so called gravel pit near the Auschwitz museum was seen by some Jewish visitors as an offence.
- An educational project carried out by Katarzyna Nowak in cooperation with the International Youth Meeting House against racist stickers being placed in public places (the stickers showed stereotypical pictures of Jews, black persons etc.). Young participants of the project submitted photographic documentary of the stickers, in order to cause public shock about chauvinist contents being publicly displayed in the town of Oświęcim.
- An intervention in 2004 against antisemitic graffiti in Oświęcim. The former management of the Auschwitz Museum had ignored the problem, and only after “Nigdy Więcej” had submitted information to the press, the graffiti was removed.

Both informal grassroots groups discussed above are also part of a nation-wide network of volunteers who contribute to the monitoring project of “Nigdy Więcej”, preparing and sending monthly reports to be incorporated into the “Brown Book.”

These two examples of local monitoring related to intervention campaigns seem to be based not so much on specialized knowledge and skills necessary for long term and systematic research on hate crimes, but rather on very practical knowledge on local “sites of tensions” (such as relations between subcultures or inter-religious conflicts over symbolic space). They also require special effort in building up and maintaining all kinds of social bonds and relations in a local community as well as striving towards the group’s recognition by representatives of major institutions and other significant organizations that might be influential in the local space.

#### 4.1.3.2 Community-based Monitoring and Intervention

The monitoring group **Magen** (Hebrew: “shield” or “defence”) was established by members of Jewish community in order to monitor acts of antisemitism in Poland. The initiative was presented during an interview by Jan Gebert, a representative of the Public Affairs Department of the Union of Jewish Religious Communities in the Republic of Poland (Związek Gmin Wyznaniowych Żydowskich w RP). Members of the Union are active participants in the project, and Mr Gebert is responsible in his organization for the monitoring of antisemitism. The Jewish community started to monitor antisemitism on a more regular basis in 2005 when the Chief Rabbi of Poland was attacked in the streets. The Magen group consists of a number of correspondents affiliated with the Jewish community from all over Poland, who use daily local newspapers as the major source of information. As Mr, Gebert says: “If something happens we will be automatically informed.” Part of the task is also to assist Jewish victims of hate crimes. Information on the “Action Magen” has been publicised on the website of the Union of Jewish Religious Communities. The website note reads:

- “In face of the recent events and escalation of antisemitism, the Union of Jewish Religious Communities in the Republic of Poland initiates action Magen. We ask to contact us anyone who recently received letters, SMS, phone calls or other verbal assaults, threats or physical violence of antisemitic nature.
- We also ask you not to delete such SMS or e-mails, and not to throw such letters away, so that all evidence is kept.
- All data will be considered confidential. People who submit information don’t have to give their personal details.”<sup>8</sup>

Jan Gebert, however, mentioned that the group has not developed any database for hate crimes so far. Mr. Gebert said that monitoring is not the priority currently, but: “If we have the financial possibility, we would be able to employ a person who will specifically monitor hate crimes in our organization.”

Another example of community-based monitoring are activities carried out by the **Association of Roma in Poland**. The organization runs monitoring of the press in terms of Roma matters and whenever needed its members get involved in interventions. When cases of violence happen, the association representatives intervene on behalf of the Roma community and talk with local government institutions, police and public prosecutors. Roman Kwiatkowski, the association’s president, uses the term **“Roma Internet”** to describe this community-based, informal self-help system of monitoring and intervention:

“There is something, what we call the Roma Internet. When something bad happens, they immediately call for help, because they can not manage it on their own, the police doesn’t want to intervene and they are afraid to go out. They are being attacked. They asked me to come and intervene.”

In the interview, Roman Kwiatkowski shared his organization’s experiences in the field of monitoring/intervention activities. Despite Roma leaders’ knowledge on the problem of racism in particular local communities, there are disparities between the leaders’ willingness to counteract and the capacities of municipal authorities to tackle the problem. The quote below shows this difficulty:

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8 [http://warszawa.jewish.org.pl/index.php?option=com\\_content&task=view&id=34&Itemid=1](http://warszawa.jewish.org.pl/index.php?option=com_content&task=view&id=34&Itemid=1).

“In Żywiec for example, Roma people are constantly being assaulted by skinheads. It has been happening from years. Please imagine that an eighty years old woman was kicked black and blue by skinheads. She is a former prisoner of Plaszów and other concentration camps. And the worst thing is that people don't react on it. This means that there is a social consent to this. All around Żywiec there are wall writings with slogans “death to Gypsies!” and also “off with Jews!” but mostly it concerns Roma. Żywiec is notorious for this. It has recently got a lot of publicity in the press and TV. There is a kind of stalemate there because the city is not interested in counteracting. It is well known that perpetrators are caught but on the other hand they are also often quickly released. All the more so because they don't hide their prejudices towards our minority. [...] After our intervention and interventions of other human rights organizations the local government ordered the building owners immediately remove these wall writings, otherwise they will be fined. It is idiotic, as it will turn them against Roma, because they think if it weren't for the Roma they wouldn't have such a problem. That is why I believe that there should be financial means found in the city budget. There are municipal services that should remove it. [...] We have many such example, also in Oświęcim. We informed the prosecutor's office about crimes committed. [...] We offer a wide range of educational activities but the reaction is very weak.”

### 1.3.2.3 Community-oriented Research/Victimization Surveys

The report titled “Situation of bisexual and homosexual persons in Poland” has been published since 2002, as a joint initiative of the **Campaign Against Homophobia** and the **Lambda Warsaw** organization. The report is issued every two years, and its major objective is to examine the situation of the LGBT community. Its central source of data is a questionnaire survey conducted among homosexual and bisexual persons throughout the country. Questionnaires are distributed by members of LGBT organizations, mainly in larger cities, often in gay clubs and meeting places. Some questionnaires are also filled out via Internet. The first part of the report is the presentation of survey results in form of tables and graphic charts. The second part is a “sociological analysis of society's attitudes towards bisexual and homosexual people”, and it contains articles analysing various spheres of social life, such as politics, the legal system, education, media, Internet, health care, the Catholic church as well as sport.

The last issue, encompassing the years of 2005 and 2006, is much wider in comparison to the previous ones. It was entirely elaborated by the Campaign Against Homophobia. Approximately 15.000 questionnaires were distributed, of which over 1.000 completed questionnaires have been gathered. The questionnaire was a little bit modified in order to gather more information. The analytical part has been made more extensive than in previous versions of the report. Ms. Abramowicz emphasises the political context of the report, which was constituted by the right-wing Law and Justice party coming to power with the support and eventual coalition with nationalist and right-wing populist parties:

“I think it is good that we summarized these two worst years for the lesbian and gay community in Poland. There was a big witch-hunt in the education system, against teachers in schools. [...] I know from varied sources that there is fear to talk about homosexuality, to organize lectures about it, to recognize homosexual persons in school. We noticed at some point that nobody wanted to go to the media. We had no problems with that before, but suddenly it occurred that nobody wanted to appear in the media because of fear. We had many signals showing that the situation was worsening.”

The report shows that violence against homosexual people often takes place in families or peer groups. Persons who attend school are more exposed to physical violence than adults who are more exposed to mental violence in the workplace where people are gossiping and creating an unpleasant atmosphere. Predicament of adults concerns different types of running down, mobbing and ridiculing, which are very unpleasant and hard to prosecute. It also concerns neighbourhood situations, when, for instance, somebody wants to borrow a hammer from a neighbour, and hears that they do not lend anything to deviants.

The report also shows that very few persons report their cases to the police. This is a big problem because not reporting hate crimes to the police means that the gay and lesbian community remains non-existent for official institutions, and no one can really defend its interests. At the same time, the report serves as a base for discussion for politicians, journalists, members of parliament and varied research institutions. It is available in the main libraries in Poland, and its English version was sent abroad. Ms. Abramowicz believes that “it will serve as a base for further research, political lobbying and for changing the law”. The survey is planned to be expanded in the context of international research on homophobia. The project will be coordinated with the Berlin-based organization MANEO and the French organization S.O.S. Homophobie. The methodology from the Polish survey will serve as a basis for the international study.

#### 4.1.3.2.4 Comprehensive Nation-wide Hate Crime Monitoring

Since 1996, “**Nigdy Więcej**” has been running a project called “Brunatna Księga” (“Brown Book”), which is a detailed register of hate crimes and their descriptions, which includes racist and xenophobic incidents committed by members of neo-fascist groups and organizations as well as non-aligned groups and individuals. The association began taking record of hate crimes in the early 1990s, and since then a few thousand incidents have been registered, including more than 40 murders perpetrated because of racist and neo-fascist ideology. Every year a few hundred cases are reported. The cases include not simply racist, antisemitic and xenophobic incidents, but also attacks against alternative youth and members of progressive social movements (including antifascist, feminist and LGBT activists), violence against homeless people, homophobia, various acts of discrimination (including discrimination of people with disabilities).

“The Book” is published regularly in the antifascist magazine *Nigdy Więcej* as well as on the association’s web site ([www.nigdywiecej.org](http://www.nigdywiecej.org)). As Marcin Kornak, the coordinator of the project and the association’s chairman, explains, the reason for launching this monitoring project was the large wave of “racist and chauvinist crimes” in Poland. The major objective of the “Brown Book” was to expose the problem of hate crime that was often “questioned and disregarded” or, at best, treated as a marginal phenomenon by „officials”.

“The fact that we create and publish such a significant collection of information forming a base for those who are interested in the problem is a fundamental point for our activity. This is the only monitoring of hate crimes that has been run in Poland for years”.

There is a network of more than 100 volunteers from all over Poland who collect information to be published in the “Brown Book”. The volunteers are members and correspondents of the “Grupa Anty-Nazistowska” (GAN - Anti-Nazi Group)/“Nigdy Więcej” network. GAN is an informal structure cooperating directly with “Nigdy Więcej”. The volunteers attempt to cooperate with the GAN/NW after reading the *Nigdy Więcej* magazine, watching the web site, watching the association’s activities or coming across one of numerous press publications, internet or radio and television programs made in cooperation with “Nigdy Więcej”. Many people who hold antifascist or antiracist views contact the association through info stands at concerts, festivals and other public events. Members of the network carefully watch activities of various local far-right circles and collect information about committed hate crimes. They try to verify and complete the information as far as possible as well as hear direct reports from victims and witnesses. Information is then sent every month to the office of “Nigdy Więcej”, where it is elaborated and verified if necessary by the coordinator of the “Brown Book”, Marcin Kornak, who then sends it to publication.

Information published in the “Brown Book” comes also from the regular monitoring of the press (including local newspapers) and other media, Internet, fascist organization’s activities, football matches, as well as contacts with minority organizations and social groups exposed to hate crimes.

#### 4.1.4 Reaching and Supporting Victims of Hate Crimes

None of the Polish organizations and groups studied is involved in systematic and long-term activity focused primarily on assistance to victims of hate crime. There exists no program concentrating specifically on victims of ideologically-motivated violence and harassment as a priority area. This situation notwithstanding, it must be noted that various organizations are aware of the problem, and some of them face it in their daily practice when they are either approached by the victims themselves or attempt to intervene and provide assistance in cases that are known to an organization's staff or activists and recognized by them as hate crimes. Often this assistance is provided in a non-institutionalized and informal way, ranging from individual help in contacts with police and lawyers, to individual civic and legal assistance throughout the process of lawsuits and claiming one's rights, to community-based self-defence groups to counter racist attacks. At times, NGOs specialising in civic and legal aid carry out tasks concerning victims assistance yet under more general schemes of anti-discriminatory activities. There are also some examples of victims assistance by particular minority organizations on a more permanent basis, however even in such cases hate crimes are not necessarily their predominant field. Infrequent attempts at establishing crisis intervention-oriented assistance to hate crime victims have so far been only temporarily.

The association **Polish Humanitarian Action** is an example of a NGO that while recognizing the problem of hate crime and expressing interest in cooperation on hate crime monitoring, is not involved in victim assistance due to their profile. As Tadeusz Szczepaniak explained, the organization does “not have any contacts with victims of hate crimes [...] On the basis of our observation and experience, we know that victims usually contact juridical organizations [...] Our activities are concentrated mostly on education and less on the concrete help for victims.”

Assistance to hate crime victims seems also beyond the scope of organizations such the **Lemko cultural group “Kyczera”**, the **German Students’ Union** and the **Mongolian Students Community**. Even though all see the problem of prejudice and discrimination as a significant one, their focus is on education and propagating inter-ethnic dialogue, not on hate crimes and victim assistance. Ms. Erdenchimeg stressed the importance of integration programs for the newcomers, and mentioned the possibility of organizing anti-discrimination trainings for Mongolians (e.g. how to react in case of discriminatory behaviour), but did not consider hate crime victim assistance. Katarzyna Nowak, a member of the “Nigdy Więcej” **group in Oświęcim**, mentioned cooperation with the local police on hate crime incidents, but since in her town there have been no serious hate crime cases over a long period, such a cooperation is aimed at providing police officers and educational officials with knowledge on hatred ideologies, not at victim assistance.

##### 4.1.4.1 Occasional Assistance to Victims of Hate Crimes

Although none of the organizations run systematic specialized programs for victim assistance and most of them lack either the institutional frames, the financial resources or the personnel to carry out such tasks in a long-term perspective, realities of experiences faced by different groups and communities make them take various steps towards it when cases of hate crimes occur. What kind of action is undertaken depends on the organizational internal capacity as well as on the ability to cooperate with relevant institutions and organizations that may be helpful.

Interviewees from the Helsinki Foundation for Human Rights stressed that their organization's low involvement in hate crime victim assistance was due to the specific profile of the foundation, which

is strictly legal help on the ground of human rights violations, and that hate crime situations are rather infrequent. Zbigniew Holda outlined the problem:

“As we are interested in supporting refugees, migrants and minorities in Poland, and the problem of hate crimes concerns mostly them, I suppose that our field can be the legal aspects of hate crimes. [...] HFHR’s migrant and minority programs do not include the monitoring of hate crimes and assistance to victims. [...] Sometimes we need to provide legal assistance in cases of hate crimes, although as I repeat it, we are a general human rights organization.”

While victim assistance is not the primary focus of antifascist organizations such as the **anti-Nazi group (GAN) in Piła** and “Nigdy Więcej”, both groups have been involved in some cases. As described in the case study on GAN’s interventions above, the group successfully cooperated with the police to initiate investigations on Nazi-skinhead perpetrators of attacks on members of the alternative milieu in their town. Close contacts with the victims and their knowledge on who the perpetrators were resulted in immediate reactions of the police and respective lawsuits. Marcin Kornak of “Nigdy Więcej” said that his organization helped the victims by exposing the problem of hate crime and by informing media, society and public institutions. Thanks to that, victims can break a grudge, which they meet sometimes in the contacts with administration, public institutions and local government institutions, and receive help from the relevant parties. Mr. Kornak said: “Our method is not to help directly, we rather try to promote changes in social relations.” But sometimes there are situations when the need of more direct help is evident.

Marcin Kornak gave a few examples:

- In 2002, a member of the network of GAN/NW and a leader of GAN – Zamosc (southeastern Poland) was attacked and severely beaten by a Nazi band in front of her house. “Nigdy Więcej” initiated a nation-wide campaign of letters of support, solidarity and help, and made her story public in the national media, which removed the danger of subsequent attacks.”
- In 2001, a disabled couple in Sosnowiec in southern Poland, who had been harassed by Nazi skinheads, contacted the association. Those people were completely alone in their predicament. And then, volunteers of “Nigdy Więcej”, participating in our network of correspondents, helped.” They informed the local society and “stayed in touch with the victims, thanks to which those people could feel that they were not alone. The situation came out well: Nazi skins stopped their harassment.
- Another case took place in Warsaw in 2007. One of the patrons was beaten in a pub because he had protested against antisemitic shouts of another person. The police firstly qualified the accident as an act of hooliganism, completely ignoring the perpetrator’s motivation and the background. “Nigdy Więcej” got the victim in touch with lawyers of the Helsinki Foundation for Human Rights, made the case public by reporting it in the “Brown Book”, which made the police take a more serious approach to the problem and qualify the event in an appropriate way.
- The most important example of our direct help is a spontaneous collection of money for the Africans in Warsaw, whose pub was attacked and demolished by a neo-Nazi fighting squad. The collection – run by volunteers of “Nigdy Więcej” - took place during an alternative music concert.

Also minority organizations that are usually not specialized in assisting victims of hate crimes attempt to provide help or intervene. The **Russian Cultural and Educational Association** was approached by victims of discrimination many times. The organization’s help was to collect sufficient information to prove to the law enforcement agencies that there had been a racist or nationalist-chauvinist background of attacks. Jan Gebert, a representative of the **Union of Jewish**

**Religious Communities**, stated that the Magen group supports victims when critical situation happen, and that such help is directed mostly towards the Jewish community. He mentioned an example of this kind of support:

“We also try to assist victims of violent attacks when it is necessary. For example, there was a case last year when we helped a woman who was attacked by her skinhead neighbour, to go to the police and to make sure that the police started to investigate the case. We also tried to help her financially. We also proposed her legal support, and what is most important, we showed her that the community is standing behind her.”

Some migrant/refugee groups’ representatives, especially of the **Chechen** and **Ingush** communities, expressed great demand for victim assistance, as racism, xenophobia and discrimination have been their permanent experience in Poland. These organizations/groups do not, however, run institutionalised victim assistance programs, and this activity is largely a domain of the leaders. Indeed, it is due to the personal commitment, experience and certain “charisma” of leaders, such as Malika Abdoulvakhabova or Bogaudin Bokov, that victims are provided help and interventions are made. The leaders serve as contact points, sources of information as well as advisers on whom to contact further. They also play a vital role of mediators and translators – not simply in the linguistic sense but in that they are some kind of “inter-cultural negotiators” between migrants and local communities as well as a “bridges between the police officers and the [migrant] victims.” Ms. Abdoulvakhabova has knowledge on all cases of violence against Chechens and Ingushes in recent years. If something happens, members of the Chechen or Ingush diaspora communities immediately come to talk to her. She said:

“The Chechen diaspora knows that I can help them, and come to us first of all. [...] Usually we try to assist them to negotiate with the police, to receive necessary information. We are a bridge between the police officers and victims. If a crime has ethnic or national background, then I think our help to police will be very useful. We can better understand Chechen community, we know Chechen culture, Chechen traditions, that is very important in such situations. But our help can only be expressed in establishing dialogue between police and Chechens and prevention of escalation of hatred between Poles and Chechens. If something happens we try to talk with Chechen community not to react violently and we try to explain local Polish inhabitants the reason why Chechens come to Poland. I believe it is important to collect all information related to hate crimes, but I think it should be a responsibility of police officers. As it is a criminal case if someone is beaten or killed.”

She also gave an example of an intervention in the school in Zambrowo, where three Chechen children were systematically attacked by slogans “Poland for Poles”, “Go back to your Chechnya”. She said: “We visited this school, told children the history of the two wars, explained the reasons why Chechens come to Poland. We prevented the escalation of the conflict in this school, in this village.”

Malika Abdoulvakhabova pointed to the absence of legal knowledge amongst Chechen refugees: “None of the Chechens knows that they can apply to the court if someone will attack them. The opinion that if you are a refugee, you do not have any rights and you will not get any support, is very spread here.” She also said that often Chechen refugees also address their problems to the Association for Legal Intervention (SIP) where some lawyers of Chechen background work: “When we can not help people, we ask them to call to the SIP.”

Bogoudin Bokov of the **Ingush Unity** is an authority in refugee circles. He speaks Polish and is familiar with the main provisions of the Polish legislation concerning refugees and migrants. Most of refugees do not speak Polish, and it can be one of the obstacles for their integration, communication with administration offices and with police officers. Mr. Bokov is willing to assist

refugees from the North Caucasus in extreme situations, including hate crimes. Unfortunately, his organization lacks the infrastructure and knowledge to help victims of hate crimes. There are no organizations in Poland which really can help refugees in cases of attacks. This conclusion has been also drawn from his own experience. In 2006, in one of the camps refugees even organized a hunger strike to protest against systematic attacks against them from the local population. Help has been requested from different Polish human rights organizations, such as the Helsinki Foundation for Human Rights and the local administration, but they did not assist in the situation. Bogoudin Bokov presumes that they even do not know how to react in such circumstances. The only successful solution has been to organize self-defence groups and to confront the attackers physically. Police is useless in such situations, as a “standard” piece of advice coming from them is “to close down the windows and sit silently.”

In case of individual violent attacks against members of the organization or someone from the Chechen or Ingush diaspora community, Mr. Bokov directs victims to the police, or to Malika Abdoulvakhabova, or to the Association for Legal Intervention, a lawyers’ association where Ingush and Russian people work and can help if necessary. It seems that personal contacts and relations prevail here. The Association for Legal Intervention is not an organization involved in the monitoring of hate crimes or refugee issues as it focusses on children and family rights, but their help can be more effective. Mr. Bokov also pointed to the problem of refugees’ mistrust towards NGOs. People who work with refugees have very little knowledge about refugees and migrants and they are often incompetent on those issues. That is why it is so important for refugees to do something for their own communities by themselves.

As Mr. Bokov said, there was a strong need for psychological help for refugees, but it had never been provided. The only way to deal with the question is to transfer victims to a different refugee camp. In cases of regular violence camps can be liquidated. Many people working in the camp are completely unprofessional. They are also not immune from xenophobic and sometimes violent attitudes towards refugees. There are a lot of inter-ethnic clashes between inhabitants and the staff of the camp (in the case of Moszna). Police has not been helpful.

The informal context of personal relationships also plays a vital role in the case of Muslim and Arab minorities. According to Marek Kubicki of the **Arabia.pl** association, there were cases when people of Arab or Muslim background approached the association with requests to help to deal with the Polish security services or with violent groups of teenagers or skinheads. In such situations Arabia.pl could advise to contact the Helsinki Foundation for Human Rights, or the Polish Humanitarian Action, or other organizations working with refugees. Yet Mr. Kubicki argues that very little help comes from those organizations. Another way to deal with violent groups of teenagers is to organize self-defense groups of Muslims (mainly Chechens). Mr. Kubicki noticed that physical counter-confrontation was not the best solution, given the political context, but it was the “most effective” way to prevent the escalation of violence. He also stressed a number of problems that prevent efficient and long-term work on hate crime victim assistance: shortage of financial resources and limited knowledge on the subject in the case of Arabia.pl and some other NGOs; the lack of NGOs specializing in psychological legal and other forms of victim assistance; as well as a high degree of mistrust in the Arab and Muslim communities towards NGOs, including human rights organizations. As Arab/Muslim communities are very closed and based on personal relations, Arabs and Muslims address people active in Arabia.pl not as an organization, but as individuals: if they know someone in the organization, they will prefer private contacts. In such circumstances, Arabia.pl attempts to pose itself as a group of individuals rather than as an NGO.

#### 4.1.4.2 Attempts at Creating Systematic Forms of Victim Assistance

##### *Association of Roma in Poland: between victim assistance and inter-group mediation*

Within the scope of the Roma Association's activities is civic and legal counselling provided to the community, for example, on the issue such as discrimination of Roma survivors of Nazi concentration camps, who are being excluded from the national insurance system. There have been over 30 such cases in the courts so far. Whenever needed, social interventions are undertaken thanks to good and immediate contacts of Roma people to the association's leaders. When cases of racist violence happen, the association intervenes on behalf of the Roma community and talks with the local government, the police and prosecutors. This informal and direct system of in-group self-help has been described above and is referred to by Roman Kwiatkowski, the association's president, as the "Roma Internet" (in a somewhat humorous way).

