NATIONAL HATECRIME REPORT METHODOLOGY FOR MAPPING AND DATA COLLECTION

I. STRUCTURE OF THE NATIONAL HATECRIME REPORT

1. INTRODUCTION

The content of this section should be a brief presentation of the report:

- Who is writing it
- What is the subject
- Which country it concerns
- What is the framework – project
- What is the goal of the report and to whom shall be addressed

This part will be written by senior researcher of People in Need (Irena Bihariova)
cca 1 page

2. INTERNATIONAL FRAMEWORK
- international and regional standards governing investigation of hate crimes/hate speech and victim support

This part will be written by senior researcher of People in Need (Irena Bihariova)
cca 2 pages

3. ANALYSIS OF LEGISLATION AND POLICIES

The content of this section should be a brief description and analysis of the current legislation and policies regarding hate crime and hate speech on the national level.
- Clarification of legislative regulations concerning hate crime and hate speech on the national level
- Criminal legislation, implementing guidelines
- Main national policies (very briefly)

Cca 5 -7 pages

4. ANALYSIS OF ACTUAL SITUATION

This section aims to describe the issue of hate crime and hate speech on the national level in its practical form: in particular in terms of legal practice.

- Analysis of qualitative and quantitative aspects of hate crime and hate speech on the national level
- Identification of shortcomings in application of legislative provisions

Cca 10 – 15 pages

5. IDENTIFICATION OF PROBLEMS AND ISSUES CONCERNING VICTIMS OF HATE CRIMES

The aim is to identify barriers hate crime victims have to face in the process of protecting their rights and in particular to establish safe methods of reporting hate crime cases.

Cca 3 pages

6. SUMMARY OF FINDINGS AND RECOMMENDATIONS

This section aims to summarize what we found out about the legal application deficiencies and what we propose for them.

Cca 2 pages

II. GUIDELINES ON REPORT DRAFTING AND DATA COLLECTION

TECHNICAL PARAMETERS

- **Length** : the whole National Hate Crime Report should be no longer that 40 pages. The optimal length is around 30 pages. The length for individual chapters is mentioned in the Structure of National hate crime report, however, please take this as an indication and not a hard limit.

- **Format** : please use the structure set in this guidelines. You can use sub-chapters if necessary

- **Characters** : Calibri, size 11

- **Footnotes format:** see Anex Footnotes

- **Language :** National report is one of the obligatory outcome of the project and will be submitted to the EC. Therefore, please submit the final version of the National report is in English. The language and grammar should correspond to standards required for publication of any research or academic text. Feel free to produce a version in your national language to be used in national context, however, this is not covered by the project.

- **Pictures, graphs, tables:** You can insert them directly into the part of the text or chapter, which they are related to. (In the case, you need to illustrate some information by charts or grafics.) In case of tables of charts, these should be also in English.

CONTENT OF EACH CHAPTER

When writing each chapter, please answer the topics and questions included in the next section. The questions should serve as guidance on the main focus of the given chapter and what should not be omitted.

If there are specific issues in your country not covered in the questionnaire, it can still be mentioned in the report

PERIOD COVERED BY THE REPORT

- 2014 + 2015 obligatory

- 2016 optional -   depending on accessibility of hate crime data for 2016 in your country at the time of writing. If they are not accessible, please state so (with the indication of when they should be publicly available -based on previous years)

DATA SOURCES AND DATA COLLECTION

Each section contains also the recommended procedure, which should be used in obtaining the relevant data for that chapter. The list of data sources (the green table in the each chapter) does not mean you have to use all the suggested sources. (Some of the sources are obligatory, some of them are optional.)

Data from ngo sector: Please use a questionnaire (attached in a separate Annex) to collect all the relevant information where appropriate. If the field mapping or questioning other NGOs is not relevant method for you (since your organisation has its own research and expertise) you don't need to use the Annex. In any case, please make sure you have incorporated all the relevant data the questionnaire is asking for into the report.

III.   TERMINOLOGY USED IN THE NATIONAL HATE CRIME REPORT

For the purpose of this project we are using the following terminology. It´s based on an agreement of all the projects partners during the first meeting in Bratislava (27-28 February 2017).
The content of this terminology was created as a result of searching for the common meaning of the terms used through this report in national legislations.