An important part of assistance to the actual or potential victims of hate crimes are actions taken over the prevention of possible conflicts or mediation in crisis situations. Mr. Kwiatkowski himself is frequently involved in such "crisis talks" with local community representatives. For instance, recently the Association of Roma in Poland was asked to intervene in the town of Brzeg, where anti-Roma riots took place. The Roma community living there is quite orthodox and closed, and the local government is not interested in supporting minority groups living there. As Mr. Kwiatkowski put it: "There is a wall on both sides – these are afraid and those don't want." The city residents hold very stereotypical images of Roma people, on the other hand the Roma community does not trust the local government. Roman Kwiatkowski had a meeting with the mayor of Brzeg, and hopes that many things have changed positively since his visit.

The Association of Roma in Poland attempts to cooperate with the police, however, this frequently turns out to be a context in which Roma need assistance in dealing with the law enforcement instead of being helped by them. As Mr. Kwiatkowski said:

"We've had many reservations about how the police react, how they intervene". They often do not come on calling or leave the place where Roma people were attacked without investigation. [...] People are afraid, flee their own houses, leave them because they know that the authorities will do nothing to make them feel safe. [...] The situation has changed a bit. The police became more sensitive but we still see some problems we have to deal with. The police makes many mistakes when it comes to deal with the Roma community, at some occasions it even commits crimes. [...] When the Roma report to us that they are discriminated against, we investigate why it is so and then give our opinion on that subject. [...] There is so called hidden discrimination and we are not able to root it out. [...] Average people work in the police, with varied attitudes and views."

##### *LGBT organizations: community-based victim support*

Institutional assistance has been organized by two LGBT organizations interviewed. Psychological and legal counselling is provided by the Campaign Against Homophobia and by Lambda Warsaw. According to Robert Biedroń of the **Campaign Against Homophobia**, the organization has "a very strong group of lawyers", including "three lawyers on duty", who "help people in specific cases." The organization delegates its legal representatives who act in the court as "a court friend", which is an institutionalized way of taking a court action as a non-governmental organization (see chapter 2). Mr. Biedroń admits that many cases are reported, among which are also acts of violence against homosexual persons.

Marta Abramowicz stresses the importance of reporting hate crime incidents to law enforcement officers. In fact, persons who are victims of hate crimes and who seek help from the Campaign Against Homophobia are usually recommended to contact the police. As Ms. Abramowicz says:

“If such incidents are not reported to the police, there is nothing that can be done about them in a legal sense.” Also, despite a large-scale monitoring of hate crime against homosexuals and bisexuals (the survey report discussed above), there is no direct link between monitoring and a possibility to assist victims in particular cases: “As far as the report is concerned, these data are anonymous, whereas the Civil Rights Ombudsman and the police need cases with specified names in order to start working on them and hand over to the court. [...] Of course, not many persons decide on it [i.e. report one’s case to the police or prosecutor’s office].”

**Lambda Warsaw** seems even more focused on providing assistance, support and help to the LGBT community. Yet the field of hate crimes is not the main domain of their activity. Lambda concentrates on providing psychological and legal help. It runs many support groups focussed on specific subjects, which are addressed to varied groups of LGBT persons and their families.

“If there is a case of breaking the law, they [victims] ask for direct contact with a lawyer. The person does not have to say what the problem is. We have regular meetings with a lawyer once or twice a month. [...] We are not an organization perceived as fighting against social discrimination. We are the institution bringing help to homosexual persons. [...] When somebody calls with the information that she or he has lost the job and wonders what to do, we do not talk about legal but only psychological aspects of the problem.”

#### *Association for Crisis Intervention: reaching out to victims*

The Association for Crisis Intervention was established eighteen years ago. It has carried out numerous projects since then. One of its sources of information is people, who come to their office to consult a lawyer or a psychologist. Information comes also from minority groups with whom the association’s staff talk when carrying out particular projects, as well as from stories told by participants of anti-discrimination workshops. The Association for Crisis Intervention has never received an institutional grant, and in consequence it has no full-time personnel. The office maintenance cost and all operational expenses are covered by project funds. The crisis intervention-oriented monitoring focuses on groups such as Roma, refugees, female victims of domestic violence, as well as homosexual persons. As Ms. Lipowska-Teutsch admitted:

“We certainly haven’t reached all groups exposed to violence. Another such a group are people suffering from AIDS. The oppression is so intensive that they are hidden somewhere. There are organizations, which help them but everything is concealed so as the neighbours won’t attack them.”

She also said that at times homeless persons sought help from the Association for Crisis Intervention, but the organization did not worked with them on a daily basis. The crisis intervention team goes mostly to visit Roma settlements in the Malopolska province.

“The Roma say that they are attacked by skinheads, mostly young men. The police [...] say that the Roma are inclined to call skinheads all bachelors with a short hair, even those who are not an organized group. Roma respondents complain about arson attacks, home intrusions, taunts in the street and so on. [...] Roma people are not let into restaurants, shops, they are refused borrowing video cassettes. When Roma visited us to take part in a workshop at the “From the Roma perspective project”, they were accosted every time. Getting on a bus [they heard insults like: ] stinkers and niggers.” [...] Roma women [...] told us they had been attacked at the train station by an elderly woman when they wanted to use the public toilet. She was shouting some insults at them and pushed them.”

The crisis intervention team helps to negotiate a compromise between antagonized groups. Organizing meetings and discussions may help in varied difficult social situations. The association

intervened in a case of an Armenian, who lived in a small Polish town and ran a small business. He complained that the police and local authorities persecuted him but what hurt him the most was the fact that the local media called him a “Muslim” and an “Al-Kaida ally”. The Association for Crisis Intervention provided him with legal help and organized a workshop about hate crimes and the mass murder of Armenians. Many teachers, policemen and representatives of local authorities took part in it. The other example of such an intervention was a discussion organized by the association when two German citizens of Polish origin were accused of offending religious feelings and kept in custody for several months. The association organized a discussion around the question “Is Kraków a Religious City? And if Yes, What Religion is it?” The event drew a number of prominent scholars as well as clergymen.

The Association for Crisis Intervention also prepared and carried out the project “This is Our Case”, aimed at encouraging Roma women to take part in the process of getting the Roma community out of isolation and oppression. Roma, and especially Roma women, are very often not aware of social programs carried out by some organizations. Single persons, working for non-governmental organizations and not necessarily representing these groups, take decisions about how money from these projects is being spent.

“It’s necessary to go and talk, answer questions, give examples, think over what are the consequences [of a discussed project] for a specific family or a settlement. A big part of the Roma community is attached to oral communication. To gather reliable data about oppression of minority groups one should behave in an culturally adequate way [...], to earn trust and encourage people not to be afraid to talk about what have hurt them.”

#### 4.1.5 Interest in Monitoring and Victim Assistance/Demands and Resources for those Activities

Even though most organizations and groups do not have sufficient financial and time resources to run hate crime monitoring, their leaders or representatives often express interest either in launching a monitoring project or cooperating on this with other organizations. Usually such interest reflects the local contexts of not merely hate crimes but broader problems of discrimination, hate speech as well as the “traditions” of prejudice and inter-ethnic stereotyping.

This is a case of the **Russian Cultural and Educational Association**, whose coordinator, Andrzej Romańczuk from Białystok, thinks about initiating monitoring activities in the region, perhaps in cooperation with other local organizations. Another locally-based minority organization, the “**Kyczera**” **Lemko Song and Dance Ensemble** from Legnica, is also concerned with hate crime and discrimination monitoring. Faced with negative attitudes towards Lemkos as well as institutional discrimination against Lemko cultural activities, the “Kyczera’s” chairman, Jerzy Starzyński, was thinking about initiating a monitoring project: “We wish to do something on that. We observe the situation but do not have time to register that in the formal manner.” Answering questions of an interviewer from “Nigdy Więcej”, Mr. Starzyński expressed his will to cooperate with more specialised antiracist organizations: “We could cooperate with organizations like yours by meeting and sending information and reports.”

Also Filip Kitundu of the **Society for African Affairs** mentioned the “Brown Book” project of the “Nigdy Więcej”, and expressed his interest in starting a similar initiative or help the association by sending information. Mr. Kitundu said: “We do not run any system of monitoring of hate crimes. But we would like to establish an African association, which will be focussed on the monitoring of hate crimes and on promoting anti-discriminatory activities.”

In some other cases, interest in taking effort in hate crime monitoring was expressed with reference to the existing frameworks of particular organizations' activities. For instance, the Polish Humanitarian Action would be interested in the exploration and monitoring of young people's attitudes within the scheme of the organization's "Humanitarian Education" project. Somewhat more elaborate explanation of difficulties and possibilities of combining hate-crime monitoring with priority areas of activity was given by Zbigniew Holda of the Helsinki Foundation for Human Rights:

"As we do not collect any data, I know about such cases from media or from those rare cases we had, but usually we did not proceed with such cases, only with an advice to go to police, for example. [...] However, we are interested in monitoring, as far as it can be considered as a part of monitoring of violation of human rights."

And Agnieszka Mikulska added: "Of course we investigate different cases of discrimination, monitor the human rights situation in Poland, but we rather have to be focussed on secondary cases (in frames of the RAXEN project)." This view can be supplemented with a remark by Marek Kubicki of the **Arabia.pl** association, who emphasized the necessity of practical links between hate crime monitoring and victims' assistance:

"Arabia.pl lacks financial resources and knowledge to initiate a long-term program on hate crimes and victims assistance. It seems that other anti-discrimination NGOs face the same obstacles. There are no NGOs providing psychological, legal or other kind of help to victims of hate crimes in Poland. Some organizations monitor the situation, for example HFHR does it in frames of the RAXEN project, but monitoring without assistance can not be helpful."

Some interviewees expressed the need for going beyond a community-based particular perspective on hate crimes towards a broader "universal" approach that would link different issues and foster inter-community cooperation on countering hate crimes, discrimination and prejudice. Zbigniew Holda (HFHR) stressed that "there must be a multiple approach in combating hate crimes" when referring to the fact that hate crime monitoring should encompass diverse groups and categories of people. An example of such a more universal approach can be a statement by Jerzy Starzyński of the Lemko community, who is involved in organizing European ethnic and national minorities meetings called *Pod Kyczerą*, which take place in Legnica. About his ensemble's commitment, Mr. Starzyński says: "We try to combat not only anti-Lemko sentiments, discrimination etc. but also those directed against other minorities, and we always stress that." In a number of other interviews, representatives and leaders of particular communities quite often noticed discrimination and prejudice directed against other communities, e.g. various groups recognize antisemitism or discrimination against Roma or Africans. Anna Mazgal, the representative of the Jewish association **Beit Warszawa** (which is a more liberal group than the Jewish religious congregation and probably also more liberal than the Social-Cultural Society that gathers mainly older people) recognized the problem of homophobia as a significant issue. Ms. Mazgal said: "The Beit Warszawa is a minority organization, and all minority groups – ethnic, national, religious, sexual – should talk to each other."

### ***Resources for victim assistance***

Besides challenges and obstacles concerning the fight against hate crimes in Poland, it should be noted that a number of representatives voiced their readiness to engage in cooperation or networks with other NGOs/groups, and said they were ready to offer their organizations' resources to be used in this process. Knowledge and experience in educational work and community organizing/

management were among the most frequently mentioned aspects. Some said they could provide aid to less experienced or less trained minority organizations or individuals<sup>9</sup>. In case of organizations servicing immigrants and refugees, representatives emphasized their readiness to play an active role as intermediate cultural agents between their communities (in particular hate crime victims), NGOs and public institutions, especially the police.

Anna Mazgal of the **Beit Warszawa** Association said that so far her organization had not dealt with cases of violent attacks. Yet when necessary Beit Warszawa will be able to support a victim through contacting him/her with someone, both from the governmental and non-governmental institutions, who could help in getting a lawyer. It can be assumed that the victim will be a Jewish person, but the organization is ready to help non-Jews as well. The **Society for African Affairs**, even though its activity has not included assistance to victims of racist attacks, collects materials on discrimination and is interested in entering the field of victim aid. As Filip Kitundu said: “We will readily help as far we can.” He declared that his organization would be able to offer help in establishing contacts with the police or psychologist: “We can direct victims to the relevant institutions.” Balli Marzec of the **Kazach Community** expressed great concern about discrimination and attacks not only against Kazachs but also against other minority groups (mainly those “visible” as minorities due to their foreign accent or different skin colour), and she admitted that her organization had not run any systematic assistance program, although it had attempted to intervene in some critical cases of discrimination. Ms. Marzec stated that there are numerous cases when intervention and assistance would be needed, but her organization “does not have enough financial resources and knowledge to deal with those cases. What the organization can do is just to give advice how and where to write a complaint, how to react in a case of the answer, translate it into Polish etc.”

The table below presents major fields, in which demand for victim support among **minority organizations** has been expressed. Not all expectations raised by the organizations’ representatives during interviews were included. General needs, such as more financial resources or better infrastructure (e.g. office space, Internet etc.) were often mentioned, in particular by representatives of organizations operating in immigrant communities or among refugees specifically. Also, not in every case the NGO/group representatives talked about certain kind of demand explicitly, yet their expectations could be inferred from the way they described their organizations’ general problems, obstacles for activity concerning hate crimes etc. The most frequent aspect of victim assistance, as shown in the table 8, is demand for better information concerning hate crimes and the existing possibilities of supporting actual or potential victims, as well as demand for general education on anti-discrimination and minority rights. This aspect includes needs for training for organizations’ leaders and activists as well as for community members. Migrant or refugee organizations are those where essentially any form of victim support is needed, not only legal or psychological assistance but also linguistic, cultural and basic legal training for empowerment of immigrants in the Polish society. Representatives of immigrant organizations also suggested the need for raising the standards and quality of practice among staff in public institutions and NGOs dealing with immigrants and refugees. The overall need for political support concerning status and security of minority communities was also frequently expressed.

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9 For instance, the representative of the Russian Cultural and Educational Association stated that his NGO was willing to assist other organizations in serving as a “complaint bureau” for various minority groups in the Bialystok region.

Table 8: Demand for victim support among minority organizations

Name of organization/ group	Legal assistance	Psycho- social assistance	Cultural and language training for minority members	Legal training for minority members	Information and training on hate crimes, victim support, minority rights etc.	Qualifying staff in public institutions and NGOs dealing with minorities, migrants, refugees	Political support
<b>LGBT organizations</b>							
Campaign Against Homophobia							X
Lambda Warsaw							X
<b>Organizations of officially recognised and registered ethnic or national minorities</b>							
Russian Cultural and Educational Association			X		X		X
German Students' Union					X		
Association of Roma in Poland						X	X
Lemko Song and Dance Ensemble					X		
Union of Jewish Religious Communities in the Republic of Poland					X		
Social and Cultural Society of Jews in Poland						X	
Jewish Cultural Association Beit Warszawa	X						X
<b>Organizations of immigrant minorities</b>							
Foundation "Ocalenie"	X	X	X	X	X	X	X
Ingush Unity	X	X	X	X	X	X	X
Society for African Affairs at the Jagiellonian University					X		
"Solidarity and Friendship" Association of the Vietnamese in Poland							X
Muslim Centre for Education and Culture							X
Mongolian Student Community					X		
Arabia.pl Association							X
Kazach Community			X		X	X	X

#### 4.1.6 Main Problems for Monitoring of Hate Crimes and Victim Assistance by NGOs

Major challenges in the field of hate crime monitoring and victim assistance, as discussed – explicitly or implicitly – by the interviewees, can be summarized in four general categories. They refer to the general social-political background, to the operational context of public institutions, to the organizational capabilities and profiles, and to the attitudes or the “climate” among victims or minority members.

##### *General challenges*

A number of issues can be mentioned, which constitute a broader socio-political context. These problems were in various ways pointed out by the interviewees. First, there seems to be a general lack or shortage of awareness concerning hate crimes, racism, homophobia, discrimination etc. in Polish society. Second, the interviewees pointed to the general “under-representation” of the issue in the media and in the political debate. Thirdly, respondents expressed concerns about gaps in the legal system or the unsuccessful execution of the existing laws, which makes it hard to operate effectively in the field of countering hate crimes. The fourth challenge is the relatively disadvantaged position of minority groups, in particular undocumented immigrants and refugees, combined with persisting forms of prejudice and discrimination, in particular concerning “visible” ethnic or cultural minorities and LGBT individuals.

##### *Failure of public institutions to recognize hate crimes*

This area includes references to both official state institutions, such as police, prosecutor’s offices and public administration, and the media. As a representative of the **Kazach Community**, Balli Marzec, critically put it: “The topic [of hate crime] is completely unrepresented in the Polish media and among Polish NGOs and governmental organizations. Not only the topic of hate crime, but the issue of inter-ethnic relations in general is not enough discussed in Poland.”

Marta Abramowicz of the **Campaign Against Homophobia** explained this in terms of flaws in Poland’s legal system: “The term hate crime is not very well recognized in Poland. In comparison to the United States, there is no legislation in Poland relating to hate crime. [...] In Poland, an act of violence is qualified on the ground of the article of a criminal code not on the ground of its reason or its perpetrator’s motivation. [...] All this makes it difficult to gaining an insight into the scale of this phenomenon.”

Andrzej Romańczuk of the **Russian Cultural and Educational Association** pointed to the problem of police’s reluctance to recognize the racist or neo-fascist background of crimes as the authorities do not want to admit the scale of the problem. In such situations organizations or individuals attempting to intervene are left with their own responsibility to make this background evident: “There is a necessity to collect information to prove that violent attacks are not a rare phenomenon, as it is claimed by the police officers. [...] It is convenient for the police to show once or twice a year that it was a marginal group or simply to categorize such crimes as “hooliganism” and not treat them seriously. It is necessary to prove that such cases can not be simply considered as hooliganism, but have ethnic, racial or religious basis, but in the Polish realities it is almost impossible.” Jan Gebert mentioned similar difficulty in the context of antisemitism: “Unfortunately there were many cases of antisemitism which were not considered antisemitic by the police. Thus, for example, there was a case when a person, being Jewish himself, was attacked, but it was

impossible for the family to prove that it was antisemitism that motivated the perpetrators to commit the crime.”

Similar reluctance of the authorities happens in cases of group-based discrimination. Balli Marzec mentioned the case in the market in Lublin, where several dozens of sellers of different nationalities, which included Armenians, Vietnamese, Africans, Chechens, were not allowed to enter the market, even though they had all necessary documents. The Kazach Community attempted to intervene, after the request received from the Armenian community. According to Balli Marzec, the police officers and representatives of the local authorities were not helpful in this case. Neither was the case publicized well enough in the media, therefore there were no outcomes. Connected with this is the problem of police lacking skills and knowledge for dealing with hate crimes. As Mr. Romańczuk said: “Usually police fails to identify the perpetrators of racist acts. Definitely police needs training in this field.”

The problem of public institutions’ lack of recognition of the ideological background of crimes, as well as the existence of a certain degree of prejudice among some politicians, police officers, administrative officers etc., not only add up to the general context described above, but in fact serve as a factor in “reproducing” difficult structural conditions for some minority members as well as patterns of relative intolerance or silencing over the hate crime problem.

### *Organizations’ limited capacity*

There seem to be two major reasons for the shortage of monitoring and victim assistance activities among NGOs and informal groups. One reason is the organizations’ limited capacity to carry out this kind of task. “Limited capacity” can be understood in terms of lack/shortage of resources and can be divided into factors internal and external to a given organization. Major internal factors are:

- modest infrastructure: insufficient office space, no access to the Internet, no website etc.;
- limited financial resources to employ staff specialized in monitoring;
- insufficient time resources of members, volunteers or activists who are already involved in various formal or informal activities;
- shortage of knowledge/skills to keep track of and deal with hate crimes in Poland;
- lack of language skills to benefit from international cooperation.

As Marek Kubicki of the **Arabia.pl** association, put it in an interview: “Systematic monitoring is [...] a matter of time, needs the recording of cases, networks of correspondents, the creation data bases”. Also Malika Abdoulvakhabova of the **“Ocalenie” Foundation** that works with Chechen migrants and refugees, pointed to the lack of time as one of the reason not to monitor hate crimes on a regular basis.

Major external factors can be described as forms of potential (or lack of potential) to fully develop NGO activity in an immediate social environment of a given organization:

- linguistic and cultural gap (mainly in case of migrant/refugee communities);
- “social capital” in a local community (contacts with officials, cooperation with police, links to media/journalists, support and recognition by educational institutions and community leaders etc.).

Another major reason for not systematically monitoring hate crimes (and/or offering victim assistance) is the specific profile of the given organizations, which makes them focus on other issues, such as providing civic and legal or social aid to members of minority groups, migrants or refugees (e.g. Helsinki Foundation for Human Rights, “Ocalenie” Foundation for Chechen migrants and refugees), general education and cultural activity related to human rights, tolerance and inter-cultural/interfaith dialogue (e.g. Polish Humanitarian Action) or the preservation and promotion of minority cultures and traditions in Polish society (basically all national, ethnic, religious and migrant minority groups studied). Zbigniew Holda of the **Helsinki Foundation for Human Rights** stressed, for example that:

“[the Foundation] is a strictly legal organization, our aim is the protection of human rights. Monitoring of hate crimes is not our main aim, we do it irregularly (only in exceptional cases) and we do not provide assistance to victims. We do not collect any data. [...] The reason why we do not work on hate crimes is that there are many other things we have to concentrate on: legal aid, access to the courts, the monitoring of the protection of rights of prisoners, freedom of religion and belief, etc. There are not so many organizations in Poland working in those spheres, that is why we prefer to stay focussed.”

#### *Attitudes of victims and/or members of minority groups*

One of the most serious issues seems to be reluctance or avoidance of victims or their communities to complain about incidents to the law enforcement officers. As Marcin Kornak of “Nigdy Więcej” explained: “Minorities have difficulties to overcome their fear.” Nomondalai Erdenechimeg of the **Mongolian Student Community** admitted that: “It is not common for our community to go to complain to the police.” One of the reasons for this avoidance might be distrust in law enforcement attitude and effectiveness, as well as general fear of being “doubly” stigmatized. Marta Abramowicz presented this problem in the context of LGBT persons: “Often the victims of violence, while talking with the police, hide that the ground of the attack was sexual orientation. For example, when somebody is attacked or robbed, she or he will not say that it happened at or in a gay club, because she or he will be ashamed of this.”

There is also a certain degree of mistrust towards Polish NGOs (including human rights organizations) among migrants and some of the other minority groups. Another factor that might weaken the potential for effective work on countering hat crimes are inter-ethnic tensions or organizational “competition” between minorities, as implied by some respondents.

#### 4.1.7 Experiences and expectations with regard to national and international cooperation

*Through engaging in such activities we will open Polish people's eyes,  
showing that there is the problem of hate crime  
and that we have to combat it because the world is for everyone.  
(Filip Kitundu, Society for African Affairs  
at the Jagiellonian University, Kraków)*

Almost all organizations whose representatives were interviewed expressed direct interest in various forms of cooperation within the non-governmental sector. This interest concerns both national and international contexts. In particular, despite varying degrees of experience in and confidence with international cooperation, there is a widespread conviction among interviewees about how helpful, beneficial and stimulating it can be. As Nomondalai Erdenechimeg of the Mongolian Student Community put it:

“People could work together, act together and react.”

International cooperation is also seen as an objective need from the perspective of the global struggle against hate crime and discrimination. According to the representative of “Nigdy Więcej”, Marcin Kornak:

“International cooperation is necessary because racism is crossing borders”.

Several interviewees mentioned their existing contacts with other organizations within transnational networks such as UNITED<sup>10</sup> and ENAR<sup>11</sup>. Representatives of LGBT NGOs (particularly the Campaign Against Homophobia) mentioned broad international contacts within the International Lesbian and Gay Association (ILGA) and International Gay, Lesbian, Bisexual, Transgender and Queer Youth and Student Organization (IGLYO). The Campaign Against Homophobia, together with Lambda Warsaw, is also involved in an international monitoring initiative in cooperation with MANEO from Berlin and the French organization S.O.S. Homophobie. Other affiliations were mentioned by the Arabia.pl (Anna Lindt Foundation Network), the “Ocalenie” Foundation (NGOs from the Netherlands and Spain, as well as the German association Xenion specialized in psychological help for political refugees), and the Helsinki Foundation (Helsinki Committees in different countries).

There is also some degree of cooperation in the Polish context. Most organizations were familiar with the work of “Nigdy Więcej”, and some of them referred to that NGO as the major initiative in the field of hate crime policies in Poland, and their major partner concerning information, experience and public support in highlighting issues concerning minorities as well as popular campaigns against racism, xenophobia, antisemitism and other forms of intolerance and hatred-based ideologies. For LGBT organizations and for the Association for Crisis Intervention, feminist and women’s organizations are also strategic partners. The Campaign Against Homophobia is also a cooperation partner for the Jewish organization Beit Warszawa.

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10 The full name of the network is: United for Intercultural Action – European Network Against Nationalism, Racism, Fascism and in Support of Migrants and Refugees. Affiliation with the network was mentioned by representatives of „Nigdy Więcej”, the Polish Humanitarian Action, the Association for Crisis Intervention, and the Campaign Against Homophobia.

11 European Network Against Racism. One of the organizations that are affiliated with the network, the Kazach Community, is an official representative of ENAR in Poland. Arabia.pl association has also worked within this network, and in 2006 was involved in the preparation of a „shadow report“ on racism in Poland.

Among the major expectations voiced by the interviewees, or benefits that they see coming from international cooperation, are:

- intellectual and political support from more experienced and more influential (well-known) NGOs;
- direct financial help or assistance in obtaining funds from international sources/institutions (most notably the European Union);
- exchange of information and training in the broader field of anti-discrimination work.

Some Polish respondents expressed the willingness to share their organizations' experiences or resources, especially with less experienced or less developed NGOs from other Eastern European states.

Among the major challenges or obstacles to international cooperation are:

- varying degrees of experience and different focus of organizations from other countries (e.g. the representative of the “Nigdy Więcej” group in Oświęcim talked about her group's experiences in Polish-German cooperation and described German NGOs as “more mature” than Polish ones with regard to the ability to tackle project-based initiatives);
- linguistic barriers in international communication;
- shortage of financial means to contribute to project realization or travel expenses;
- lower degree of “influence” (or impact) of Polish NGOs vis-à-vis those from other states in some international projects;
- formal difficulties, such as visa requirements, in case of participants from non-EU Eastern European states.

#### 4.1.8 Typologies of NGOs and their Approaches

As has been shown, there is a diversity of approaches to activities concerning or related to hate crimes among the organizations and groups studied. Below various fields of activity are presented to help track this diversity.

As **table 9** shows, systematic monitoring of hate crimes and relatively systematic support to victims of hate crimes (or organization's capability to carry out the task of victim assistance) are the least common field of activity among the studied organizations. Only the two LGBT NGOs provide, or are ready to provide, victim assistance in an organized way. These associations are also involved in the collection and analysis of data concerning the victimization of sexual minorities in Poland (see the presentation of the survey project above). The only NGO involved in the comprehensive monitoring of hate crimes, including a broad spectrum of victimized groups, is “Nigdy Więcej”. The Association for Crisis Intervention can possibly be counted as a victim-assistance NGO as well, however, due to limited financial capacities, this kind of activity has not been carried out by the organization as a long-term task. In-community forms of hate crime monitoring and assistance to victims of racist attacks are to a significant extent also part of the area of activity for the Association of Roma in Poland. Perhaps some potential for organized victim assistance lies also in those general human rights NGOs and some minority organizations that are involved in anti-discrimination interventions and/or in antiracist education.

Table 9: Major fields of activity of NGOs/groups studied

Name of organization/ group	Systematic monitoring of hate crimes and public intervention	Organized but not systematic monitoring or public intervention	Systematic victim assistance	Anti- discrimination work	Education “for tolerance” (including antiracism, human rights etc.)	Preservation and promotion of a minority culture
<b>Antifascist organizations</b>						
Nigdy Więcej	X				X	
Anti-Nazi Group in Piła		X			X	
Nigdy Więcej Group in Oświęcim		X			X	
<b>General Human Rights NGOs</b>						
Helsinki Foundation for Human Rights				X	X	
Polish Humanitarian Action					X	
Association for Crisis Intervention			X	X	X	
<b>LGBT organizations</b>						
Campaign Against Homophobia	X		X	X	X	
Lambda Warsaw	X		X	X	X	
<b>Organizations of officially recognized ethnic or national minorities</b>						
Russian Cultural and Educational Association						X
German Students' Union						X
Association of Roma in Poland		X	X	X		X
Lemko Song and Dance Ensemble						X
Union of Jewish Religious Communities in the Republic of Poland		X				X
Social and Cultural Society of Jews in Poland						X
Jewish Cultural Association Beit Warszawa						X
<b>Organizations of immigrant minorities</b>						
Foundation “Ocalenie”				X		X
Ingush Unity						X
Society for African Affairs at the Jagiellonian University					X	X
“Solidarity and Friendship” Association of the Vietnamese in Poland				X		X
Muslim Centre for Education and Culture						X
Mongolian Student Community				X	X	X
Arabia.pl Association					X	X
Kazach Community				X		X

Table 10 shows which forms of assistance to actual or potential victims of hate crimes are provided by different organizations, as reported in the interviews. Two most specialized NGOs, whose primary fields are nonetheless anti-discrimination and crisis intervention, which seem to have the most potential for comprehensive victim assistance (i.e. psychological as well as legal aid) are Lambda Warsaw (for LGBT community) and the Association for Crisis Intervention (whose major experience with potential hate crime victims has been in intervention/mediation in Roma communities in the Malopolska region). In most case, NGOs and groups studied use their links to external legal aid institutions, what often requires personal assistance of group leaders with regard

to overcoming linguistic or cultural barriers in the Polish society. This kind of “personalized” help is at times combined with leaders’ engagement in mediation as a form of prevention in local sites of inter-group tensions or conflicts (especially for the Roma community and migrants/refugees from the North Caucasus). Self-defence groups as the most extreme form of conflict resolution have been included as a category in this typology, as they had been reported by representatives of organizations operating mainly among Muslims.

Table 10: Assistance provided to actual or potential victims of hate crimes\*

Name of organization//group	Psycho-social assistance	Legal assistance	Cultural and linguistic assistance by a leader	Assistance provided by single members, leaders	Major forms of preventing hate crimes	
					Inter-group mediation	Self-defense**
<b>Antifascist organizations or groups</b>						
Nigdy Więcej				X		
Anti-Nazi Group in Piła				X		
Nigdy Więcej Group in Oświęcim				X		
<b>General Human Rights NGOs</b>						
Helsinki Foundation for Human Rights		X				
Polish Humanitarian Action				X		
Association for Crisis Intervention	X	X			X	
<b>LGBT organizations</b>						
Campaign Against Homophobia	X	X				
Lambda Warsaw	X	X				
<b>Organizations of officially recognized ethnic or national minorities</b>						
Russian Cultural and Educational Association				X		
German Students’ Union						
Association of Roma in Poland		X	X	X	X	
Lemko Song and Dance Ensemble					X	
Union of Jewish Religious Communities in the Republic of Poland				X		
Social and Cultural Society of Jews in Poland						
Jewish Cultural Association Beit Warszawa				X		
<b>Organizations of immigrant minorities</b>						
Foundation “Ocalenie”			X	X	X	X
Ingush Unity			X	X	X	X
Society for African Affairs at the Jagiellonian University				X		
Arabia.pl Association				X		X
Kazach Community			X	X		

\*Only those organizations have been included in this table, whose representatives reported any forms of victim assistance during the interviews.

\*\* Self-defense should be understood as reported by representatives of given organizations, not as organized by them.

#### 4.1.9 Summary/Conclusions

As the above analysis has shown, hate crimes are generally recognized as a problem by most interviewed representatives of Polish NGOs. The operational use of the hate crime terminology is, however, diverse as the very area does not necessarily constitute the primary focus of most of the studied organizations. The understanding of the phenomenon hate crime is embedded in the particular organizations' experiences and profiles of activity, their community dynamics as well as the social and legal conditions of certain minority groups in Polish society. Hate crimes are often understood in a broader context of discrimination, prejudice and xenophobia/intolerance, which has been assessed as a prevailing yet changing (i.e. decreasing in some sectors of the society) phenomenon in Poland. Other issues raised by the interviewees are hate speech and attacks on property belonging to minority organizations, especially cemeteries and houses of prayer.

While monitoring of hate crimes and assistance to victims of hate crimes are not the primary focus of most organizations, apart from "individualized" or occasional efforts at keeping track of incidents of victimization, several different approaches to organized methods of monitoring can be distinguished: locally-based monitoring oriented towards public intervention in cases of attacks, discrimination or hate speech (often undertaken by informal grassroots antifascist collectives); in-community monitoring based on information shared by members of particular ethnic or religious groups (e.g. Roma or Jews); victimization surveys, such as research concerning sexual minorities; a nation-wide network of volunteers monitoring local incidents and media in order to contribute to a comprehensive nation-wide data base of hate crime cases (the "Brown Book" project).

Victim support is provided in most cases on an occasional basis rather than in a systematic and long term form. A crucial role, especially in the case of ethnic or immigrant minority groups, is played by organization's leaders or committed activists who can share their legal knowledge, cultural and linguistic competence or contacts with legal and public institutions to provide aid to victims or potential victims of hate crimes. Another important aspect is the locally-based knowledge on "sites of tensions" and the ability to intervene or mediate within a local community as well as to cooperate with the police to prevent the escalation of prejudice and minimize the risk of further violent racist or xenophobic attacks. Three most advanced attempts at victim assistance have been observed in cases of the Association of Roma in Poland (legal aid combined with local mediation to prevent further racist harassment), LGBT organizations (assistance can possibly be run within the framework of support groups and be provided by specialized teams of lawyers), and as an effort embedded in anti-discrimination and empowerment work done within the scheme of crisis intervention activity.

There is a widespread interest among NGO representatives in getting involved in hate crime monitoring and victim assistance (often as linked to a broader framework of anti-discrimination and educational work) or in taking part in broader cooperation on these issues. Organizations are ready to share their experiences and intellectual resources, legal contacts or office infrastructure with NGOs or groups that operate under more restricted conditions. The most demanded forms of help needed in the context of victim assistance is information and training on hate crimes and related issues, stronger political support, and a higher quality of work/competence of public institutions' or NGOs'. Cultural and linguistic training is needed among migrant/refugee communities.

Among the major challenges or problems preventing systematic and long term activities in the field of hate crime monitoring and victim assistance are: the socio-cultural and political "climate" of prevailing intolerance or reluctance in some sectors of Polish society and in some media, lack of recognition of hate crimes by public institutions, limited resources and local contacts or specialized profiles of the organizations themselves, as well as victims' avoidance to raise the problem of hate crime, and their mistrust towards Polish public institutions and the police. Generally, despite certain shortcomings there is a clear recognition of the problem of hate crimes in Poland amongst

NGOs. Even though there seems to be still no universal discursive framework for discussing the issue of hate crimes and dealing with it on various levels, the NGOs' representatives are aware of what the particular aspects of the problem are and what kinds of changes are needed to facilitate more effective civil society work in the field of combating and prevention of hate crimes, as well as hatred-based ideologies and discrimination in general.

## 4.2 NGOs in Germany

In Germany, civil society and community-based organizations are recognized by almost all government institutions, political parties, the media and academics as vital actors in the prevention and active combat of racism, antisemitism and right-wing extremist activities, including violent hate crimes. Comparative studies, looking at different strategies in Western Europe,<sup>12</sup> indicate that Germany might be even outstanding in its official approach to focus many resources on non-governmental organizations and civic engagement, particularly on the local level.

It is impossible to give an overview of NGOs which are involved in antiracist or antifascist activities. According to the German federal government, more than 4.470 measures and projects as well as 1.300 NGOs and grassroots initiatives received some state funding between 2001 and 2006 under the auspices of the national action program “Young People for Tolerance and Democracy – against Right-Wing Extremism, Xenophobia and Anti-Semitism” (see chapter 1).<sup>13</sup> Private organizations and foundations, such as the Amadeu Antonio Stiftung in Berlin, some foundations aligned to political parties (Rosa Luxemburg Stiftung and Friedrich Ebert Stiftung), or corporate foundations such as the “Flick Stiftung gegen Fremdenfeindlichkeit, Rassismus und Intoleranz” have provided further financial support to hundreds of local projects and measures, ranging from awareness training and educational programs to community coaching, workshops and antiracist festivals.<sup>14</sup> As one of many umbrella associations the German National Coordination of the European Network Against Racism (ENAR), for example, states that it is representing approximately 100 independent action groups, organizations, churches and unions throughout the country.<sup>15</sup> Regional networks established by state governments in the early 2000s to tackle right-wing extremism also list hundreds of institutions and NGOs as active member groups. Furthermore, local alliances and so called “local action plans” have been established in dozens of municipalities in West and East Germany – in many cases as a reaction to extreme right-wing developments and/or xenophobic incidents. Other experts have also observed a steady increase since the early 1990s in the number of projects and initiatives throughout Germany “which aim at promoting equality, inter-ethnic understanding and anti-discrimination”.<sup>16</sup> Trade unions, social welfare, educational, migrant and youth organizations, churches, and a broad spectrum of other non-governmental organizations are seen as the driving forces behind these projects striving for more tolerance and equality for members of minority communities.

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12 Bleich, Erik 2007: Hate Crime Policy in Western Europe: Responding to Racist Violence in Britain, Germany, and France, in: *American Behavioral Scientist*, Vol. 51, No. 2, pp. 149-165.

13 Bundesministerium für Familie, Senioren, Frauen und Jugend 2006: Abschlussbericht zur Umsetzung des Aktionsprogramms „Jugend für Toleranz und Demokratie – gegen Rechtsextremismus, Fremdenfeindlichkeit und Antisemitismus, Berlin, p. 6.

14 Kleffner, Heike 2007: Aktuelle Programme und Projekte in der Auseinandersetzung mit Rechtsextremismus (unpublished document), p. 54 ff.

15 European Network Against Racism (ENAR) 2007: Rassismus in Deutschland, Brussels, p. 3.

16 Peucker, Mario 2006: Equality and anti-discrimination approaches in Germany, Bamberg, p. 11.

These accounts and numbers present convincing evidence that there is, first of all, a broad range of NGOs, educational organizations and local initiatives in Germany active in the fight against right-wing extremism, racism, and intolerance. Secondly, they point to a pronounced shift in the German government paradigm for dealing with the issue of right-wing violence in the early 2000s, away from a strong focus on potential perpetrators, as predominant in the 1990s, towards an emphasis on encouraging and strengthening civil society initiatives and capacities to tackle the challenge of far-right activities. This strategy has received special appreciation from international human rights bodies, but also from German academics, researchers and activists.<sup>17</sup> Despite the common praise of and strong focus in Germany on civil society structures and players in the prevention and combat of right-wing extremism, racism and discrimination, however, not much is known about the national NGO landscape as a whole. Scientific research has concentrated on the evaluation of some pilot projects and initiatives, which received funding under the auspices of different federal programs, most of them located in East Germany such as the CIVITAS projects.<sup>18</sup> According to one leading academic expert, nobody has currently an overview with respect to services offered to victims of right-wing or related attacks in Germany by municipalities or NGOs.<sup>19</sup> One empirical studies, that was recently published for Berlin, was highly critical with respect to the low number of local groups and measures that deal directly with the ongoing challenge of right-wing violence. Out of a sample of 165 programs/projects only seven stated that they focussed on the support of victim groups of discrimination and hate crimes.<sup>20</sup> No comparable studies were available by the time we started our research project for the old federal states in West Germany.

#### 4.2.1 Research Design

In order to identify and describe the work of NGOs active in monitoring and hate crime victim support we conducted 24 longer face-to-face interviews and about 20 mostly shorter telephone inquiries with relevant institutions, organizations and actors.<sup>21</sup> Three interviews with academic experts, of whom two were involved in the official evaluation of the CIVITAS program, and one is working at the Moses Mendelssohn Centre for European-Jewish Studies at the University of Potsdam, provided an useful overview of the research topic German hate crime policies and the landscape of non-governmental organizations active in the field. We also participated in various public meetings, parliamentary hearings and seminars to enhance our understanding of the recent developments in the field of hate crime policies and initiatives against right-wing extremism in Germany.

Due to already well established contacts to support organizations for victims of right-wing violence in Brandenburg and Berlin, we started our inquiry with interviewing a sample of the projects in Berlin and East Germany which were set up in 2001 with the help of the CIVITAS program by the federal government (in the following sometimes referred to as the CIVITAS projects). At the end of each interview, we asked our contact partners to identify further NGOs they knew of, which are doing similar work in their region with respect to other hate crime victim groups (for example members of the LGTB community), or to name organizations in other federal states with a comparable approach, combining either monitoring and victim assistance or focussing at

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18 Lynen von Berg, Heinz/Palloks, Kerstin/Steil, Armin 2006: Abschlußbericht der wissenschaftlichen Begleitforschung zur Evaluierung des CIVITAS-Programms, Institut für interdisziplinäre Konflikt- und Gewaltforschung, Berlin; Bundesministerium für Familie, Senioren, Frauen und Jugend 2006: Abschlussbericht zur Umsetzung des Aktionsprogramms „Jugend für Toleranz und Demokratie – gegen Rechtsextremismus, Fremdenfeindlichkeit und Antisemitismus, Berlin.

19 Interview with Roland Roth.

20 Landeskommision Berlin gegen Gewalt 2007: Berliner Projekte gegen Rechtsextremismus, Berlin, p. 62.

21 See Appendix for the list of interview partners.

least at one of these activities. Thereby we learnt, first of all, about the work of a couple of small-scale voluntary initiatives (BOrG in Bernau, Strausberg etc.), often started by young antiracist and antifascist activists in the new federal states, which have been involved to some extent in the support and counselling of hate crimes victims, mainly refugees/asylum-seekers and alternative, left-wing youth. Secondly, we learnt that while the CIVITAS projects are very well connected to relevant local and regional actors and networks and amongst each other, they have no or hardly any knowledge about NGOs in the old federal states, offering comparable services to hate crimes victims or doing professional monitoring.

We have tried to fill this overall information gap, which seemed particularly pronounced with respect to the situation in West Germany, by applying three strategies: The first one was to do an internet research, and to contact some of the NGOs which are publishing incidents of hate crimes on their websites. The second approach consisted of contacting and asking the national and regional coordinating bodies/persons of the newly established “Consultation Networks Against Right-Wing Extremism” about monitoring and support activities in the old federal states. The third strategy was to include also some NGOs in our interview sample, which do not consider the support of hate crimes victims as their primary objective, but which have regular contacts with potential victim groups, such as refugee councils and anti-discrimination offices, and individuals and associations representing other “minority groups”, such as the LGBTB community, the Jewish community, and Roma and Sinti. However, the main geographic focus of our study remains East Germany, due to the more well established structures for victim assistance (with regard to right-wing violence) and monitoring in the new federal states. About 70 percent of all our interview partners represent NGOs, located either in Berlin or in the new federal states. With regard to West Germany we decided to concentrate on two regions: North-Rhine Westphalia and states, located in the North, such as Lower-Saxony, Hamburg and Bremen. This decision was based on the finding that according to official police statistics the first two states are amongst the western regions with the most severe problem regarding right-wing extremism and violent attacks, and that Hamburg and Bremen as city states are well known for their established infrastructure of NGOs reaching out to migrant and refugee communities. Unfortunately, time limits did not allow for a more comprehensive geographical approach.

Overall, it has to be mentioned again that the field of our study – monitoring right-wing hate crimes and victim assistance by NGOs – is almost completely unexplored for West Germany. Apart from the evaluation studies of the CIVITAS projects in the new federal states, there were no other systematic empirical research projects, academic studies or investigations available to build on. Thus, when presenting our figures and main results in the following chapter, it has to be taken into account that our study has major restrictions, and that the character of our research results should be considered as rather preliminary and fragmentary. In order to obtain a more comprehensive overview and assessment of NGO activities in the respective field, especially in West Germany, further research is certainly needed.

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17 Klein, Ludger 2007: Die Demokratie braucht die Zivilgesellschaft, Berlin; Kleffner, Heike 2007: Aktuelle Programme; Frindte, Wolfgang/Preiser, Siegfried 2007: Präventionsansätze gegen Rechtsextremismus, in: *ApuZ*, 11/2007, pp. 32-38.

## 4.2.2 Different Operational Definitions and Perspectives on Hate Crimes

We start our account of the activities of NGOs with a brief overview with regard to their understandings and applications of the term hate crime, before elaborating on the monitoring and support activities of selected organizations in more detail. In contrast to the Polish part of the study, we did not ask the interviewees about their general views on bias-motivated violence in the German context, because most of the groups included in our sample were precisely chosen for the reason that they acknowledge the severity and the prevalence of the problem, and are in some way active in monitoring and addressing hate crimes.

However, their approaches and definitions vary to some degree, due to their specific political, social and geographic profiles, the experiences and needs of the groups they are working with or whose interests they do represent, and the context they were founded in. As has been noted by other authors before,<sup>22</sup> a broader hate crime concept as it was first developed in the Anglo-Saxon world, where civil rights and other advocacy organizations have played a crucial role in its promotion and acceptance,<sup>23</sup> has not been pulled in by too many social actors in Germany so far. In addition to the difficulty of translating the term into German,<sup>24</sup> there are obviously further reservations with regard to its application. One, as expressed by various activists, might be linked to the fact that the German hate crime discussion is still very much focussed on the problematic question, whether racist, xenophobic, homophobic or other political/ideological motivations of the perpetrators should be considered automatically as an aggravating factor for sentencing in court. Since most of the groups interviewed argue that the existent legal framework for the persecution and conviction of hate crimes has not been satisfactorily exhausted by the responsible law enforcement agencies yet, they are very cautious to support what some of them perceive as two-faced “law and order campaigns” by a number of populist politicians.<sup>25</sup> Another point of critique mentioned in our interviews is that legal hate crime concepts tend to mask structures of dominance and power prevalent in Germany, and also the fact that causes of racism and right-wing ideologies are rooted in mainstream society. At the same time, some groups addressed in our interviews the ongoing challenge of developing a more unified understanding of and response to the problem of hate crimes, expressing the need for intensified cooperation and networking with other organizations, and/or reaching out to victim and minority groups which so far have received less attention in the debate of right-wing violence such as the disabled, the homeless or other socially and politically marginalized parts of the population.