TYP OF CRIMINAL BEHAVIOR	SLOVAKIA	CZECH R.	MALTA	LITHUANIA	HUNGARY
HATE CRIME					
Violence and physical attack					
Attack against property					
Any crime with bias motive (aggravating circumstance)					
HATE SPEECH					
Threat of attack					
Defamation of race, nation, religion					
incitement to hatred, call to violence					
Holocaust or crimes against humanity denial					
Hate materials					
Approval of totalitarian regimes					
Setting up, supporting the hate groups					

HATE CRIME

1) **Any type of criminal behaviour with hate / bias motivation** (expect the hate speech defined in this chapter). Mostly:

- Violence and physical attracts (bodily harm, damage on health, murder...)
- Attack on property (burning car, damaging house...)
- Any other crimes (except hate speech) in your national Criminal code committed with a bias / hatred motive – aggravating circumstance (rape, kidnapping, robbery, fraud...)

HATE SPEECH

All forms of expression which spread, incite, promote or justify racial hatred, xenophobia, antiSemitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin

1. Threat of attack
2. Defamation of race, nation, religion
3. Incitement to hatred, public call to violence to the person or group because of their race, nationality, religion, gender, sexual orientation
4. Denial of crimes against humanity, Holocaust denial
5. Creating or distributing the "extremistic materials" (material which is threatening, abusive or insulting, or otherwise conducts himself in such a manner, with intent thereby to stir up violence or racial or religious hatred against another person or group) – it covers the written, printed, electronic materials, also video, audio, grafics, photos...
6. Public approval of totalitarian regimes - using the signs and symbols of totalitarian regimes or any promoting or supporting totalitarian regime (Stalinism, communism, Nazism..)
7. Setting up, supporting or promoting the hate groups[1] (not terrorist, terrorist crimes should not be included)

All ways of committing these crimes are relevant regardless of the form – graphic, oral, electronic, audio-visual or other.

Note:

- When drafting national hate crime report, please make sure you are writing about hate crime / hate speech as defined in this chapter. You can add the other types of hate crime / hate speech which are relevant especially for your country and regulated in your national legislation and was not included in this common table, however please mention it as a type of hate crime / hate speech specific in your national legal context.

- Please DO NOT include misdemanors or administrative offences. The report covers only crimes, regulated in criminal code.

CHAPTER 1: ANALYSIS OF LEGISLATION CONCERNING HATE CRIME AND HATE SPEECH

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[1] F.e. Blood and Honour

1. **Describe the legal concept of hate crime and hate speech in your country**

   - Is the legislation of your country built on a concept of hate crime, or is it using the concept of extremism? (or a combination of the two approaches) Please describe it briefly.
   - Is hate crime defined in your national legislation? Which model is used ? (aggravating circumstance – penalty enhancement or a specific offence)
   - Is cyberhate as a specific type of hate speech sanctioned by your national legislation?

2. **Describe briefly criminal legislation related to hate crime/ hate speech**

   - Provide English version of the related hate crime/hate speech criminal code provisions
   - Briefly describe all crimes considered as hate crimes / hate speech by your national criminal code.
   - Does hate speech, when committed online constitute a criminal offense?

3. **Which protected groups are covered by national hate crime legislation**

   - Please state which group characteristics are protected by hate crime provisions (race, ethnicity, nationality, religion, language, gender, sexual orientation, class, disability, political conviction, other ?)

4 **Describe policies concerning hate crimes (and/or racism, xenophobia, extremism)**

   - Briefly describe the most important state policies , concerning or having impact on hate crime / hate speech
   - Who adopted the document and for which period?
   - Who drafted it? Is there a control mechanism? Who is tasked by the document? What type of tasks it contains? Are they implemented in practice?
   - Are NGOs involved in drafting and implementation of the measures/tasks included in the document?
   - Are there any coordination mechanisms involving NGOs?

   Briefly describe the national criminal procedure in relation to hate crime cases

- You don't have to describe the whole process from the submission of criminal complaint to final judgement. Briefly describe just the main stages of criminal proceedings (pre-trial and trial investigation) and the subjects and agencies involved and their role in the process. This part is relevant for identification of gaps in hate crime procedures.

DATA COLLECTION

Please use the following source to collect data for this chapter:

1. Current legislation as amended
2. Official reports of state bodies (governmental decrees containing policies or measures related to hate crime / hate speech)
3. publicly available the minutes and decisions of the commissions and committees
4. analysis of the legislation drafted by public authorities (i.e. Prosecutor`s office, ministries of interior, advisory bodies or committees)
5. analysis of legislation originating from academia (faculties of law)
6. analysis of legislation drafted by NGOs.