A few organizations are deliberately applying a rather broad definition of hate crimes and violence by also highlighting more subtle and everyday forms of harassment and abuse, as well as structural discrimination and various dimensions of social and legal inequality which are often not considered by mainstream society as problems that need to be addressed. Nevertheless, most groups are well aware of the dilemma, that state institutions as well as the public are usually just interested in the monitoring and persecution of those incidents that either do constitute a criminal offence or are litigable, and/or are considered as a breach of the public order, or a threat to Germany's international reputation. Therefore, many of the NGOs, especially those which receive funding

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22 Bleich, Erik/Hart, Ryank K. 2008: Quantifying Hate: The Evolution of German Approaches to Measuring ‚Hate Crime‘, in: German Politics, Vol. 17, No. 1, pp. 63-80; Kohlstruck, Michael 2004: „Hate Crimes“ – Anmerkungen zu einer aktuellen Debatte, in: Berliner Forum Gewaltprävention: Dokumentation des 4. Berliner Präventionstages am 13. November 2003, Berlin, pp. 67-74.

23 McVeigh, Rory/Welch, Michael R./Bjarnason, Thoroddur 2003: Hate Crime Reporting as a Successful Social Movement Outcome, in: American Sociological Review, Vol. 68, No. 2, pp. 843-867.

24 The literal translation „Hasskriminalität“ is rather misleading, because hate in the German context is understood as a strong personal feeling of rejection and dislike, and not so much as a widespread collective bias towards specific groups.

25 Here, some of our interview partners referred to a legislative initiative by the states of Brandenburg and Saxony-Anhalt (see chapter 2).

from state institutions, see the strategic necessity to concentrate in their public statements, reports and statistics on those events and incidents which comply to more official and accepted (legal) definitions of hate crimes, whereas in their daily work, especially when they are offering counselling and social services, they deal with a much more complex set of social, emotional and legal problems and grievances various victim groups and individuals are confronted and concerned with.

#### 4.2.2.1 Hate Crime as an Explicit Part of Organizations' Agenda

##### *Organizations representing the LGBT community*

Organizations representing the LGBT community in Germany are, similar to their counterparts in Poland, amongst the NGOs which consciously and overtly use and promote the terminology hate crime, and a victim centred perspective on various forms of violence.

According to our survey, associations working on behalf of lesbian/bisexual women and transidentical persons tend to have a particular multi-dimensional and broad understanding of violence and oppression, since this minority group is experiencing various forms of victimization, ranging from widespread discrimination and hostility in public life and family relations, to sexual abuses carried out by acquaintances, physical attacks in the streets, and domestic violence in same-gender relationships. These organizations are also often trying to highlight the specific difficult situation of lesbian immigrant women and lesbians of colour, who are usually subject to multiple forms of violence, discrimination and stigmatization from mainstream society and their “own communities”, because of ethnic origin, religion, sexual orientation, colour of skin and gender.<sup>26</sup> According to the association *Lesbenberatung e.V.* in Berlin, “violence comprises all forms of coercion and constraints, physical, verbal, mental or economic ones, that attack the individual right of self-determination.”

However, this well-established and experienced NGO, which has been running a psycho-social center since 1981, providing professional assistance and advice to lesbian, bisexual women and girls as well as for transsexual and transidentical people, also sees the necessity to distinguish between different forms of discrimination and violence, for example between cases of general hostility, cases of domestic violence and incidents of homophobic violence that are taking place in the public sphere. The term hate crime is in their classification system reserved for incidents of “violence against lesbians, carried out by offenders not or hardly known to the victims”. These hate crimes are divided up in physical, psychological and sexualized forms of violence; mobbing, stalking and damage of property are further categories used to classify different forms of harassment (see chapter 4.2.3.1).

MANEO, a Berlin-based project that has been running an emergency hotline and advise/counselling center since 1993 for gay men affected by homophobic assaults, discusses in its various publications at length the difficulty of distinguishing hate crimes, based on biases and prejudices, from other acts

Hate crime as an explicit part of organizations' agenda:

Lesbenberatung e.V.

MANEO

CIVITAS projects

Beratung für Opfer rechter Gewalt (BOrg)

<sup>26</sup> See, for example, the project *LesMigras*, which is an European wide network of lesbian migrants, black lesbians, lesbian and migrants' projects and individuals, coordinated by the association *Lesbenberatung e.V.* in Berlin (<http://www.lesmigras.de>).

of violence. Violence directed against individuals based on their alleged or real sexual orientation is interpreted, similar to other forms of hate crimes, as an expression of intolerance:

“These acts of violence do not only have negative consequences for the individual victims affected by inflicting on them severe physical, mental and emotional damages. Furthermore, they are an attack on the whole identity of a person, and by that are directed against all members of the group who share the same characteristics and orientations as the victim.”<sup>27</sup>

In MANEO’s most recent report on “Experiences of violence by gay and bisexual adolescents and men in Germany” (2007) the author states with reference to the insufficient official registration and monitoring system for homophobic assaults in Germany that more “adequate and standardized registration criteria are needed [...] which are also applicable in practice.”<sup>28</sup> At the same time, it is concluded, that all surveys and empirical studies on hate crimes have to deal with the problem that there are no absolutely reliable and objective indicators available for the assessment, and that subjective perceptions and interpretations of the victims groups and individuals affected have to be factored in. “Finally, it must be up to the respondents [and victims affected] to classify experiences of violence as homophobic hate crimes.”<sup>29</sup>

When presenting the results of its surveys and evaluations of reports on homophobic incidents MANEO is more or less applying legal categories to distinguish between different forms of experienced violence by gay men: abuse and threats, insults, coercion, damage to property, theft, robbery and muggings, attempted bodily injuries as well as less severe forms of battery and aggravated assaults (see chapter 4.2.3.1).

### ***Support Organizations for Victims of Right-Wing Violence***

The CIVITAS projects – and some informal groups linked to them such as BorG (Counselling for Victims of right-wing Violence) in Strausberg, Bernau and other cities – also belong to the group of NGOs which operate with a rather broad and reflected understanding of hate crimes in the German context, even if the term as such is hardly used by them. Due to the context of the formation of the CIVITAS projects and their assigned tasks by government programs (see chapter 4.2.4.1) their main focus is on “right-wing acts of violence” or “right-wing motivated violent offences”. These are also the dominant terms, applied in their publications and statistics, while they also list and deal with incidents which could be more generally categorized as hate crimes, having not necessarily an organized political background as the adjective right-wing in the common perception might suggest.

Comparable to the pioneering role of feminist and LGBT organizations in the field of sexist and homophobic offences, the CIVITAS projects must be also credited for having introduced the principle of a victim centered approach into professional discourses and official programs against racism and right-wing violence. By also taking into account in their assessment of reported offences – as an important aspect of their work and self-concept – the perceptions of hate crime victims, they are fulfilling an important advocacy function and are offering a vital alternative source of information that comes much more directly from the experiences of those individuals and communities directly affected by right-wing and related attacks. As one representative of the association Opferperspektive points out:

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27 MANEO 2007: Gewalterfahrungen von schwulen und bisexuellen Jugendlichen und Männern in Deutschland, Berlin, p. 10.

28 Ibid., p. 12.

29 Ibid.; p. 15.

“We as NGOs have a much closer relationship and better access to the victims as state institutions. As an important part of our conceptual framework and understanding we feel committed to the perspective of the victims. If they are convinced that the background of an attack was racist or politically motivated, we would usually support their position. In this sense we have more leeway than the police.”<sup>30</sup>

When the eight victim support organizations in the new federal states started their work in 2001, the CIVITAS program did not provide for any operational definition of hate crimes, it only mentioned as the primary task for the funded projects “to deal with right-wing extremist criminal offences and violent acts”.<sup>31</sup> According to our interview partners, the victim support organizations themselves, though, developed in a long time quality development and harmonization process their own operational definition, that today serves as a common base for their monitoring activities with respect to “right-wing, racist and antisemitic violence”. In the first years of their existence (2001-2003), two approaches dominated the work of the CIVITAS projects: The ones with an antiracist background had closer ties to victims groups such as refugees and migrants; the ones with an antifascist background focussed more on antifascist activists and members of left-wing/alternative youth milieus as their target groups. Therefore, at the beginning, the incidents registered and dealt with by the CIVITAS projects reflected much stronger than today their particular embeddedness in certain political movements and social/geographic environments. Over the years, however, the NGOs started to reorientate and professionalize their approach by focussing more on the “motivation of the offence”, a criterion also used by the police today, when assessing attacks and offences as right-wing or xenophobic/antisemitic. At the same time, there were further convergences with respect to the understanding and registering of hate crimes, for example by concentrating on physical forms of violence. As one of our interview partners explained:

“The more we entered into a critical dialogue with state institutions, especially with law enforcement agencies, about the incidents we included in our reports and statistics, the more we were forced to develop precise criteria for the assessment and classification of these offences.”<sup>32</sup>

The following six aspects/criteria, outlined in a paper by the association Opferperspektive,<sup>33</sup> can be understood as the joint guidelines for the CIVITAS projects and their classification of right-wing hate crimes:

- The act is a criminal offence, either an attempted or a an actual act of bodily injury, a willful damage to property or an arson attack, aiming to cause harm to specific groups of persons. Acts of coercion and verbal threats with severe consequences for the victims should be also considered as right-wing hate crimes; simple insults should be excluded.
- A right-wing motive for the offence is attributed to the perpetrator by the victim, by a third person or by the police.
- The circumstances of the offence (certain statements of the perpetrator, his/her ideology or attachment to the right-wing scene) provide further evidence for a right-wing background and motivation.

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30 Interview with Opferperspektive e.V. (Dominique John).

31 Ibid.

32 Interview with Opferperspektive e.V.

33 Wendel, Kay 2005: Rechte Gewalt – Definitionen und Erfassungskriterien, Potsdam, p. 3.

- Right-wing motivations reveal particular ideologies of hatred and „concepts of the enemy“: racism and xenophobia, hatred towards left-leaning persons or punks, antisemitism, social darwinism with regard to homeless, marginalized or disabled persons, and homophobia.
- Relevant are the ascriptions by the offenders with respect to the victim, and not the real characteristics of the victim. A xenophobic attack can be also directed against a person, who was just mistakenly perceived by the perpetrator as having a migrational background.
- In cases where there is also evidence for an „unpolitical“ background of the attack, the offence should be considered as having a right-wing motivation if a racist or right-wing ideology had an escalating effect.

### ***Borderline and disputed cases***

As any other institution or NGO, active in counselling and victim assistance or monitoring of hate crimes, the CIVITAS projects are also confronted with incidents, circumstances and reports by victims which can be labelled as borderline cases. Some of them refer to experiences with multi-dimensional forms of victimization, discrimination and legal problems, which is often the case with refugees or migrants who become victims of hate crimes, but also seek for assistance related to other issues. Others are linked to the challenge of distinguishing “normal” criminal offences such as theft and robbery from hate crimes, because motives might overlap or are difficult to detect. Further typical borderline cases, as identified by our interview partners, are incidents of verbal threats (including hate speech in the Internet), cases of coercion and attempted bodily harm, which might all lead to serious constraints and even the traumatization of the victims affected, but are usually difficult to investigate and/or are not taken very seriously by the public and law enforcement officers. Other types of borderline cases are damages to property or the desecration of Jewish graveyards, which do not directly attack or hurt individuals.

Some of the interviewed organizations are trying to solve this dilemma by distinguishing between an operational definition of right-wing hate crimes that is rather narrow and used for their reports and statistics released to the public, and a more open “internal approach” applied to their counselling and victim assistance activities.

“Right-wing violence has not necessarily to do with a clear-cut world view. And sometimes we do not have the means and resources to find out about the ideological background of the perpetrators. But in most cases we have dealt with there were some indications of racist or right-wing motivations. Over the years, however, incidents reported to us have become more diverse, including some borderline cases, where the victims and we had difficulties with classifying the incident. That usually did not pose a problem for the counselling part of our work. We did not turn people away when the attack they experienced did not fit nicely into our categories, but it led to discussions whether we should add these cases to our chronology of right-wing violence, that we regularly publish.”<sup>34</sup>

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34 Interview with AMAL.

Whereas NGOs located and working in rural areas with an aggressive and openly right-wing scene seem to have less to do with borderline cases, a common concern, expressed by almost all interview partners, is the official handling of attacks on left-wing/alternative youth or antifascist activists, which in some regions in East Germany constitute the largest hate crime victim group (see chapter 4.2.3.3). Most of the interviewees complained about the ongoing reluctance of local and regional police departments to acknowledge the political background of these offences, which get often categorized mistakenly as clashes or conflicts between members of violence-prone youth scenes, or are not registered at all.

### ***Police abuse and ill-treatment as a particular form of hate crime***

One organization (ReachOut in Berlin), included in our sample of victim support centres, has an even broader approach to hate crimes by also addressing the problem of police violence and ill-treatment targeting especially people of colour, non-ethnic Germans, migrants and refugees. Together with the “Anti-Discrimination Office Berlin” and the “Legal Team Berlin”, ReachOut has initiated and established the “Campaign for the Victims of Racially Motivated Police Violence”, including a legal aid fund that was set up in 2007. In their chronology of such incidents of police abuse, covering the years 2000 to 2007 and listing more than 40 cases,<sup>35</sup> the authors refer to various forms and structures of prejudices prevalent in the law enforcement institutions. Some are directly articulated by individual police officers:

„In cases where police officers openly express xenophobic attitudes, e.g. by making discriminatory remarks with respect to the skin colour, the outfit, or the nationality of the victim, it is rather easy to detect a racist background. However, in many cases the existing bias and prejudice structure becomes only indirectly apparent in the particular treatment of the victim.”<sup>36</sup>

ReachOut and other civil rights organizations have also repeatedly criticized different forms of racial profiling in Berlin and Germany, linked with police measures such as “non-suspect identity controls”, dragnet controls or the classification of some inner city areas in Berlin as particular “dangerous places”, because these measures target not only disproportionately people of colour and migrants, but are often used to legitimize acts of harassment and police brutality, if the persons affected try to protest or defy these controls.

### **4.2.2.2 Other Organizations Without an Exclusive Focus on Hate Crimes**

In the course of our inquiries in West Germany, we came across a number of NGOs which deal to some extent with problems of right-wing and related hate crimes, and could be characterized either as educational organizations, active in the prevention of violence and various training programs, or as NGOs dealing mainly with discrimination. Whereas both types of organizations are not specialized in the monitoring of hate crimes, offering a broader range of programs and services, they still serve in their region or municipality as important contact points and information centres with respect to bias-motivated offences.

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35 The chronology of their joint campaign was discussed in the Berlin House of Representatives, where, among others, the Superintendent of the Berlin Police responded to the accusations.

36 Kampagne für Opfer rassistisch motivierter Gewalt 2007: Chronik rassistisch motivierter Polizeivorfälle für Berlin in den Jahren 2000 bis 2007, Berlin, p. 3.

### *Organizations active in supporting individuals who want to leave the right-wing scene*

In the northern region of Germany we could identify two NGOs active in the monitoring of right-wing extremism and violence, which add another aspect to the hate crime discussion by addressing the particular difficult and vulnerable situation of so called “breakaways” (individuals who have left or are trying to distance themselves from the right-wing scene) and their family members.

Other NGOs without an exclusive focus on hate crimes:

Arbeitsstelle Rechtsextremismus und Gewalt, Braunschweig/Lidice Haus Bremen; Anti-Discrimination Offices, General Victim Assistance Groups

In Lower-Saxony, the “Arbeitsstelle Rechtsextremismus und Gewalt” (ARuG/Office Against Right-wing Extremism and Violence) in Braunschweig argues that the understanding of potential and real hate crime victims groups has to be expanded in order to include and support also the parents as well as the sisters and brothers of right-wing youth, who often become targets of permanent harassment and physical attacks, when they try to help their son or brother to leave the right-wing milieu.

A similar stand is taken by the “Lidice Haus” in Bremen, a center for youth programs and inter-cultural education, which is cooperating with ARuG, other NGOs (Verein zur Förderung akzeptierender Jugendarbeit e.V. Bremen) and academic experts with the goal to set up a regional network of specialized counselling teams for the relatives of right-wing oriented youths.

### *Organizations defining hate crimes as particular severe forms of discrimination*

We identified anti-discrimination offices in West Germany, run by NGOs, as another potential contact point for victims of right-wing or related violence. All five offices, included in our interview sample, stated that they have some experiences with right-wing and xenophobic assaults, reported to them by the victims themselves, friends or relatives. Since their main focus is on ethnic and racist discrimination in the fields of employment, housing, education etc., as addressed in article 13 of the Amsterdam treaty and the new German anti-discrimination legislation, they do not operate with a clear-cut definition of hate crimes, but rather assume that bias-motivated attacks are a specific violent and severe form of discrimination. When classifying different manifestations of discrimination, they usually distinguish between “disputed treatment”, damages to property, verbal hostilities and harassment, physical violence and other forms of discrimination. Remarkable is, that most of the anti-discrimination offices interviewed also reported about a large number of complaints linked to cases of ill-treatment and violent abuse by representatives of government institutions, particular the police.

### *Other victim support organizations*

Another type of NGOs which are often mentioned as potential contact points for victims of right-wing or related attacks are the so called “general victim support organizations in Germany”, of which we included two in our survey (Opferhilfe Hamburg e.V. and Opferhilfebüro Verden). Whereas both NGOs stated that they are open to assist victims of right-wing, xenophobic or homophobic assaults, they do not see the necessity to distinguish in their work between “normal” criminal offences and hate crimes. According to our interview partners they have the professional experience and knowledge to deal with all forms of traumatic experiences, ranging from incidents of domestic violence, sexual abuse, rape, stalking to severe accidents and natural disasters.

### 3.2.3 Monitoring of Hate Crimes by NGOs

We continue our account of NGOs in Germany with an overview of their monitoring activities with respect to right-wing or related hate crimes.<sup>37</sup> In contrast to our Polish colleagues we applied a much narrower definition of monitoring, and did not include informal practices of keeping track of incidents, which do not lead to any public forms of documentation; what in the Polish part of the study is referred to as approaches of “in-community monitoring” (see chapter 4.1.3.2.1). At the same time we are well aware of the fact, that in Germany, similar to Poland, there might be a large number of “untapped sources” with regard to cases of antisemitic, racist and other forms of bias-motivated violence, comprising various informal networks, welfare or antifascist organizations or particular ethnic, religious, refugee and other local communities with a broad knowledge of such incidents. In some interviews conducted in West Germany NGO representatives pointed out that existing organizations and formal networks against right-wing extremism and racism often work in isolation from these local communities, welfare organizations and grassroots groups, either because the latter are not recognized as important partners or because there is a lack of resources to contact them on a regular basis.

Other interviewees, for example the president of the “Landesverband Deutscher Sinti und Roma Berlin-Brandenburg e.V.,” emphasized that there are further barriers or obstacles for closer cooperation, by stating that her organization is very cautious when it comes to the publication of information on hate crimes and discrimination due to “a general feeling of mistrust within the Roma community towards German institutions and media, including NGOs, because of their bad experiences in the past [German fascism] and daily experiences with harassment.”<sup>38</sup> A few years ago, the association even removed the organization’s title from the door-bell because of frequent threats contained in anonymous hate mails.<sup>39</sup> Similar accounts of mistrust and caution came from Jewish interview partners, who described “an enormous aversion by Jewish people [in Germany] to define themselves or being defined by others by persecution and antisemitism. One wants to lead a normal life, and is afraid of being singled out again.”<sup>40</sup> Therefore, it is most likely that many cases of antisemitic incidents and harassment never become public, but are only talked about within the sheltered environment of informal and family networks and the organizations of the Jewish communities.

Taking into account that there are various definitions of the term monitoring, we decided to summarize in the following sub-chapter all NGO activities which try to raise awareness towards various kinds of hate crimes by making information public, that is otherwise not available in this consolidated and aggregated form. Thus, we can distinguish between three methods/approaches:

1. victimization surveys carried out by organizations representing particular minority or victim groups,
2. documentations mainly based on media evaluation, and
3. monitoring by specialized and professional victim support organizations.

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37 In this part of the study we also include activities of NGOs which have not been interviewed.

38 Interview with Landesverband Deutscher Sinti und Roma Berlin-Brandenburg e.V.

39 Open Society Institute 2002: The Situation of Roma in Germany, Brussels, p. 198.

40 Interviews with Gideon Botsch (Moses Mendelssohn Zentrum, Potsdam), and with Anetta Kahane (Amadeu-Antonio-Stiftung Berlin).

### 3.2.3.1 Victimization Surveys

We could identify a small number of organizations in Germany, representing the interests of particular minority and victim groups, which are trying to fill the data gap on hate crimes directed against the members of their communities by conducting victimization surveys, similar to some of their counterparts in Poland. Due to their direct access and day-to-day contact to persons most likely affected by hate crimes, those NGOs are able to identify – much better than academics or officials can – common patterns of discrimination, vulnerability and exposures to violence, as well as the perceptions of those affected: whether they and their families feel safe in the streets, whether they have confidence in the police services and other government institutions.

#### *Roma and Sinti*

One such survey was conducted by the Central Council of Roma and Sinti in Germany in 2006, which illustrated – beyond particularly brutal incidents of hate crimes which have received some media attention<sup>41</sup> – pattern of existing discrimination, resentments and violence by which especially members of the Roma communities are plagued and intimidated. 76 percent of more than 300 respondents stated that they had experienced some form of discrimination, 45,9 percent reported about discrimination by authorities, including law enforcement agencies. The report also mentions 34 cases of harassment and violent assaults by neighbours, and 26 incidents of violent attacks carried out by neo-Nazis.<sup>42</sup>

#### *LGBT community*

In the absence of police or other official reporting, some gay and lesbian rights organizations in Germany are also doing surveys and/or are collecting information on incidents of violence against the LGBT community. No organization, however, produces up-to-date national statistics. Reporting usually covers a particular city or state. The already mentioned Berlin-based organization MANEO, which has been monitoring reports of hate crimes targeting gay men made by victims or provided to the organization by the police since 1993, reported 274 cases of anti-gay violence in Berlin for 2006.<sup>43</sup> In a more recent publication, based on a comprehensive national online survey (sample of 24.000), the authors pointed out that more than 35 percent of all respondents stated experiences with homophobic violence in 2006/2007; 63 percent of all respondents under the age of 18 reported that they had become victims of hate crimes.<sup>44</sup>

“Broken Rainbow”, a national federation representing mainly lesbian associations active in anti-violent projects, published a report in 2006 on violence targeting lesbian women, covering the period between 2002 and 2004. Their victimization survey documented 77 cases of harassment and violent attacks, most of them committed in the public sphere by groups of men not belonging to

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41 One example is an attack on July 30, 2001, in Wildau (Brandenburg), where a camping site at which 40 Roma were settled was bombed with at least three Molotow-cocktails (Berliner Zeitung, 31.7.2001).

42 Zentralrat Deutscher Sinti und Roma 2006: Ergebnisse der Repräsentativumfrage des Zentralrates Deutscher Sinti und Roma über den Rassismus gegen Sinti und Roma in Deutschland, Heidelberg.

43 MANEO 2007: MANEO Bericht 2006, p. 13.

44 MANEO Bericht 2006, p. 13.

the far-right milieu.<sup>45</sup> For 2007, the staff of the association Lesbenberatung e.V. in Berlin registered about 60 incidents of anti-lesbian hate crimes outside the home, some of them falling into the category “incitement of people”, most of them having a clear sexist and anti-lesbian motivation, often a combination of both. Our interview partner also pointed out, that most anti-lesbian verbal and physical attacks committed in the public sphere are not carried out by offenders with a right-wing extremist background, but rather by groups of “normal” younger men, mostly Germans and to a lesser degree members of migrant communities.

### ***Organizations representing other “minority communities”***

There is no systematic monitoring by any NGO in Germany on hate crimes directed against Muslims.<sup>46</sup> The same is true for the victim group of disabled people, although a recent report by the Office for Democratic Institutions and Human Rights (ODIHR) states that preliminary research “suggests that a disabled person is at least one and a half times more likely to be the victim of assault or abuse than other people of similar age and gender”.<sup>47</sup> Neither have the Jewish communities in Germany so far published any reports or victimization surveys with regard to antisemitic violence, but the Central Council of German Jews provides information regarding antisemitic incidents to the European Jewish Congress and publishes on a regular basis press releases on hate crimes. Some Jewish organizations are part of broader NGO networks such as the “Koordinierungsrat deutscher Nicht-Regierungsorganisationen gegen Antisemitismus” which do some form of monitoring, particularly with respect to antisemitic biases in media reports and public discourses.<sup>48</sup> Furthermore, this council, together with other politicians, academics and intellectuals, has been urging the federal government to compile an annual report about antisemitism in Germany, including detailed information on antisemitic offences, threats and insults and related incidents, in order to get a more appropriate picture of current trends and developments. At the beginning of May 2008, the recently founded network „Jüdisches Forum für Demokratie und gegen Antisemitismus“ announced its plans in Berlin to launch a new internet information platform, and to further the cooperation with other organizations, foundations and politicians to monitor and counter antisemitism and antizionism in Germany.<sup>49</sup>

### **4.2.3.2 Documentations on Hate Crimes Mainly Based on Media Surveys**

Chronologies and documentations, which mainly rest upon the evaluation of press reports, are also a valuable source of compiled information, but must be considered as a rather fragmentary and partial form of monitoring because they tend to reflect observable fluctuations in the media and public attention devoted to the problem of hate crimes. The quality of press and media coverage of incidents of right-wing violence in Germany also varies from region to region, and is often dependent on the particular commitment of individual journalists and local NGOs.

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45 Broken Rainbow 2006: Gewalt gegen Lesben und häusliche Gewalt in lesbischen Zusammenhängen. Auswertung der Erhebungsbögen der Lesbenberatungsstellen und Lesbentelefone, Berlin.

46 Bosch, Nicole/Peucker, Mario 2006: Ethnic Discrimination and Xenophobia in Germany. Annual Report 2006, Bamberg, p. 110.

47 Office for Democratic Institutions and Human Right (ODIHR) 2006: Challenges and Responses to Hate-

48 Motivated Incidents in the OSCE Region, Warsaw, p. 31.

49 See press release (18.7.2007) at <http://hiram7.wordpress.com/2007/06/20/koordinierungskonferenz-deutscher-nicht-regierungsorganisationen-gegen-antisemitismus>.

See article (30.4.2008) available at [http://www.aviva-berlin.de/aviva/content\\_Juedisches%20Leben\\_Veranstaltung.en.php?id=13156](http://www.aviva-berlin.de/aviva/content_Juedisches%20Leben_Veranstaltung.en.php?id=13156).

### *Examples for monitoring on the national level*

Based on month-long joint investigations by journalists of the newspapers *Frankfurter Rundschau* and *Der Tagesspiegel*, and later on by the artist Rebecca Forner and a small research team, is the already mentioned documentation/exhibition on victims of right-wing hate crimes in Germany (2000-2005), that was first published in 2000, and lists in the meanwhile 136 cases of violent deaths. According to the authors cases were included, “when a political motive [was] beyond question, according to our own inquiries, police reports, indictments of the public prosecutors, or court decisions”.<sup>50</sup> The fact that the Federal Criminal Police Office had published for the same time period a much lower number of deaths and could not explain the large discrepancy, started off a broad controversial public debate about the flaws of the official registration system. Thus, in the early 2000s the documentation “served as a symbolic focusing event [that for the first time] drew attention to the ‘problem’ of undercounting of right-wing murders” in Germany.<sup>51</sup>

Since 1992 information on antisemitic crimes and incidents has been systematically collected and documented by the “Antifaschistisches Pressearchiv und Bildungszentrum Berlin” (apabiz).<sup>52</sup> This NGO has been cooperating with various institutions and organizations, amongst them the Jewish online magazine *haGalil*, the victim support organization ReachOut (Berlin), the educational association “tacheles reden!” (Berlin) and the Moses Mendelssohn Centre for European-Jewish Studies, based at the University of Potsdam. Since 2001 the annual chronicles of antisemitic incidents, published by apabiz on their website and in their newsletters, cover incidents throughout Germany, including desecrations of Jewish cemeteries, acts of vandalism and arson attacks against Jewish sites such as Holocaust memorials or community buildings, insults and cases of battery as well as other forms of harassment, antisemitic graffiti and incitements of people. The latest documentation for the year 2007, mainly based on the sources media reports, press releases by the police and information by victim assistance organizations, lists 21 incidents of physical assaults on Jewish persons, including 14 cases of bodily injuries.<sup>53</sup>

Table 11: *Apabiz Statistics of Antisemitic Incidents for 2007*

Category	Number of Offences
desecration of Jewish graveyards	12
desecration and vandalism of Jewish memorials, and community institutions;	
thereof arson attacks	32
	3
Attacks on persons;	21
therof bodily injuries	14
Others: threats, incitement of the people, antisemitic graffiti	35
<b>Total</b>	<b>117</b>

Source: Apabiz e.V. at <http://www.apabiz.de/archiv/material/index.htm>.

50 Der Tagesspiegel, 3.6.2003.

51 Bleich/Hart, 2008: Quantifying Hate, p. 70.

52 <http://www.apabiz.de>.

53 Antifaschistisches Pressearchiv und Bildungszentrum Berlin 2008: Chronologie antisemitischer Vorfälle 2007, Berlin.

The chronicles of antisemitic crimes and right-wing offences, published by the Amadeu Antonio Stiftung (Berlin) on its website and internet platform “Mut-gegen-rechte-Gewalt”,<sup>54</sup> are also mostly based on media and police reports, and on some data released by victim support organizations. They do not provide, however, any aggregated data, and also tend to list suspected cases which have not been investigated for their political background.

While some violent death of homeless people are listed in the newspaper documentation of right-wing murders, not much efforts have been made to investigate the whole amount of hate crimes against this particularly vulnerable victim group. The only public national documentation that is available, “Tote Dritter Klasse” by the journalist Christian Linde who is working for the Berlin-based street paper *motz*, is out-dated. It covers the period 1994-2001, and lists 350 cases of violence experienced by homeless persons in Germany, mainly based on media reports, and divided into incidents of manslaughter and battery, but also cases of suicides and deaths resulting from hypothermia.<sup>55</sup>

### ***Examples for local monitoring***

The exact number of NGOs which are monitoring in one or the other form right-wing violence or other related hate crimes for a particular region or town is very difficult to detect, since many of them are publishing these kind of data only in local brochures, newsletters and magazines with a small circulation, or on their website, hidden amongst a large amount of other information, for example on far-right activities such as concerts or demonstrations.

An internet research revealed various local groups and networks which provide some information on right-wing assaults. For East Germany these are the „Netzwerkstelle Moskito“<sup>56</sup> in Berlin-Pankow; the “Forschungsgruppe Rechtsextremismus an der Universität Potsdam”;<sup>57</sup> and “Antifaschistische Gruppen Westhavelland“ which have been registering and documenting such incidents since 1989.<sup>58</sup> For West Germany it can be maintained that there are hardly any NGOs doing regular monitoring and documentation of right-wing or related forms of hate crimes. Exceptions are the NGOs “Antifaschistische Informations-, Dokumentations- und Archivstelle München” (A.I.D.A.) and the “Arbeitsstelle Rechtsextremismus und Gewalt” (ARuG) in Braunschweig (Lower Saxony), which have been documenting incidents of right-wing crimes, reported to them by the victims themselves or received by other sources, for many years. A.I.D.A. is publishing chronologies on far-right activities in Bavaria, with a particular focus on Munich, on their website, covering the years 1998-2008, while ARuG is doing the same for the state Lower-Saxony, information broken down to towns and regions.<sup>59</sup> Both chronologies, however, do include hate crimes as well as other forms of right-wing activities such as demonstrations, gatherings, or violent clashes with the police, and do not provide any aggregated data.

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54 <http://www.amadeu-antonio-stiftung.de/die-stiftung-aktiv/gegen-as/antisemitismus-heute/chronik-antisemitischer-vorfaelle/>; <http://www.amadeu-antonio-stiftung.de/mut-gegen-rechte-gewalt>.

55 Linde, Christian, CD-Rom 2002: Tote Dritter Klasse - Eine unvollständige Chronik der Gewalt gegen Obdachlose, Berlin.

56 In 2005, this local NGO published its first chronology of 53 right-wing, racist and antisemitic hate crimes and incidents which occurred in the district of Pankow, located in the Eastern part of Berlin. Apart from physical attacks, the group also registered cases of hate speech, acts of vandalism and right-wing, racist and antisemitic posters and graffiti. The information on incidents is also passed on to other local NGOs such as apabiz e.V. and ReachOut. The local monitoring activities in Berlin-Pankow were part of a so called „local action plan“, which provided for some funding and the cooperation of various local non-governmental and governmental actors, including the district council (<http://www.pfefferwerk.net/stadtkultur/stadtteilarbeit/moskito.html>).

57 Forschungsgruppe Rechtsextremismus an der Universität Potsdam 2006: Rechtsextremismus in Potsdam 1992 bis 2005. Eine Chronologie, Potsdam, available at <http://www.frgrexup.fg.funpic.de/wp-content/uploads/studie.pdf>. This report, researched and compiled by a students' research group, presents an overview of extreme right-wing activities, including violent crimes and propaganda offences.

58 <http://www.westhavelland.antifa.net/AGW%20Chronologie.htm>.

59 <http://www.arug.de>; <http://www.aida-archiv.de>.

Most of the groups we talked to in West Germany about the need of an improved monitoring and documentation system complained about their difficult funding and staff situation. While almost all agreed that there is lack of information with regard to the amount of right-wing or related violence in the old federal states they admitted that they do not have the needed resources for outreach activities and a more detailed investigation of the cases they learn of, and that developing comprehensible data collection systems and means for the assessment and documentation of right-wing, racist and related hate crimes has so far had an overall low priority.

#### 4.2.3.3 Monitoring by Specialized Victim Support Organizations

If we defined monitoring in the field of hate crimes as a process that aims not only at the regular collection of data, but involves also the systematic evaluation of events and incidents, by actively detecting, investigating, assessing, classifying and tracking cases of hate crime, we would find hardly any NGOs in Germany which are doing this kind of monitoring in an advanced manner. An exception are the victim assistance organizations in East Germany, trained and specialized in the support and counselling of victims of right-wing violence. They provide a strong backstop to the official data and indicate a higher level of right-wing hate crimes in the new federal states than registered by the police.

Allmost all of these organizations, formerly set up by the governmental program CIVITAS which expired at the end of 2006, are working today under the auspices of the federal states, and receive funding from the national follow-up program “Consultation Networks and Mobile Intervention Against Right-Wing Extremism” as well from regional state programs. At the beginning of March 2008, eight of such NGOs, some of them with several local offices and branches, were still active in the new federal states:

- ReachOut/Ariba e.V. in Berlin,
- Opferperspektive e.V. in Brandenburg,
- Lobbi e.V. in Mecklenburg-Western Pomerania,
- “Mobile Beratung für Opfer rechtsextremer Gewalt”/Miteinander e.V. in Saxony-Anhalt
- „Beratungsstelle für Opfer rechtsextremer Gewalt im Multikulturellen Zentrum in Dessau” in Saxony-Anhalt,
- AMAL in Saxony<sup>60</sup>,
- RAA (Verein für Interkulturelle Arbeit, Jugendhilfe und Schule e.V.) in Leipzig and Dresden, Saxony, and
- “Thüringer Hilfsdienst für Opfer rechter Gewalt” in Thuringia.

The data collection and publications of these NGOs are based on several sources:

- Through their counselling and outreach work (described in more detail further below) they have direct contact with victims of hate crimes.
- They do active research, including regular evaluation of local and regional press, relevant internet sources, newsletters and mailing lists, as well as reports and data released by the police and public prosecutors.
- They initiate and evaluate parliamentary inquiries.
- They are well connected and linked to various regional and local networks, comprising of other NGOs, antifascist groups, youth centres, unions, church groups, local politicians, committed individuals and journalists, from which they receive relevant information.

60 The only CIVITAS project that had to stop its work at the end of March 2008, because it was not incorporated into the new funding program, was AMAL in Saxony. Some of the other listed NGOs, however, had also to cut down on staff due to reduced financial government support.

All victim support organizations publish at least once a year aggregated information on hate crimes, compiled for their region, divided into “consultation cases” (how many victims were contacted and advised), and “research cases” (how many incidents they learnt of from the sources listed above). They collect and provide information on:

- places of victimization (town/county as well as social surroundings such as public space, public transportation, schools, workplace, home/neighbourhood etc.),
- victim characteristics (age, sex, group membership),
- the suspected crime motives (racism, antisemitism, homophobia, hostility towards disabled persons, socially marginalized such as the homeless, and political opponents or alternative/non-right-wing youth),
- the character of the offence (damage to property, arson attack, coercion, physical threat, bodily injury, killing/manslaughter), and
- whether a police record was filed.

As the former coordinating body of all CIVITAS victim support organizations, Opferperspektive e.V. was until 2007 in charge of collecting all regional figures. For that purpose, a special data base was created in 2002, allowing for a better analysis and evaluation of information. Based on this data collection and evaluation a comprehensive joint press release was published twice a year on violent crimes with a right-wing political motivation in East Germany (in addition to the press releases the single projects would publish for their particular region/city). This has been a core element of the public relations work, leading to a broader public acknowledgement and appreciation of the activities of victim support organizations. Furthermore, these unofficial crime statistics present a constant challenge for government institutions, particularly the police agencies, because the numbers are usually much higher than the official ones, and therefore highlight not only the continuing massive problem of right-wing violence in East Germany, but also the amount of underreporting. Some of the aggregated data by the CIVITAS projects has been also included in academic studies and reports by supranational bodies and international human rights organizations (see chapter 1). In some cases, the information collected and published by the regional victim support organizations has also led to the taking up of investigations by the police and public prosecutors.<sup>61</sup> The effects of the data collection and presentation are not easy to measure, but could be summarized as follows:

- For the victims it is important, that the injustice done to them is documented and published.
- It puts pressure on local politicians, the police and the public in general to confront the problem of hate crimes.
- The systematic and professional documentation helps NGOs to get taken more seriously, especially by state institutions.

According to information provided by our interviews with five of the CIVITAS projects<sup>62</sup>, the main difference between their “unofficial” and the police registration system is that the NGOs are also registering incidents of serious threat and coercion, whereas the police usually categorise such acts

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61 Interviews with AMAL and Lobbi e.V.

62 We conducted longer interviews with staff of Opferperspektive e.V. (Brandenburg), ReachOut (Berlin), AMAL (Saxony), Lobby e.V. Ost (Mecklenburg-Western Pomerania), and „Mobile Beratung für Opfer rechtsextremer Gewalt“/Miteinander e.V. (Saxony-Anhalt).

of harassment as “other (non-violent) offences”. Furthermore, the CIVITAS projects’ statistics also list incidents of wilful damage of property, if the circumstances of these attacks suggest that they were committed to harm and/or intimidate the owners or renters, as is the case, for example, in many arson and other violent attacks carried out against the restaurants of migrants or left-wing/alternative youth clubs. And of course, the CIVITAS projects also register incidents that have not been reported to the police because the victims decided not to take legal steps.

*Table 12: Opferperspektive Statistics for 2005 – 2007  
Total Number of Registered Right-wing Hate Crimes in East Germany*

State	2005	2006	2007
Berlin	115	171	122
Brandenburg	140	140	137
Mecklenburg-Western Pomerania	62	103	78
Saxony	168	242	306
Saxony-Anhalt	171	200	151
Thuringia	38	48	67
All federal states in East Germany	<b>694</b>	<b>904</b>	<b>861</b>

\* For the criteria of classification see chapter 4.3.1.

In 2007, the support organizations registered 1.869 individuals who were directly affected by the number of 861 incidents. In 717 cases the assaults resulted in bodily injuries. In 495 cases the target were left-leaning young adults or adolescents. In 265 cases the attack had a racist motivation.

*Table 13: Motivation of the Offences (2005-2007)*

Motivation	2005	2006	2007
Racism	210	311	265
Antisemitism	9	13	8
Homophobic biases	10	10	12
Biases against disabled persons	6	7	3
Biases against socially marginalized (homeless, unemployed etc.)	0	5	3
Biases and hatred towards “political opponents” (left-wing activists etc.)	73	128	158
Biases against non-right-wing persons/youth	328	362	337
others	15	16	8
not evident	43	52	67

*Table 14: Victims Affected by Age Groups*

Age Group (years)	2005	2006
0-13	10	23
14-17	156	232
18-26	362	475
27-40	169	219
older than 40	74	92
unknown	22	26
total	794	1.068

Table 15: Comparison of Incidents of Right-wing Violence Registered by the Police and by CIVITAS Projects (state of Brandenburg)

Statistics	2005	2006	2007
Police (State Office of Criminal Investigations)	97	90	93
Opferperspektive e.V.	140	140	137

\* Source for all statistics: Opferperspektive e.V. (<http://www.opferperspektive.de/Chronologie/519.html>)

## 4.2.4 Reaching and Supporting Victims of Hate Crime

The following sub-chapter provides short “case studies” of selected NGOs providing legal advice and various other services to victims of hate crimes. We start the presentation of NGO activities in the field of victim support with a brief account of the general concept of the CIVITAS projects since this can be considered as the most advanced and comprehensive approach in the respective field in Germany. In order to capture the different local settings and circumstances we will concentrate in the following on two organizations in this context: ReachOut (Berlin), located in an urban context, and Lobbi e.V. (Mecklenburg-Western Pomerania), representing a NGO active in smaller cities and in a mostly rural environment.

In a second step we will look at the provisions for victim assistance in various federal states under the new national program “Consultation Networks and Mobile Intervention Against Right-Wing Extremism”, followed by an account of the work of NGOs providing services to victims of homophobic assaults, with a focus on Berlin-based projects and some information on similar organizations in different parts of Germany. In a fourth part, we briefly present the work of anti-discrimination offices, with a special focus on North-Rhine-Westphalia, where state government funding in the 1990s (under the auspices of a Green/SPD government coalition) allowed earlier than in other regions the set-up of a network of so called pilot projects. We will conclude our sample of “case studies” with a brief account and discussion of the services offered by general victim support organizations.

### 4.2.4.1 The CIVITAS Concept

The victim support organizations (see for a list chapter 4.4.3), which started their work under the CIVITAS program in 2001, account for the particular difficult situation of many victims of right-wing hate crimes in East Germany, „which is characterized by a lack of mobility, much legal uncertainty, communication difficulties due to language restrictions, and profound distrust of state authorities and institutions”.<sup>63</sup> They have all adopted a human rights approach, and take the perspective and interests of the victims as the guiding principle for all their activities. Central to their approach are low-threshold services and an outreach concept when consulting victims. Overall, three key areas of their activities and tasks can be summarized:<sup>64</sup>

63 Bundesministerium für Familie, Senioren, Frauen und Jugend 2003: Leitlinien zur Umsetzung des Programms CIVITAS, Berlin, p. 3.

64 The following account is based on Koordinator der CIVITAS-geförderten Beratungsstellen (ed.) 2003: beraten, informieren, intervenieren, Potsdam.

### ***Counselling and Empowerment***

The primary objective of the organizations is the support and empowerment of victims of right-wing hate crimes as individuals and collectives. The strategies applied should enable the individuals and communities affected to acquire resources and competences to deal with the consequences of an attack and, eventually, to overcome victimhood. The respective services are free of charge and comprise individual psycho-social counselling, crisis intervention, help in procuring therapy and rehabilitation in cases of trauma, legal aid (reporting to authorities, planning action, legal representation etc.), the cooperation with lawyers, escort services to doctors and other institutions, advice and guidance through legal and court proceedings, and assistance with filing applications for victim compensation and other monetary support. Following the standards developed by the “Committee of Victim Counselling Services in Germany” (see chapter 4.2.4.5), the services offered to the victims are based on the principles of voluntariness, confidentiality and by request anonymity. To file a charge with the police is no prerequisite for making use of the counselling services.

### ***Awareness Raising and Monitoring***

A second central goal is to strengthen the awareness towards the situation of hate crime victims. The victim support organizations use their expertise to enhance the competences of other civil society organizations and actors to deal with these kind of incidents. By compiling and publishing information material, handouts and documentations a broader public should be also sensitized with respect to the needs of the victims. One task of the support organizations is to inform about the specific situation of victims affected by right-wing violence. Through this continuous work the CIVITAS projects have established themselves as competent and accepted contact partners for journalists and other interested professionals beyond their local context. This is increasingly true for academics with different disciplinary backgrounds, who are working on issues of right-wing extremist manifestations and hate crime victims.

### ***Local Interventions***

Furthermore, the task of the victim support organizations is to develop together with their “clients” local strategies that can help with the long-term social integration of victims and will enable them to deal with everyday life discriminatory experiences on their own. Therefore another field of activity for the victim support organizations are so called “local interventions”. The aim of these interventions is to generate engagement in municipalities on behalf of hate crime victims, and to achieve that local communities, politicians and other officials take a clear stand against right-wing manifestations. A local intervention should be case-related and coordinated with the client. It should raise awareness towards the particular situation of the victim and other groups of people in the local community who might be also affected by right-wing violence. They should result in the creation of local solidarity networks, by that also sending a clear signal to the perpetrators that their acts of hate and violence are not accepted by their fellow citizens. Apart from bringing together different local actors in support of hate crime victims, these networking activities should also have multiplying effects by agitating for and integrating the perspective of hate crime victim assistance in other NGO and political networks. Examples for local interventions are:

- consultations within the social networks of hate crime victims (friends, family members, neighbours etc.);
- consultations with representatives of municipalities and local communities (networking institutions, mobile counselling teams, ombudspersons for migrants and integration, community organizations, church groups, local authorities and administration);
- organization of public meetings and actions for different target groups;
- public relation activities targeting local media;
- public relation activities targeting national media and interest groups.

Having described the basic concept and main tasks/goals of the CIVITAS projects active in hate crime assistance, we will now turn to the implementation and practice of two selected organizations. The following account will focus on the services directly offered to the victims.

#### **4.2.4.1.1 ReachOut/Ariba e.V. (Berlin) and Lobbi e.V. (Mecklenburg-Western Pomerania)**

**ReachOut/Ariba e.V.**, located in Berlin-Kreuzberg, one of the most multicultural inner-city areas in the German capital, defines itself as an advice and educational centre countering right-wing extremism, racism and antisemitism. The association Ariba e.V. was founded in 2001 for the particular purpose to support victims of racist/xenophobic and right-wing hate crimes. It serves the whole Berlin region with about 3,7 million inhabitants. The ReachOut team, five men and women (two with a migrational background), consists of experienced political activists who have been involved in antiracist campaigns and inter-cultural and feminist education since the 1980s. Three staff members set up the first antiracist telephone hotline in Germany in 1988, and founded one of the first independent antiracist initiatives in West-Berlin. The activities by ReachOut are usually supported by various volunteers and interns.

**Lobbi e.V.** is an association for the support of victims of right-wing hate crimes, active in the federal state of Mecklenburg-Western Pomerania, bordering Poland, and serving a mainly rural region of 23.000 km<sup>2</sup> and 1,7 million people. Between 2001 and 2007 Lobbi e.V. had three local offices in the cities Neubrandenburg, Rostock und Schwerin, staffed with six field workers. Some of the founding members of this NGO, which was also established for the special purpose of hate crime victims' assistance, had long-years experiences with psycho-social counselling; others had worked in independent youth centres and had been active in training and civic education programs with a particular focus on antifascist campaigns. Due to cuts in government funding Lobbi e.V. had to close its regional office in Schwerin in 2007. Since then the association has been employing four field workers, also supported by volunteers, interns and temporary staff.

The core program of ReachOut and Lobbi e.V. are general counselling and support services for victims of right-wing hate crimes. Both NGOs are also offering services to family members and friends, as well as witnesses of attacks who are sometimes also traumatized by incidents and/or need legal advice. Both organizations have produced outreach pamphlets and handouts informing about their work in various languages and offer interpretation services. They describe as the primary principles of their counselling activities partiality and solidarity, by trying to adapt all their activities to the interests and needs of hate crime victims and the communities mainly affected.

Their approach is client centred, often applying methods of systemic consultation and coaching. The starting point of the consultation process is usually a so called opening interview, providing the victim with the opportunity to talk in detail in an sheltered environment about the attack they

experienced and the impacts it had on their lives. The counselling teams use this first interview to get an overview of the circumstances of the incident and the immediate needs of the victim. Of particular importance for the identification of possible support and intervention strategies is the subjective depiction of the incident by the victim as well as an assessment of her/his social environment, living conditions, individual psycho-social situation and resources. Accordingly, the following steps and consultation processes vary. In some cases where the victims are afraid of further harassment and do not want to go public or take legal steps the support activities will be mainly focussed on providing emotional support and contacts to health and therapeutic services. Sometimes it might be necessary to move the person to a more stable and safe environment. While some consultations lead to no further activities by the staff members, other consultation processes especially those involving local interventions and guidance through legal and court proceedings can take several years.

### *Victims groups served*

Despite the different local environments both NGOs, ReachOut and Lobbi e.V, serve similar victim groups. For 2006 ReachOut and Lobbi e.V. registered 171, respectively 103 incidents of right-wing and related hate crimes, for 2007 the numbers were 122 and 78. While not all of the victims affected could be identified, roughly about two thirds were successfully contacted and offered support services. In 2007 ReachOut reported about 100 consultation cases, Lobbi e.V. contacted and assisted about 140 persons in the same year, one third of them relatives, family members and witnesses.

The groups mostly affected by right-wing or related hate crimes are in both regions male adolescents and young adults, women are more often involved in the consultation process as relatives of the victims and witnesses. In Berlin the largest group served by ReachOut are refugees, migrants or non-ethnic Germans; the second most important group the NGO works with are young people belonging to alternative youth scenes (punks, skaters etc.), and left-wing political activists who get attacked by groups of skinheads and neo-Nazis for political reasons. The same victim groups account for most of the consultation cases in Mecklenburg-Western Pomerania where more hate crimes, especially in the rural areas, tend to be committed by perpetrators with a clear-cut right-wing extremist ideology and organizational background. Whereas skinhead groups and right-wing violence are also a constant threat in the urban context of Berlin (particularly in the innercity areas of former East-Berlin and the western district of Neukölln), a large number of cases ReachOut learns of are not linked to organized forms of right-wing extremism and groups but rather to individuals with strong racist prejudices, representing all age groups, often neighbours or other persons known to the victims.

Asked about other potential target and victim groups both NGOs stated that they have difficulties with reaching out to homeless or disabled people and other socially marginalized persons which get often attacked because they are considered as “freeloaders” or “parasites” by right-wing offenders. Another potential victim group they have hardly any contact with are Jewish people. Our interview partners from ReachOut also mentioned that members of the Vietnamese community who face a lot of harassment in the Eastern parts of Berlin are usually very cautious to report about experiences of racist attacks and incidents. The same seems to be true for Turkish or Arabic women who might be often too ashamed to contact a professional counselling service. While gay persons in Berlin have their own emergency hotlines and organizations they can turn to, not much seems to be known about the situation of the LGBT community and the problem of homophobic hate crimes in Mecklenburg-Western Pomerania.

## *Utilization of services*

According to our interview partners the majority of people who come to their offices or call them have already filed charges with the police before contacting them. Lobbi e.V. stated that about 90 percent of all of their clients want to take legal steps against their perpetrators, and “that the ones who do not trust the law enforcement agencies would usually not want to work with [them] in the first place.” ReachOut emphasized that many incidents they learn of do not constitute litigable criminal offences, and even if they do the counsellors still notice a widespread reluctance to cooperate with the police due to bad experiences in the past or fears of being not taken seriously. Especially many antifascist and left-wing activists would only report to the police in cases of severe bodily injuries. However, legal advice and guidance, helping with finding a lawyer, explaining the instrument of joint action, preparing victims and witnesses for police and court hearings as well as the monitoring of trials, were named in our interviews as the most utilized services offered to victims of hate crimes.

The second core activity with respect to individual victims is giving psycho-social support on various levels, ranging from crisis intervention to assistance with health, family and financial problems. Psychological services tend to be more utilized by older persons and people with a migrational background, since according to our interview partners younger left-wing activists show a certain reluctance to perceive themselves as victims in need of professional assistance and therapy.

In many cases the close cooperation with other NGOs, complementary counselling services and institutions is crucial. In this respect the work of a victim support organization in a urban context is much easier due to shorter distances and a comparably well-established network of supportive actors and resources. ReachOut, for example, can transfer victims of hate crimes who are in need of therapy and long-term psycho-social counselling, to a team of specialized psychologists working for the same association (Ariba e.V.) in the same office building. In cases of discrimination or legal problems related, for example, to residence permits, there is a number of specialized NGOs and professionals available in the city “clients” can be referred to, such as the Anti-Discrimination Office Berlin e.V. or counselling services for refugees run by church groups or welfare organizations.

In contrast, in cities like Rostock, Neubrandenburg or even smaller places these services and resources are rather limited. According to our interview partner from Lobbi e.V., “there is a lack of almost everything in the region, ranging from psychological services and good lawyers to local contact points and partners”, who are needed to support hate crime victims who often live in refugee camps, small towns and villages. This is a challenge for all CIVITAS projects working in rather large, and often socially and economically underdeveloped and sparsely populated areas. Much more than their counterparts located in metropolitan regions they rely in their outreach and support activities for hate crime victims on informal groups and committed individuals such as antifascist activists, priests or social workers.

## *Outreach Activities*

Another major difference related to specific local settings is the need for outreach activities. The staff members of Lobbi e.V. and other CIVITAS projects in large-area states have to be really mobile. As our interview partner explained:

“Only in about 20 to 30 percent of all cases we learn about the attacks by the victims themselves who would directly contact us; the rest of all cases we deal with are either the result of our own research (media evaluation) and outreach activities, or we get the information on incidents from various local co-operation partners. These groups (antifascist groups, institutions dealing with refugees etc.) are our most important sources and intermediators, because in a rural area such as ours we will not be able to make Lobbi e.V. so well known that every potential victim has our address and phone number.”<sup>65</sup>

Active consultation and travelling to the places where the victims live is therefore a crucial and very time consuming aspect of their daily work. Once the field workers get to a certain region or place and start investigating and talking about right-wing violence with various local actors, they often learn about further cases of hate crimes, which have not become public before. While ReachOut is also very active in networking on the local level – they have cooperated with about 40 different initiatives and organizations, many of them antifascist groups in the Eastern districts of the city – their assistance services are in the meanwhile much more well known. However, they also tried out various outreach approaches in the past such as offering regular office hours in youth centres or local community institutions, and by visiting clients in their homes. By organizing on a regular basis trainings and workshops in schools and for other institutions and individuals active in adult and youth education, they are also well connected to potential multipliers such as teachers and social workers which can pass on information about their services. Furthermore, they have established good contacts to a number of local journalists who help with their media coverage to advertise their activities on behalf of hate crimes victims. Today, most of the persons seeking help would directly contact them by phone and come to their local office for counselling services.

#### **4.2.4.2 Hate Crime Victim Assistance Under the Program “Competent for Democracy – Consultation Networks and Mobile Intervention Against Right-Wing Extremism” in West Germany**

In summer 2007, the program CIVITAS expired and was replaced by a new national scheme, called “Competent for Democracy – Consultation Networks and Mobile Intervention Against Right-Wing Extremism”, which grants further federal and state funding and NGOs in both parts of Germany (East and West).<sup>66</sup> Mainly due to strong lobbying pressure from an alliance of NGOs, academic institutions, and some politicians, the “old CIVITAS projects” could continue their work in East Germany. Since advocating efforts to establish similar structures in the Western federal states were not successful,<sup>67</sup> however, we wanted to find out if and how these newly established networks deal with the problem of right-wing violence and (the lack of) provisions for the affected victims.

##### *The conceptional framework*

Under the new program so called consultation networks in West Germany are supposed to be responsible for crisis intervention with respect to right-wing activities. The structural framework of these networks consists of three elements: a “pool of experts”, the coordinator (or coordinating body), and “Mobile Intervention Teams” (MIT).

According to the funding guidelines these network are supposed to include representatives of state institutions (police and intelligence services), of Ministries and other government departments, NGO counselling services, experts from youth and social work, justice, medicine and psychology, academic researchers, mediators and, finally, civil society initiatives. From these actors, MITs are set up by the regional coordinating bodies. The idea is that the MIT will respond to acute right-wing extremist, xenophobic or antisemitic threats.<sup>68</sup> Generally, any intervention should be case-related, immediate and for a clearly limited period, i.e. a maximum of six months.

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66 The program allots different budgets for consultation networks in Eastern and Western Germany. The budget of networks in the new federal states will decrease from 400.000 Euro in 2008 to 250.000 Euro in 2010. Whereas the federal contribution will thus be downscaled from the previous higher level, instalments for networks in the old federal states will grow from 25.000 Euro in the respective first year up to 250.000 Euro in 2010.

67 Friedrich Ebert Stiftung (ed.) 2006: Gegen Rechtsextremismus in Ost und West, Berlin, p. 46.

68 The official program website provides an example for such a „threat“: After a summer fair of a small municipality, „fisticuffs broke out between visitors“, and the Hitler salute was displayed. In subsequent talks between mayor, police and youth centre it turns out that similar incidents were frequent. The mayor subsequently contacts the coordination point ([http://www.kompetent-fuer-demokratie.de/beratungsnetzwerke\\_13.html](http://www.kompetent-fuer-demokratie.de/beratungsnetzwerke_13.html)).

The team is to employ an outreach approach, i.e. to conduct consulting, counselling and other forms of local interventions in affected regions, municipalities and communities.<sup>69</sup> The tasks of the MIT and their partners at the local level are to jointly analyse the specific problem, its context and identify available resources. Based on these analyses, an action plan shall be created. Target groups of counselling are any “persons concerned”. According to the guidelines, they might be victims of right-wing, xenophobic or antisemitic attacks but, in most cases, they will be most likely those initiatives, institutions and persons (in schools, youth centres, administration etc.) who are confronted with right-wing and related activities.

### *Consultation networks in Western Germany*

About half a year after the adoption of the new program, consultation networks were set up in most of the old federal states. Even if their activities are just at their beginnings, first conclusions can be drawn concerning the support provisions for victims of right-wing violence.<sup>70</sup> In contrast to the “new” Eastern federal states, no consultation network in the old federal states<sup>71</sup> publicly declares professional support for victims of hate crimes a priority or central task. Only half of all consultation networks mention the issue of “victims of right-wing or racist violence” at all. Coordinating institutions know little about the amount and quality of hate crime victims in their respective area, and about which social groups and communities are mostly affected. According to our research, out of the nine coordinating points contacted, only one could provide an overview on victim groups.<sup>72</sup> However, consultation networks from Bavaria, Bremen, Lower Saxony and Rhineland-Palatinate explicitly indicated demand for gaining more knowledge on the topic.<sup>73</sup> Reinhard Koch, long-time member of the NGO ARuG Braunschweig, finds that in the old federal states, awareness about right-wing extremism as a structural problem is “very underdeveloped”. Furthermore, he stated a lack of the necessary infrastructure like counselling services for victims of right-wing violence.<sup>74</sup> Friedrich Burschel, the former coordinator of the consultation network in Bavaria, expressed a similar opinion:

“From my experience with the work of the mobile intervention teams in Bavaria, I can say that there is a clear need for a permanent structure of victim assistance and outreach. In any case, in any city or village we went to, people told us about numerous incidents and violent forms of right-wing activities, but there is no political will so far to make them more public and deal with them. And many victims, especially migrants and refugees, are still too afraid to go the police and to report on these incidents.”<sup>75</sup>

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69 This is not to be mistaken with the outreach approach of the „CIVITAS projects“, which do research on incidents, establish contacts with the victims affected, and communicate the offer for support.

70 The following findings are mainly based on the self-descriptions of consultation networks, and their member organizations, alongside with publicly available information provided by the grant-processing institution and politicians such as Monika Lazar (MP for B90/Grüne). Furthermore, additional information provided by the respective coordinating persons was added at some points. We also conducted an interview with the former coordinator of the consultation network in Bavaria. A thorough research, however, was beyond the scope of this study and not intended.

71 Schleswig-Holstein, featuring the highest number of hate crimes per capita among the old federal states, has not even installed a consultation network.

72 According to the coordinator of the consultation network in the city state of Bremen, mainly antiracist football fans, antifascist activists and journalists specialized on right-wing extremism were targeted (e-mail correspondence with Marja Sabaß, 23.4.2008).

74 Interview with Fritz Burschel (Bavaria), e-mail correspondence with Marja Sabaß (Bremen), telephone enquiry with Marc Coester (Lower-Saxony), and Felix Eitel (Rhineland-Palatinate).

75 Friedrich Ebert Stiftung: Gegen Rechtsextremismus, p. 25 f.  
Interview with Fritz Burschel.

So far, outreach activities to actual victims or potential victim groups are not conducted systematically by the consulting networks. After all, limited financial resources make the constant evaluation of media reports, the active research on incidents and establishing contacts to respective victims – steps which are required for effective hate victim support – difficult. Specialized civil society organizations, which are often included in these networks, however, have information on single cases, certain regions or victim groups.<sup>76</sup> Some are also reaching out to specific target groups, for instance antiracist football fans, relatives of right-wingers, or “breakaways” from the the right-wing scene. Some consulting networks have ceded the task of initial counselling to NGOs, such as the “LidiceHaus” in Bremen, which have a certain visibility and trust among some of the victim groups.

Schemes of how to deal with actual cases of hate crimes are still to be developed: Installation and adoption of victim counselling services were not specifically planned in most states. Only in two states (Lower Saxony and Hesse) professional, though non-specialized victim support institutions (Opferhilfe Niedersachsen, Hessische Hilfen), shall be involved.<sup>77</sup> At least the former is criticized for being not independent, but subordinated to state supervision.<sup>78</sup> In the state of Hesse, it has been agreed upon that the “Mobile Consulting Team” should facilitate initial counselling for victims of right-wing violence. According to the team, “clients” will probably be referred to a refugee advice centre or similar organizations.<sup>79</sup> Some states even discuss if victims could be counselled by the Regional Offices for the Protection of the Constitution, which are also running programs for persons who want to leave the right-wing scene (so called “Aussteigerprogramme”).<sup>80</sup> Here, institutional independence is even more at stake.

In the majority of the Western consultation networks, civil society organizations serve as „first contact points“ and „institutions for initial counselling“ for all kinds of clients, including victims of right-wing violence. However, with the exemption of the “Lidice Haus” in Bremen, which is conducting counselling work for some time, it is not known how much experiences these organizations have in psycho-social work.

The federal funding scheme defines victim support organizations as an integral part of consulting networks in East Germany and thereby safeguards their nominal survival. However, the program does not structurally endorse the dissemination and adoption of models from the preceding CIVITAS program. In the western federal states, the pre-existing traditions and priorities in dealing with right-wing extremism are being continued under the new program, without paying much attention to the situation of victims of right-wing violence. As a result, program implementation is diverging path dependent in the Eastern and Western regions, even as right-wing tendencies become an increasingly common feature all over Germany.

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76 Interviews with Lidice Haus (Bremen), ARuG (Lower-Saxony), Antidiskriminierungsbüro Siegen (NRW), telephone enquiry with Adolf-Bender-Werk (Saarland), and internet information by the IFSBB (Bavaria).

77 „Opferhilfe Niedersachsen“, a general victim counselling office in Verden (Lower-Saxony) has dealt with some cases with a right-wing or racist background. Unfortunately, within the relatively short research period no longer face-to-face interview could be arranged.

78 Interview with Opferhilfe Hamburg.

79 Telephone enquiry, 8.4.2008.

### 4.2.4.3 Assistance to Victims of Homophobic Violence

Some organizations representing the LGBT community in Germany have been active in supporting victims of homophobic discrimination and hate crimes decades before national programs started to provide funding for the support of victims of right-wing violence. These NGOs have also a more easy task and more resources in large metropolitan areas for obvious reasons. First of all, gay people build a critical mass with corresponding subcultural activities and communities in big cities like Berlin, Hamburg, Munich, Dresden, Düsseldorf or Cologne, while in most smaller towns and rural regions – both in West and East Germany – they are mostly not even visible, having hardly any infrastructure, spokespersons or contact points to turn to in situations of crisis.

Berlin is the leading city in Germany with respect to specialized services offered to lesbian, gay, bisexual, transsexual and transgender persons with experiences of hate crimes. The already mentioned association **Lesbenberatung e.V., Berlin** (Lesbian Counselling Service) was the very first psycho-social centre providing different services for these target groups which received funding by a local government. It started its work in 1981, by 1993 it added its anti-violence project, working with specialized teams of psychologists to offer counselling services to victims of homophobic and domestic violence. In 2007, 127 consultation cases were registered of which roughly half had to do with violence in private relationships and the other half with violence in the public sphere (homophobic/anti-lesbian violence). According to our interview partner only one third of all women contacting the association are seeking assistance with legal questions or filing a complaint at the police, most of them are rather interested in professional psychological support and help with regaining self-assurance. For women who do want to take legal steps against the perpetrators various in-house services are available: escort services to the police and courts, and legal counselling and advice by a lawyer (one a month). The NGO also cooperates with a Berlin-based project that offers legal assistance on how to deal with the courts. Other services offered are individual psychological counselling, group sessions, seminars and self-defense courses, in order to give women a better idea how they can protect themselves in the public sphere.

The emergency hotline **MANEO** deals with about 250 up to 300 new cases of homophobic violence each year. It was founded in 1993 as the first contact point for gay adolescents and men in Germany with experiences of hate crimes, receiving some funding from the local government. Since then, it has established itself past the city borders of Berlin as a highly regarded and valued professional counselling and monitoring centre, being also active in research, violence prevention, national and international networking and lobbying.<sup>81</sup>

The working principles and services of MANEO as a victim support group are similar to the ones of the CIVITAS projects: individual counselling and empowerment, sensitizing, activating and networking. Victims and witnesses of hate crimes can contact the counselling team via e-mail or phone, or by dropping into the office. The emergency hotline, that is also accessible over the weekends and bank holidays, is run by a group of roughly ten volunteers, one conscientious objector doing civil service, and one paid staff (project manager). Services to victims seeking help are distinguished between primary and secondary provisions, and include individual psycho-social counselling, self-help groups, help in procuring therapy and rehabilitation, legal advice and guidance through court proceedings. Since MANEO maintains also a close relationship to the local police,

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80 According to the recent integration concept, the Ministry for Social Affairs in the state of Bremen considers the „re-activation of the Aussteigerprogramm and extending it to the protection of victims of right-wing violence.“ (Die Senatorin für Arbeit, Frauen, Gesundheit, Jugendberuf und Soziales der Freien Hansestadt Bremen 2008: Konzeption zur Integration von Zuwanderern und Zuwanderinnen im Lande Bremen, 2007 – 2011. Grundsätze, Leitbilder und Handlungsziele für die bremische Integrationspolitik, p. 18). This undertaking has to be seen in the context of recent cases of organized intimidation of victims and witnesses. In the state of Hesse, the “Aussteigerprogramm” IKARus is actually the coordinating point of the consultation network.

81 <http://www.maneo.de/pdf/Maneo-Infopaket.pdf>.

especially to the officers responsible for same-sex partnerships, the team is also able to intervene in conflicts with the police, when victims who filed charges feel mistreated or not taken seriously. Furthermore, the staff has developed particular expertise with regard to out of court settlements between victims and perpetrators, cooperating with state institutions such as judiciary bodies for adolescent offenders and social services of the courts.

Lesbian or gay-specific counselling services exist in a number of other cities in Germany. According to a study, however, it cannot be assumed that these counselling centres are all able and willing to offer help and support in the case of experiences with violence and/or discrimination. “A system of care and assistance covering the whole area of Germany is not available, due to the concentration in cities and the different task profiles of the organizations.”<sup>82</sup> In East Germany many organizations representing the LGBT community are working without any funding (apart from donations) and professional staff, having a high turnover of active members. However, there are a few initiatives which are trying to build on the experiences of projects such as MANEO, Lesbenberatung e.V. and the CIVITAS projects in order to establish similar monitoring and assistance services to victims of homophobic violence. The association **AndersARTiG e.V.**, for example, is located in Potsdam (Brandenburg) and has been running a general counselling centre for the LGBT community in the region since 1995. They have two paid staff, financed by the regional government of Brandenburg, and received some minimal funding from the state program against right-wing extremism “Tolerant Brandenburg” and donations from the German Police Union, when they set up an emergency hotline for victims of homophobic violence in 2006. In Chemnitz (Saxony), the association “**Different People e.V.**” is run by a group of volunteers, that have been offering psycho-social services to members of the local LGBT community since 2003. Both organizations stated in interviews that it is difficult to assess the amount of homophobic violence in their respective regions. The Chemnitz group received information on three cases of homophobic hate crimes, reported to them by the victims in the past couple of years. A representative of AndersARTiG e.V. who is also a member of the “Association of Lesbians and Gays within the Police” said that the response to their hotline has been so far very marginal, assuming that most victims affected by homophobic hate crimes in Brandenburg, seeking for help, would probably still turn to the more experienced counselling services in Berlin. As another reason for underreporting both interview partners identified the persistent fear of many gay people in rural areas to get stigmatized when talking about discrimination and attacks. Other accounts come from NGOs such as “**Gerede - homo, bi und trans e.V.**“, offering psychosocial counselling, crisis intervention and legal aid to members of the gay, lesbian and transsexual communities in Dresden (Saxony) since the middle of the 1990s. According to the Dresden group and similar NGOs in Magdeburg, Cologne, and other cities they receive an increasing number of reports on homophobic attacks committed in public spaces.<sup>83</sup>

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82 Ohms, Constance 2001: In good hands? The status of psycho-social assistance for lesbian victims of violence and/or discrimination: a European comparison, Frankfurt/Main, p. 4.

83 Telephone enquiry, 15.4.2008, Gerede - homo, bi und trans e.V.

#### 4.2.4.4 Anti-Discrimination Offices

According to experts there is still a weak “culture of anti-discrimination” in broad parts of German society.<sup>84</sup> However, in some cities and regions of the country a number of anti-discrimination offices have been set up by NGOs since the beginning of the 1990s, serving today also as contact points for victims of hate crimes, especially in those places without any specialized counselling services for this particular group.

After the introduction of the “General Equal Treatment Act” in 2006, these offices together with other NGOs and research institutions active mainly in antiracist activities founded a national umbrella organization in 2007, the “Antidiskriminierungsverband Deutschland”(advd). On its website advd lists member organizations from six cities which are providing legal, social and psychological services to victims of discrimination:<sup>85</sup>

- GleichBehandlungsBüro in Aachen (Pädagogisches Zentrum),
- Anti-Diskriminierungsbüro Berlin e.V. (adb) and Antidiskriminierungsnetzwerk Berlin/Türkischer Bund Berlin-Brandenburg,
- Anti-Rassismus Informations-Centrum (ARIC) Duisburg,
- AntiDiskriminierungsbüro (ADB) Cologne (Öffentlichkeit gegen Gewalt e.V.),
- Antidiskriminierungsstelle von IBIS in Oldenburg, and
- Antidiskriminierungsbüro Saxony in Leipzig.

According to our own research there are further non-governmental anti-discrimination offices located in Siegen, Dortmund and Stuttgart. The unequal geographic distribution of these NGOs, concentrated in the federal states of Berlin and North-Rhine-Westphalia, is neither reflecting the amount of the problem with respect to manifestations of discrimination, nor does it tell anything about the particular strong commitment of specific local civil society structures. In fact, the establishment of independent anti-discrimination offices is closely linked to funding programs by state and local governments.

In North-Rhine Westphalia, the devastating and deadly arson attacks in Mölln and Solingen in the 1990s created an atmosphere in which the state government felt compelled to issue a program to combat racism and discrimination. In 1995 the state minister president declared that more resources should be given to NGOs providing measures and programs to enhance peaceful cooperation between German and migrant communities. Between 1997 and 1999, under the auspices of a regional government coalition of the Green Party and the Social Democrats, 700.000 DM per year were spent for nine so called pilot projects. Their official task was to counter discrimination of foreigners and members of ethnic minorities by doing research on the manifestations in various fields and its causes, by developing preventative educational programs and by offering counselling services to the individuals and communities affected. Hence, North-Rhine Westphalia was the first federal state in Germany that funded a comparatively high number of nongovernmental anti-discrimination offices and bodies, followed later by the city state Berlin.

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84 <http://www.antidiskriminierung.org>.

85 Interview with VAKS e.V.

Table 16: Projects in North-Rhine Westphalia 1997-1999

Project Organization	City	Main Focus
ARIC NRW e.V. (Anti-Rassismus Informations-Centrum)	Duisburg	coordination and networking of all anti-discrimination activities
Friedenshaus e.V. (International Meeting and Education Center)	Bielefeld	contact point for victims of discrimination/ research on discrimination in social services
Planerladen e.V. - Verein zur Förderung demokratischer Stadtplanung und stadtteilbezogener Gemeinwesenarbeit (office of planners and architects)	Dortmund	research on discrimination in the housing market
Institute for Social Studies (INFIS)/DGB Regional Association	Businesses/companies in NRW	research on discrimination in labor relations
Pedagogical Center Aachen	Aachen	research on discrimination in the local job market
Friedensbüro e.V. (Office for Peace)	Detmold	contact point for victims of discrimination
Diakonie Düsseldorf (Protestant Welfare Association)	Düsseldorf	neighbourhood activities and programs against discrimination
Office for Equal Treatment – Against Discrimination	Gelsenkirchen	contact point for victims of discrimination/ research on discrimination in the housing market
Association for Social Work and Culture South-Westphalia (VAKS e.V.)	Siegen	contact point for victims of discrimination

By 2008, only four of these pilot projects had survived the funding cuts under various successive regional governments, including ARIC NRW e.V. in Duisburg, the association Planerladen e.V. in Dortmund, the Pedagogical Center in Aachen, and the Association for Social Work and Culture South-Westphalia (VAKS e.V.) in Siegen. Together with the AntiDiskriminierungsBüro in Cologne, financially supported by the local government since 2001, they form the NGO network “NRW Against Discrimination”. The financial situation of existing offices has remained rather weak and precarious in most cases. For their monitoring and counselling activities they usually have no more than one paid person, in some anti-discrimination offices two counsellors work on part-time positions.

The **AntiDiskriminierungsBüro in Cologne** (ADB) came out the antiracist movement in the 1990s when in Cologne about 500 people united to counter the wave of violent attacks against refugee shelters and migrant communities in the region. In 1995 they set up an emergency and counselling hotline to organize support and protection for victims of racist hate crimes and to mobilize people for protests and demonstrations. Out of this emergency hotline developed a more institutionalized form of regular support services, called the association “Öffentlichkeit gegen Gewalt e.V.”, focussing also on structural forms of racism, embodied in laws and the treatment of migrants and ethnic minorities by state institutions, social services or employers. 2001, after an attack on a synagogue in Düsseldorf, the municipality of Cologne decided to issue a local program against racism, including funding for anti-discrimination measures. The Cologne model is unique in Germany in so far that it has three pillars: an anti-discrimination office located in the Department for Inter-cultural Contacts of the municipality; an anti-discrimination office linked with one of the large welfare associations (CARITAS), and one independent anti-discrimination office, the ADB. Since 2003 the ADB has received also some minor financial support from the regional government of North-Rhine-Westphalia.

The **Anti-Discrimination-Office in Siegen** (VAKS e.V.) is a project of the Association for Social Work and Culture in South-Westphalia, which was founded 1987 by a group of social workers and

students. The starting was a campaign on behalf of a refugee family from Syria whose members were threatened by deportation. While this campaign was eventually successful, it was realized that there were no institutionalized contact points and counselling services for migrants and refugees in Siegen. The association first had the name „Ausländerhilfe“ and was organized on a voluntary basis. Over the years, the work became more professional, including the coordination for „One World Initiatives“ in the region, and the mentoring of refugees by the order of the municipality. At the end of the 1990s they members of VAKS e.V. became also involved in anti-discrimination work and started to receive funding for that from the regional government. Their most successful project is a so called „Mediathek“, a service for schools, youth and adult trainers, providing media and educational material in the field of antiracism.

The **GleichBehandlungsBüro in Aachen** (GBB) has been working under the auspices of the “Pedagogical Center” since 1997, when the members of this NGO decided that they needed a project to focus more on discrimination in the field of education and the job market. By that time, the centre was mostly active in providing services and programs to families with a bi-national or migrational background, and more generally to the unemployed. Since then the GBB has been able to finance two paid part-time employees, one lawyer and a social worker, to do research and legal counselling in the field of discrimination. GBB has been particularly active in developing education and training programs for other NGOs and institutions with respect to the new national anti-discrimination law introduced in 2006.

All anti-discrimination offices interviewed find it difficult to clearly distinguish between incidents of discrimination and reports of other forms of harassment and violence. According to the lawyer of the GBB in Aachen, about half of their clients contacting their office have in one or the other form also experiences with violent forms of discrimination, ranging from very aggressive verbal insults, coercion to physical assaults. Most of these attacks, though, do not have an organized right-wing background, but rather a clear racist motivation. Our interview partner from VAKS e.V. in Siegen stated that about half of all their consultation cases (about 20 to 30 per year) have to do with right-wing or racist harassment and attacks. According to the counsellor of the ADB in Cologne, the only anti-discrimination office in our sample that publishes aggregated data on their consultation cases, the NGO deals with roughly 100 cases of discrimination each year. Most complaints have to do with ethnic or racist discrimination by local government institutions, whereas reports on direct physical attacks are rather rare, making up around ten percent of all their cases. Most of the assaults reported about would not have a right-wing background, but were carried out by neighbours or “simple racists” on the streets. In 2007 the ADB dealt with many complaints linked to the violent harassment of German women who had converted to Islam (wearing headscarfs). Another problem, often reported about in Cologne and Siegen, are violent and racist assaults and abuses carried out by the police.

The largest client groups are in all cities refugees, migrants and students, either from African countries, Iran, Turkey, Russia, Ukraine and Rumania, of which some are Jewish. Clients with a gay or transsexual background are rather exceptions. VAKS e.V. in Siegen also identified left-wing political activists and young antifascists, affected by right-wing violence, as one of the groups using their services. Usually, they would contact the office by phone, reporting on violent attacks, without giving their names and without taking any further steps such as legal proceedings. According to our interview partner, many people call the office because they want the VAKS e.V. to forward these kind of information to local networks and antifascist groups. „Sometimes they just want to have somebody to listen to them.”

Asked about the services they can offer to victims of discrimination and hate crimes, the answers somewhat differed: The GBB in Aachen sees as the main job of the office the identification of

incidents and cases of discrimination that are litigable. Even if criminal proceedings or actions based on civil law are not the only way to deal with the problem, they believe that in Germany there is a clear need for more law actions in the field of discrimination. The GBB accompanies clients to lawyers and also to court procedures. One important step to encourage more people to go that direction is the creation of a regional legal aid foundation, called “Leben ohne Rassismus”, that was set up in 2007, and helps victims of discrimination mainly financially with legal proceedings.<sup>86</sup> The GBB considers discrimination in the housing market as a particular important field of action. Another focus is psycho-social support for victims of discrimination and hate crimes. The “Pedagogical Centre” in Aachen employs a therapist offering trauma counselling. The GBB-team also tries to follow the media coverage and newspaper reports, and sometimes becomes active on behalf on individual cases without people contacting them directly.

The representative of VAKS e.V. was rather pessimistic with regard to the assistance and services they can offer to people looking for help:

“We can not offer the victims consulting us very much. We can arrange legal advise and contact to good lawyers and journalists if they want to make their case public. I wish we could also offer them better services in the field of therapeutic and psycho-social programs and experts, but we do not have much of that in Siegen. What we can offer them is to mediate and intervene directly in certain conflicts, and sometimes in the past we were successful with that, especially in cases in which neighbours were the main problem. We do not have good experiences with mediation in cases where colleagues or supervisors at the workplace were the offenders. The unions are not of much of help in this field, either.”<sup>87</sup>

Most of the consultation cases involve filing official complaints, being it disciplinary complaints, or other forms of appeals or preparing legal actions. Even if the services of the offices have been professionalized over the years, much is still done on a learning-by-doing basis. All of our interview partners complained about the precarious staff situation, leaving them not enough time for effective monitoring, public relation and outreach activities. Two of our interviewees stated that they do not advertise their assistance services in public anymore, because they are already completely overburdened with existing consultation cases. Two of the offices do not find the time for the proper registration of incidents reported to them.

The data base (ARIC-D-Dok) developed by the coordinating and networking institution, ARIC e.V. in Duisburg, seems to be not working very well so far.

“We do not have time and resources for a systematic documentation of our consultation cases. We also lack the resources for going more public with our information. The data base developed by ARIC Duisburg is much too complicated and needs improvement.”<sup>88</sup>

The idea behind the data base is similar to the one established by the CIVITAS projects: to have at some point, at least for the regional level (North-Rhine Westphalia), a better and more precise overview of cases and incidents of discrimination and hate crimes, that can be used for political campaigns and demands. Until now there have been no sufficient resources to do a more systematic evaluation and analysis of compiled data, due to the fact that the funding by the regional government also implies that the NGOs have to develop training and educational programs for multiplying institutions such as schools, welfare organizations and local government authorities. One of our interview partners, however, expressed the hope that with the announced transfer

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86 Ibid.

87 <http://www.weisser-ring.de/internet/weisser-ring-e-v/index.html>.

88 Ministerium des Innern und für Sport Rheinland-Pfalz: Opferschutz - Weißer Ring. Press information, 13.10.2006.

of all independent anti-discrimination offices into so called “Integration Agencies” for migrants by the end of next year (2009), they will receive more constant funding for their work, creating opportunities for intensified counselling services and monitoring activities. Others were less optimistic.

#### **4.2.4.5 Other Crime Victim Support Organizations**

During the last decades, the topic of general crime victim counselling has become more important in Germany and led to a growing number of respective organizations. There are often seen as important partners in developing strategies to support victims of right-wing violence and related hate crimes. Common to all of these groups and institutions is their focus on victims and witnesses of criminal offences, as codified by the Criminal Code. A wide range of services are offered such as information on legal and psychological support, benefits and compensation, escort services to the police and other authorities. However, the necessary preconditions for victim counselling – qualification of personnel, continuity of counselling processes, experience and expertise, secrecy and partiality, supervision and reflection of counsellors, and the required structural capacities and resources – are being facilitated by general victim counselling organizations to a very varying degree. Besides their individual profiles, counselling providers mainly differ along two dimensions – the degree of professionalization and their private or public structure.

##### ***Voluntary, non-professional victim support initiatives***

“Der Weiße Ring” (White Circle) is the best known of all voluntary private associations working on behalf of crime victims and their relatives in Germany. The association offers initial counselling, support in dealing with authorities, escort service for court hearings, cheques for initial psycho-traumatological and initial legal counselling (see chapter 2.2.3. for more information on benefits and compensations for victims). Further financial benefits are available in specific cases, but do not include compensation payments. According to “Der Weiße Ring”, the organization has allotted some 141 million Euro for victim support measures since its establishment. The necessary funds are raised by about 60.000 members, donations, and fines payable to charities.<sup>89</sup> The roughly 420 counselling points throughout Germany are run by about 3.000 volunteers. Members of the association can become “staff members” by holding three supervised counselling sessions, attending a basic course on legal and psychological basics as well as participating in assessment talks. Traditionally, police staff is strongly represented at all levels of the organization.<sup>90</sup> As members of law enforcement agencies are obliged to report any criminal offence they learn of, police officers are facing a dilemma when working as a voluntary victim counsellor. Furthermore, those counsellors might find themselves in a role conflict and experience difficulties in supporting victims’ interest vis-à-vis the police. Independence and confidentiality might, thus, be infringed in individual cases.

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89 FAZnet, 5.7.2008.

90 Der Spiegel, 11.1.2008.

Finally, “Der Weiße Ring” is known for its rather conservative stance on crime policies, by favouring, for example, repressive and get-tough measures over civil rights<sup>91</sup>, and demanding the “deportation of criminal foreigners”.<sup>92</sup> In contrast, a positioning of “Der Weiße Ring” concerning right-wing extremism can hardly be found. Nevertheless, counselling organizations for victims of hate crimes are actively cooperating with “Der Weiße Ring” – mainly with regard to funds for legal advice of victims.

### ***Professional victim organizations run by NGOs***

Thirteen general victim support organizations from eight federal states, run by NGOs, are organized in the “Committee of Victim Counselling Services in Germany” (ado). This umbrella association defines as essential principles: voluntariness, confidentiality, anonymity on request, and counselling free of charge. To have filed a criminal report should be no prerequisite for having access to services. Most of the member associations offer basic forms of psycho-social counselling, advice on legal options, criminal procedures, financial support and compensation. Practical support encompasses psychological “first aid”, escort services to authorities, placement at other institutions etc. Psychotherapy is offered by the licenced team of the “Opferhilfe Hamburg”. Some organizations, especially those from the state of Hesse, offer offender-victim-settlements. Supervision and training by external specialists are a standard among ado-members, most have additional intervision services and in-house trainings institutionalized.

Ado defined a standard deemed essential for their work: “The partial dedication for victims of criminal offences can, amongst others, lead to a massive criticism concerning the practice of criminal procedure of police and judiciary and, therefore, requires independence of the victim counselling institution and its team members from state institutions.” The standards strongly recommend a non-governmental structure and even a spatial detachment from state institutions, unless such proximity is an explicit part of the institution’s concept.<sup>93</sup>

### ***State-controlled professional victim counselling services***

Standard auxiliary services of the courts – such as social work with defendants before criminal procedures, probation services as well as “offender-victim-settlements” are in the German states usually offered under the roof of the “social services of the judiciary”. Some federal states such as Saxony-Anhalt and Berlin are also offering crime victim support services, partially in cooperation with NGOs,<sup>94</sup> which are similar to the ones of professional independent organizations. How much the proximity of the institution to state authorities impedes potential “clients” can not be determined at this point. In Lower-Saxony, crime victim support is organized and coordinated by the “Stiftung Opferhilfe Niedersachsen”, which works under the guidance of the Ministry of Justice. It provides funding to victim counselling services across the state. Their numerous

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91 Arbeitskreis der Opferhilfen (n.d.): Opferhilfstandards. Qualitätsstandards für eine professionelle Unterstützung von Kriminalitätsopfern. For example, institutional lines are being crossed by the private association Opferhilfe Berlin e.V., which is hosting two employees of the social services of the judiciary (Kirchner, Renate 2003: Opferhilfe - Hilfe für Opfer von Straftaten in Berlin e.V., in: Berliner Forum für Gewaltprävention, Vol. 4, No. 12, p. 106. For example, institutional lines are being crossed by the private association Opferhilfe Berlin e.V., which is hosting two employees of the social services of the judiciary.

92 Kirchner 2003: Opferhilfe; see for Saxony-Anhalt <http://www.sachsen-anhalt.de/LPSA/index.php?id=2586>.

93 Interview with with Opferhilfe Hamburg.

94 Dose, Jochen/Linke, Martina 2003: Opferschutzbeauftragte der Polizei, in: Berliner Forum für Gewaltprävention, Vol. 4, No. 12, p. 113.

branches are partially located in buildings of the local public prosecutors. The integration of victim counselling into the structure of a law enforcement agency is being critically discussed, for instance by the “Opferhilfe Hamburg”, for its lack of independence.<sup>95</sup>

In some federal states so called “police commissioners for victim protection” act as mediators between crime victims, police, and state or non-governmental victim support institutions. One of their tasks is to inform crime victims of counselling and support options. They are also responsible for dealing with complaints, and taking initiatives to assure appropriate treatment of crime victims by law enforcement agencies.<sup>96</sup> However, due to limited capacities these commissioners for victim protection do not engage actively in counselling themselves.

Across the federal states in Germany, counselling institutions and services for crime victims can be found in various forms, ranging from associations run by volunteers such as “Der Weiße Ring”, to professional services offered by NGOs and institutions working under the supervision of public prosecutors. Whether and how these organizations and structures are prepared to deal with victims of hate crimes seems to be highly contested. One of the concerns raised in various interviews is the need of professional quality standards, preventing experiences of “secondary victimization”, other refer to questions of accessibility and trust. None of the general victim support organizations reviewed is conducting case-related outreach activities. Additionally, the necessary trust of “clients” in the confidentiality of services offered might be low in the case of institutions close to state authorities, especially law enforcement agencies.

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95 The new funding schemes provide no financial resources for such a position anymore which was introduced under the CIVITAS program and helped to coordinate various activities (training, common campaigns, the development of a joint data base etc.).

96 Interviews with various victim support organizations; see also Armonies, Grit in: Bündnis 90/Die Grünen, Bundestagsfraktion 2008: Die Bundesprogramme gegen Rechtsextremismus. Eine Bestandsaufnahme, Berlin, p. 47.

## 4.2.5 Typologies of Studied NGOs and their Approaches

In the preceding chapter we have described activities of different groups and types of NGOs in Germany active in the field of monitoring of right-wing violence and related hate crimes, and a smaller number of NGOs which offer professional and specialized support and legal services to the communities and individual victims affected. The subsequent table tries to provide an overview of the major fields of activities by those groups included in our interview sample.

Table 17: Major fields of activity of NGOs groups studied

Name of organization/ group	Systematic monitoring and documen- tation of hate crimes	Psycho- social assistance for hate crime victims	Legal assistance for hate crime victims	Outreach approach; including local interventions	Anti- discrimination work	Educational measures and programs
<b>NGOs with an explicit focus on hate crimes</b>						
"CIVITAS Projects"						
Opferperspektive Brandenburg	X	X	X	X		
ReachOut (Berlin)	X	X	X	X		X
AMAL (Görlitz)	X	X	X	X		
Lobbi e.V. Ost (Neubrandenburg)	X	X	X	X		
Miteinander e.V. (Magdeburg)	X	X	X	X		
BORG Strausberg		X	X			
BORG Bernau		X	X			
<b>NGOs representing the LGBT community</b>						
MANEO	X	X	X			
Lesbenberatung e.V.	X	X	X		X	
AnderArtig e.V.	X	X	X			
<b>NGOs without exclusive focus on hate crimes</b>						
Anti-Discrimination Offices						
Pedagogical Center (Aachen)		X	X		X	X
VAKS e.V. (Siegen)		X	X			X
Anti-Discrimination Office (Cologne)	X	X	X		X	X
IBIS e.V. (Oldenburg)		X	X		X	X
<b>NGOs representing the LGBT community</b>						
Different People e.V.		X	X		X	X
Gerede - homo, bi und trans e.V		X	X		X	X
<b>Others</b>						
Lidice Haus (Bremen)						X
ARuG (Braunschweig)	X					X
Opferhilfe Hamburg		X	X			
Opferhilfe Verden		X	X			
Refugee Council Brandenburg						X
Landesverband Deutscher Sinti und Roma, Berlin- Brandenburg					X	X

## 4.2.7 Experiences and Interests with Regard to German-Polish Cooperation

The overwhelming majority of German organizations interviewed showed a general interest in learning more about the situation in Poland with respect to hate crimes, and particularly about Polish NGOs involved in antiracist and antifascist activities. A few groups have already established long-standing forms of formal and informal transnational cooperation, the most relevant one with regard to Poland is the European network of gay organizations active in support of victims of homophobic attacks (MANEO/Germany, “SOS Homophobie”/France, Lambda and the Campaign against Homophobia/Poland). Others NGOs interviewed are, similar to their Polish counterparts, also long term members of the European network UNITED; some have close contacts to monitoring groups from France and Great Britain; others were part of international research and educational projects, for example, the Lidice Haus in Bremen which was involved in the training of street workers from Hungary, and is working with Dutch NGOs active in anti-discrimination work.

Most NGOs, included in our sample, however, declared that the maintenance and further development of their local and regional networks remain a priority for them in the near future. Those organizations with a strong outreach approach are constantly trying to strengthen their contacts to self-organized groups of potential victims, local and regional alliances of antiracist and antifascist organizations and other NGOs, experts and state institutions, which is already a very time consuming undertaking. Furthermore, the pre-existing level of cooperation between victim support organizations in East Germany has been weakened by the loss of the former coordinating position since 2007.<sup>97</sup> Sustaining the existing level of outreach activities and networking and/or expanding contacts to groups in the West German states were named as the major challenges.<sup>98</sup> This, in fact, illustrates the rather limited resources of most German NGOs, included in our sample, for the field of international cooperation.

Moreover, some attempts to build up contacts to NGOs in Poland and other countries in the past, for example, to groups active in the area of refugee support, have been portrayed as not very successful, since they did not lead to longer-lasting relationships and concrete joint projects. Some organizations such as the “Kulturbüro Sachsen” or the victim support centre AMAL (Görlitz in Saxony), for instance, have tried to find NGO or other contact partners in the Polish border region, though with varying efforts. Lack of time for more intensive search, scarce opportunities for personal meetings, language barriers and a general low density of NGOs in the border region were named as the main difficulties for the establishment of viable forms of transnational networking.

### *Fields of possible transnational cooperation*

Notwithstanding this rather cautious prospect, however, at least three fields for possible cooperation in the future could be identified in our interviews:

- Exchange of experiences/knowledge with regard to monitoring of hate crimes and victim assistance

A couple of organizations have declared their interest and willingness to share and exchange information and knowledge with regard to various fields of activities, ranging from monitoring techniques, active consultation and counselling of hate crime victims, and other strategies, for example, outreach activities in support of refugees, based on the needs and particular focus of Polish organizations.

Representatives of the association Opferperspektive and ReachOut, for instance, raised interest in the exchange of knowledge and experiences on counselling techniques and outreach activities. BOrG Strausberg expressed its interest in sharing its experiences with regard to the work of groups of volunteers involved in hate crime victim assistance. This grassroots initiative has also considerable knowledge on how to build local alliances and influence the political climate in municipalities affected by right-wing manifestations. The educational project LidiceHaus in Bremen proposed bilateral or multilateral exchange of professional staff (social and youth workers) active in “outreach activities to adolescents”. Some interview partners also expressed interest in the exchange of experiences with different legal systems and respective litigation strategies on behalf of hate crime and discrimination victims.

- Projects of cooperation within the Polish-German border region

Efforts to build up networks of Polish-German antiracist and antifascist NGOs in the border region were considered by some groups as the most important task. Especially in Mecklenburg-Western Pomerania, anti-Polish activities and sentiments (racist graffiti, damage to property of Polish residents) have increased over the last two years, and need some response which could be facilitated by the cooperation between German and Polish NGOs. The NGO Lobbi e.v., active in this region, has not been able so far to contact the victims of these attacks, but would like to get in touch with the individuals and communities affected, and develop local strategies for intervention. Some groups as “Opferperspektive”, “Kulturbüro Sachsen” or Lobbi e.V. are also concerned about increasing cross-border activities of Polish and German hooligans and other right-wing activities in the border region which should be more closely monitored by NGOs.

- International joint projects

Whereas most of our interview partners have only been questioned with respect to proposals and ideas for bilateral (German-Polish) cooperation, another option that came up in the course of our enquiries and discussions was to place the ongoing activities of individual organizations within the framework of international projects. The availability of EU funds or the advantages of a comparative perspective are incentives to do so. Awareness raising and the development of training material for public institutions, hate crime relevant research projects, developing strategies to provide counselling services in rural areas, or joint campaigns to put political pressure on national governments or EU bodies to improve hate crime policies are potential fields of cooperation.

## 4.2.8 Summary/Conclusions

In the course of our research it turned out that despite the growing number of organizations active against right-wing extremism, racism, antisemitism and other forms of discrimination and intolerance in Germany there is a clear gap between the wealth of NGOs involved in educational and youth programs, intercultural dialogues, various forms of political and public campaigning and the number of groups which see as their main task the monitoring of hate crimes and the direct support of affected victims. Despite all the commitment towards the involvement of civil society actors in the fight against right-wing extremism, there is hardly any financial and political support available for NGOs in the western part of the country to build up capacities with respect to these tasks. Only in the new federal states, where the former CIVITAS program allowed for the constitution and constant government funding of victim support organizations specialized on right-wing violence, we could identify well established and stable mechanism for monitoring and reaching out to hate crime victims.

Organizations of the LGBT communities had a pioneering role in introducing the principle of a victim centred approach in defining and addressing the problem of structural violence and hate crimes. The victim support organizations, originally established under the CIVITAS program in the Eastern parts of the country, also operate with a rather broad and reflected understanding of hate crimes in the German context, even if the term as such is hardly used by them. Due to the context of their formation and their assigned tasks by government programs their main focus is on “right-wing acts of violence”. They have developed in a long time quality development and harmonization process a set of definitions and standards in order to improve the comparability of data collected on these incidents in East Germany, focussing on the “motivation of the offence”, a criterion also used by the police today, when assessing attacks and offences as right-wing or xenophobic/antisemitic. Most of the other NGOs, included in our sample, do not operate with clear-cut definitions of the term hate crime, but deal with the problem in a rather non-systematic way; some of them under the broader agenda of anti-discrimination work.

With regard to monitoring activities we identified various methods and approaches: The first one are victimization surveys, which are trying to fill the data gap on hate crimes directed against members of particular target groups. They have been conducted, amongst others, by the Central Council of Roma and Sinti in Germany, and organizations representing the LGBT community. One important initiative, which has been systematically monitoring and documenting antisemitic incidents throughout Germany, mainly based on media evaluation, is the Berlin-based “Antifaschistisches Pressearchiv und Bildungszentrum Berlin”. Based on month-long joint investigations by journalists of the newspapers *Frankfurter Rundschau* and *Der Tagesspiegel*, and later on by the artist Rebecca Forner and a small research team, is the documentation/exhibition on victims of right-wing hate crimes in Germany (2000-2005), that was first published in 2000, and lists in the meanwhile 136 cases of violent deaths.

The regular publications and statistics, provided by specialized victim support organizations, active in the states of Berlin, Brandenburg, Mecklenburg-Western Pomerania, Saxony-Anhalt, Saxony, and Thuringia, are the most exhaustive sources of information on right-wing and related violence in East Germany. Their information comes from various activities and sources: outreach activities to victims; active research, including the regular evaluation of local and regional press, relevant Internet sources etc., contacts to various regional and local networks, comprising of other NGOs, antifascist groups, youth centres, unions, church groups, local politicians, committed individuals and journalists, from which they receive relevant information. All victim support organizations publish at least once a year aggregated information on hate crimes, compiled for their region. They have no counterparts in the old federal states of Germany. Most of the groups

we talked to in West Germany about the need of an improved monitoring and documentation system complained about their difficult funding and staff situation. While almost all agreed that there is lack of information with regard to the amount of right-wing or related violence in the old federal states they admitted that they do not have the needed resources for outreach activities and a more detailed investigation of the cases they learn of, and that developing comprehensible data collection systems and means for the assessment and documentation of right-wing, racist and related hate crimes has so far had an overall low priority.

The geographic distribution of organizations which provide legal and psycho-social services to victims of right-wing violence is also rather uneven, mainly due to specific federal and state government funding schemes. If we look at the victims groups reached and served we can maintain that organizations of the LGBT communities were the first ones to set up specialized emergency hotlines and counselling centres with the help of local government programs. In metropolitan regions such as Berlin, Hamburg, Munich, Cologne or Dresden the LGBT infrastructure is comparatively well established with a large amount of expertise and experiences that can be passed on to other NGOs interested in running similar programs. The situation in rather rural areas, particularly in the Eastern states, in contrast, seems rather underdeveloped both with respect to social services and knowledge on the particular situation and vulnerability/exposure to violence of gay and lesbian communities.

The approach of the eight organizations, created under the CIVITAS program to assist victims of right-wing violence in East Germany, must be considered as the most comprehensive model in the respective field. They have all adopted a human rights approach, and take the perspective and interests of the victims as the guiding principle for all their activities. Central to their approach are low-threshold services and an outreach concept when consulting victims. Their core services offered comprise individual psycho-social counselling, crisis intervention, advice and guidance through legal proceedings, and assistance with filing applications for victim compensation and other monetary support. Another important task are “local interventions” to generate engagement in municipalities on behalf of hate crime victims, and to achieve that local communities, politicians and other officials take a clear stand against right-wing manifestations and racism. No similar initiatives could be identified in West Germany.

Under the auspices of the new federal program (Competent for Democracy – Consultation Networks and Mobile Intervention Against Right-Wing Extremism), which started in 2007, provisions to help and empower victims of hate crimes seem to be still very much underdeveloped. While the new federal program does not represent a complete shift of paradigms with regard to the combat of right-wing extremism, racism and antisemitism, important modifications, however, illustrate a changed approach, that gives less attention to the prevention of hate crimes, and the strengthening of independent NGO structures. In some cities in the old federal states anti-discrimination offices, however, mainly established in the late 1990s and run by NGOs, may and do already serve as contact points for victims of hate crimes and provide a range of support services, including legal aid and psycho-social assistance. The financial situation of these projects, however, has remained rather weak and precarious in most cases. In other locations without such offices, so called “general crime victim support organizations”, might be also qualified institutions to consult in cases of hate crimes. Experts interviewed, however, were rather sceptical whether they really can be a substitute for specialized NGOs, since the political dimension of hate crimes might not only require specific knowledge of the ideologies in question, but also a special commitment of counsellors, independence from state institutions, and an active outreach approach.

In the course of our enquiries, we could not solve the “puzzle” where migrants and refugees experiencing incidents of attacks and harassment in the Western states usually turn to in need of psycho-social and legal help. The same is true for young antifascist activists and members of other left-leaning youth scenes who constitute the second largest target group of right-wing extremist harassment and assaults in Germany. Since police statistics and media reports provide clear evidence that the problem of right-wing violence is not restricted to particular regions in East Germany, this is one of our most striking research results which needs further attention and investigation.

How the problem of right-wing violence and related hate crimes will develop in the near and middle-term future in Germany is difficult to anticipate. Many experts point to the fact that a culture of right-wing extremist values and manifestations has become already a significant problem not only in the former GDR, but also in many rural regions in West Germany. If it is true that professional victim support organizations not only serve the individuals and communities mostly affected, but are also important watchdogs by taking over relevant monitoring functions, similar NGOs and structures, embedded in local networks, would help to shed more light on the undocumented cases of right-wing and related hate crimes throughout Germany.

## 5 Recommendations

Our research findings have highlighted major challenges with regard to the problem of right-wing and related violence, which require the development of more comprehensive and effective hate crime policies in both countries. These challenges are, of course, not restricted to the fields we have explored such as the legal frameworks, the official monitoring systems or the outlined counter-measures of NGOs, but refer to a number of other areas (media and academic discourses, educational systems, the protection of minority groups and refugees, anti-discrimination policies etc.) which have been not discussed in this report. One of the most pressing tasks in both countries is definitely to raise the general awareness on right-wing extremism, racism, antisemitism and homophobia as structural problems, which seems to be still very underdeveloped, not only in Poland but also in large segments of German society. These ideologies need to be countered, not only by focussing on violent manifestations, but also by recognizing the more subtle forms, embodied, for example, in administrative structures and everyday practices.

In the following recommendations, however, we have tried to identify some feasible activities, measures and forms of cooperation, which could be meaningful for the advancement of already existing structures and networks of NGOs active or interested in the monitoring of hate crimes and/or victims' assistance. Most of them are based on issues, considerations and concerns brought up by our interview partners. In the best case, the recommendations could provide suggestions for further project, funding and research activities.

### Transnational cooperation

- ▷ **Cooperation of NGOs in the German-Polish border region**, especially in Mecklenburg-Western Pomerania, where right-wing attacks on Polish residents and anti-Polish sentiments in general have increased. Polish NGOs could support German victim assistance organizations in building contacts to individuals and communities directly affected and help with enquiries. Cooperation could take the form of staff exchanges or joint evaluations of and local interventions in specific cases. German and Polish NGOs could also develop joint monitoring projects with regard to other activities of far-right organizations in the border region.
- ▷ **Share and adapt expert knowledge on victim counselling.** Experience and working/educational material can be shared and reflected concerning the transferability of certain approaches and methods in the areas of 'monitoring techniques' (documentation, data bases etc.) and 'psycho-social victim assistance' (counselling approaches, outreach methods, information on traumatization) and 'building community support' (empowerment strategies).
- ▷ **Exchange and reflect information and experiences with regard to assistance to specific target groups** such as members of the LGBT community, refugees and migrants, other ethnic and religious minority groups, and alternative/left-wing youth; addressing questions of cooperation and networking between groups of volunteers and professional organizations, how to prevent or deal with attacks on the infrastructure of religious and ethnic minorities (cemeteries, houses of prayer etc.), as well as the potential and limits of cooperation between NGOs and local public authorities in dealing with "sites of tensions".
- ▷ **Initiate exchange between municipalities confronted with hate crimes.** Municipalities in both countries have different experiences in dealing with hate crimes. Whereas some have recognized and addressed the problem, others are still reluctant to take up this complex issue.

Exchanges between representatives of local governments, local institutions and civil society organizations can provide a space for actors “who speak the same language”, and to exchange first-hand experience about possible options and strategies for change.

- ▷ **Make “The Brown Book” and other important data/information sources and reports available to NGOs in other countries by translating them into English.** Projects of transnational cooperation, exchanges and joint campaigns can be better grounded on factual knowledge on the situation in Poland with respect to right-wing activities and hate crimes. This information can also serve as a base for political analysis, comparison and case-related discussions.

## Capacity building for Polish NGOs and networks

- ▷ **Strengthen contacts and exchange with actors within the field of anti-discrimination activities.** Anti-discrimination work seems to have already some tradition, structural resources and public attention in Poland. Even if the nature of structural discrimination in public life and in the labour market may be different from the causes underlying hate crimes, the actual target groups (such as ethnic minorities, migrants, gay people or persons with handicaps) overlap to a great extent. Both, anti-discrimination work and hate crime victim assistance employ counselling methods.
- ▷ **Intensify monitoring activities.** This report highlighted a variety of already existing forms and methods of monitoring hate crimes in Poland. The existing monitoring structures and networks, especially the one of “Nigdy Więcej”, have proved indispensable and should, therefore, be strengthened. The numerous monitoring efforts by local organizations could be supported by collecting their information in a nation-wide data base, thereby providing more insight on the situation of minority groups.
- ▷ **Provide training in victim assistance.** Prepare and provide relevant information and training activities/programs on hate crimes, victim support, minority rights etc. for leaders and activists of minority organizations, and alternative youth groups; work out training material on victim assistance (also in minority languages); provide legal trainings or assistance to refugee organizations.
- ▷ **Develop ideas and strategies for outreach activities across Poland.** Most organizations representing or assisting hate crime victims are concentrated in Warsaw, or in other Polish urban regions. Sites of hate crimes and far-right activities, however, are found across the country. Developing viable forms of outreach activities and victim support across a wide-stretching geographical area, including rural or remote regions, is, therefore, a major challenge.
- ▷ **Profiling and procurement of expert assistance.** Assistance for hate crime victims requires support of experts which have an understanding of hate crimes and are aware of the particular needs of the victims. Legal, psychological and other experts have to be identified and possibly trained in specific hate crime-related aspects. Solutions have to be found for victims who can not pay for expert services.
- ▷ **Establish a resource centre for the combat of hate crimes in Poland.** Most of the activities, recommended above, could be facilitated by the creation of a specialized resource

centre. Whereas the aforementioned tasks can be only fulfilled by joint efforts of many actors, one of the NGOs already active in the respective field could take over a coordinating function. A resource centre would facilitate the coordination of steps that need to be taken for an improved system of monitoring and victim assistance; it could also contribute to a more sustainable networking process and to a broader public awareness of the problem of hate crimes in Poland, by serving as a contact point for other NGOs, for journalists, academics, and, of course, for the victims affected.

## Research

Adequate hate crime policies by NGOs and authorities in Poland and Germany can be also facilitated, amongst other things, by more research efforts and expertise in various fields.

- ▷ In Germany and Poland more attention should be paid to the question **how public prosecutors and the jurisdiction in general deal with hate crime dimensions in criminal proceedings**. This could be important for the development of more sophisticated litigation strategies. For Polish NGOs interested in providing legal aid and support in court proceedings, it could be helpful to learn more about the application of existing legal provisions and procedural instruments, especially the provision of ‘subsidiary prosecution’.
- ▷ More information on the extent and nature of hate crimes in Poland could be obtained by the conduction of further **victimization surveys** on specific target groups (for example alternative youth, “visible” minority groups), similar to the ones already carried out by NGOs representing the LGBT community, which could be used for awareness raising and public campaigns.
- ▷ **Coping strategies of hate crime victims** and the actual impact of victim counselling need more research and consideration in both countries in order to develop adequate approaches and/or to improve existing services.
- ▷ **The relationship between hate speech and hate crimes** seems to be completely under-explored, especially the impact on hate speech and incitement to hatred in the Internet. Multidisciplinary research projects could address this question, considering also the influence of media and elite discourses and institutional frameworks for national anti-hate- speech policies.

Research and enquiry could be conducted and supported at various levels, ranging from expert workshops, grants for relevant PhD projects, or project-based cooperation between NGOs and academic institutions.

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# Appendix

## Poland: List of interview partners

Date of interview	Name of organization	Profile	Status	Persons interviewed
25.2.08	anti-Nazi group Piła, Grupa Antynazistowska (GAN-Piła)	antifascist/ antiracist organization	informal group	Joanna Naranowicz
28.2.08	Zwiazek Gmin Wyznaniowych Żydowskich w RP (Union of Jewish Religious Communities in the Republic of Poland),	national & religious minority organization	religious organization	Jan Gebert
28.2.08	Lambda Warszawa	representing LGBT community	NGO	Krzysztof Kliszczyński
4.3.08	Fundacja ‚Ocalenie‘	representing refugees/mi-grants	NGO	Malika Abdoulvakhabova
4.3.08	Campaign Against Homophobia	representing LGBT community	NGO	Robert Biedron Marta Abramowicz
4.3.08	Society for African Affairs at the Jagiellonian University	students' organization	NGO	Filip Kitundu
4.3.08	Polish Humanitarian Action, Branch office in Krakow	human rights organization	NGO	Tadeusz Szczepaniak
5.3.08	Fundacja Tarkowskich Herbu Klamry (Foundation to support homeless people)	welfare organization	NGO	Elżbieta Tarkowska
6.3.08	Rosyjskie Stowarzyszenie Kulturalno-Oswiatowe w Polsce, Białystok (Russian Cultural-Educational Society in Poland),	national minority organization	NGO	Andrzej Romanczuk
10.3.08	„Nigdy Wiecej“	antifascist /antiracist organization	NGO	Marcin Kornak
12.3.08	Inguszska diaspora w Polsce (Ingush diaspora organization in Poland), c	representing refugees /migrants	informal group	Bogaudin Bokov
17.3.08	Helsinki Foundation for Human Rights, Warsaw	human rights organization	NGO	Zbigniew Holda, Agnieszka Mikulska
17.3.08	Towarzystwo Społeczno-Kulturalne Żydów w Polsce,	representing national minority group	NGO	Piotr Piluk
18.3.08	Stowarzyszenie Wietnamczyków w Polsce „Solidarnosc i Przyjan“ (Association of the Vietnamese in Poland „Solidarity and Friendship“),	representing migrant minority group	NGO	Nguyen Van Thai
18.3.08	Verein Deutscher Hochschüler in Polen zu Oppeln	representing national minority group	NGO	Malgorzata Koszyk
19.3.08	Muslim Center for Education and Culture	representing migrant & religious minority group	NGO	Ali Abi Issa
20.3.08	Stowarzyszenie Romow w Polsce (Roma Association),	representing ethnic minority group	NGO	Roman Kwiatkowski
20.3.08	Grupa Antynazistowska GAN (anti-Nazi group),	antifascist /antiracist organization	informal group	Katarzyna Nowak
20.3.08	Lemkowski Ensemble „Kyczera“	representing ethnic minority group	NGO	Jerzy Starzynski
21.3.08	Towarzystwo Interwencji Kryzysowej/ Association for Crisis Intervention	anti-discrimination work, welfare organization	NGO	Anna Lipowska-Teutsch
28.3.08	Mongolian Student Community	representing migrant minority group	informal group	Nomondalai Erdenechimeg
4.4.08	Arabia.pl Association	representing migrant minority group	NGO	Marek Kubicki
8.4.08	Ogólnopolski Związek Bezrobotnych (All-Poland Union of the Unemployed)	social rights organization	NGO	Barbara Radzewicz
10.4.08	Jewish Cultural Association Beit Warszawa	representing national & religious minority group	NGO	Anna Mazgal
12.4.08	Kazach community in Poland	representing migrant minority group	NGO	Balli Marzec
12.4.08	Stowarzyszenie Przyjaciół Afryki (Society of Friends of Africa)	representing migrant minority group	NGO	Mamadou Wague

## Germany: List of interview partners

Date of Interview	Name of organization	Profile	Status	Persons interviewed
25.2.08	Opferperspektive e.V. Potsdam/Brandenburg	victim support organization (VSO)	NGO	Dominique John
25.2.08	Opferperspektive e.V. Potsdam/Brandenburg	VSO	NGO	Judith Porath, Gesa Köbberling
10.3.08	ReachOut Berlin	VSO	NGO	Sabine Seyb, Biblap Basu
12.3.08	AMAL, Görlitz/Saxony	VSO	NGO	Hagen Schulze, Anne Kretzschmar, Sander Schulze
13.03.08	Kulturbüro Sachsen, Dresden/Saxony	consulting against right-wing extremism and for the development of democratic culture in municipalities	NGO	Mirek Bohdalek, Friedemann Bringt
27.3.08	Beratungsstelle für Opfer rechter Gewalt (BORg) Strausberg/Brandenburg	support group for victims of right-wing, racist and antisemitic violence (based on volunteers)	informal group	Anke Schwarz, Ronny Kühn
28.3.08	Lobbi e.V., Neubrandenburg/Mecklenburg-W. Pomerania	VSO	NGO	Kai Bohlick
1.4.08	Moses Mendelssohn Centre for European-Jewish Studies, University Potsdam/Brandenburg	academic institution	public	Gideon Botsch
2.4.08	Arbeitsstelle Rechtsextremismus und Gewalt, Braunschweig/Lower-Saxony	various programs against right-wing extremism	NGO	Reinhard Koch
2.4.08	ProVal, Hannover, Lower-Saxony	private academic research and evaluation institution	private institute	Olaf Lobermeyer
3.4.08	Flüchtlingsrat Brandenburg (refugee council)	advocacy group	NGO	Harald Glöhde
7.4.08	Lesbenberatung e.V. Berlin	support centre for lesbians	NGO	Martina Frenznick
9.4.08	Amadeu-Antonio-Stiftung Berlin	foundation active against antisemitism, right-wing extremism and racism	NGO	Annetta Kahane
14.4.08	Beratungsnetzwerk Bayern/Bayerischer Jugendring, Munich/Bavaria	coordination point of the Bavarian consultation network against right-wing extremism	public	Fritz Burschel
16.4.08	Antidiskriminierungsbüro Oldenburg/Lower-Saxony	Anti-discrimination office	NGO	Cornelia Schnepf
17.4.08	Beratungsstelle für Opfer rechter Gewalt (BORg), Bernau/Brandenburg	support group for victims of right-wing, racist and antisemitic violence (based on volunteers)	informal group	Juliane Lang
18.4.08	Lidicehaus Bremen	institution for international youth exchange, education, and social work	NGO	Andrea Müller
23.4.08	Andersartig e.V., Potsdam/Brandenburg	support centre for the LGBT community, coordination point for lesbian and gay affairs in Brandenburg	NGO	Marco Klingberg
25.4.08	Opferhilfe Hamburg	general victim support organization	NGO	Peter Giese
28.4.08	Antidiskriminierungsbüro Köln, Cologne/North Rhine-Westphalia	Anti-discrimination office	NGO	Banu Bambal
28.4.08	Antidiskriminierungsbüro Aachen/North Rhine-Westphalia	Anti-discrimination office	NGO	Isabell Teller
29.4.08	Antidiskriminierungsbüro Siegen/North Rhine Westphalia	Anti-discrimination office	NGO	Regina Kuerschner
8.5.08	Miteinander e.V, Magdeburg/Saxony-Anhalt	VSO	NGO	Heike Kleffner
15.5.08	Landesverband Deutscher Sinti und Roma Berlin-Brandenburg	representing interests of the Sinti and Roma community/advocacy organization	NGO	Petra Rosenberg