Sources no. 1 and 2 are obligatory, others are optional

CHAPTER 2: DESCRIPTION AND ANALYSIS OF ACTUAL SITUATION

This section aims to get quantitative and qualitative data on hate crime at the national level to help **identify problems in detecting, investigating and prosecuting hate crime.**

The main aim of this chapter is to collect official data (data from public authorities) and the data obtained from the civil society or academia and subject them to a critical analysis. The goal is not to comprehensively quantify the real number of hate crimes committed in a given year in your country, but to gain a more comprehensive view on the issue.

The chapter is divided into two themes:

a. Quantitative overview of hate crimes in 2014, 2015 , 2016[2]

b. Qualitative overview of hate crime issues - identification of obstacles in detecting, investigating and prosecuting hate crime in your country

a. QUANTITATIVE OVERVIEW OF HATE CRIMES AND HATE SPEECH CASES

In this section, you should indicate the extent to which official documents, data and statistics actually reflect hate crime. We should thus get an idea of whether your country is in the high / low level of hate crime latency.

Official data:

1. **How many hate crimes cases are officially registered in your country during the reported period?**

- Please indicate the **number of hate crime cases** committed during the reported period in your country (you can use http://hatecrime.osce.org/ as a starting point and corroborate these data with other national statistics)

- Use can use the table from chapter Terminology and also add other types of hate crime relevant specially for your national context

2. **what are the vulnerable groups targeted and/or motivation of such crimes**

- if the official data state it, please describe what are most prevalent motives/types of biases for committing hate crimes in your country (race, religion, ethnicity, sex. Orientation...). If such information is not available/not collected by the state bodies, please state so in the report.

3. **How many cases of hate speech are officially registered in your country during the reported period?**

- Please indicate the **number of hate speech cases** committed during the reported period in your country (incitement to hatred, defamation of race nationality..., denial of holocaust etc). Use the table from chapter Terminology, and also add the other types of hate speech relevant specifically for your national context.

4. **What is the number of accused (by prosecutors office)**

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[2] 2016 – if the data are available

- Please quantify how many perpetrators of hate crime and hate speech were accused during the reported period. If the distinction between hate crime and hate speech cases is not made in the official data, state so in the report.
- If the data about accused persons are not publicly available, try to use a request for information (if available in your country)

5. What is the number of convicted

- Please quantify how many perpetrators of hate crime and hate speech were convicted during the reported period. If the distinction between hate crime and hate speech cases is not made in the official data, state so in the report.
- If the data about accused persons are not publicly available, try to use a request for information (if available in your country)

6. quantify how many cases ended up in court

- If possible, quantify how many cases ended up in court with condemning the perpetrator and how many with liberating judgement[3]
- If the data about accused persons are not public in your country, try to use a request for information (if available in your country)

7. What type of penalties were awarded?

- If possible, find out what penalties were awarded during the reported period to hate crime / hate speech perpetrators. If the distinction between hate crime and hate speech cases is not made in the official data, state so in the report.
- If the data about accused persons are not publicly available, try to use a request for information (if available in your country)

NGO Data:

1. Numbers of hate crime and hate speech estimated by NGO

- What is the NGO estimate of hate crime and hate speech cases committed during the reported period in your country
- please use either any shadow report in your country, indicating that these estimates or expert interviews to have an informed estimate)

2. Numbers of cases NGO deals with?

- How many cases per year are recorded by the NGO you approached in the framework of its client-oriented legal practice? (how many hate crime cases they dealt with in 2014, 2015,2016)

3. Types of crimes

- What type of acts are considered to be the most prevalent by the NGOs (hate crime - hatespeech - cyberhate)? What type of cases the NGO is mostly confronted with in contact with its clients?

4. Vulnerable groups

- Which group in your country is most vulnerable according to NGOs?

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[3] It is irrelevant whether the case was committed in 2015, but that it was tried at court in 2015.
It is not relevant or whether it is the first instance or second instance proceedings

DATA COLLECTION

When collecting official data, follow the official statistics and data by public authorities first:

- Crime statistics by the police, Ministry of Interior or prosecutor's (Attorney General) office.
- Judgments of the courts - Reports of Judgments, online database of court decisions (if available in your country)
- Unless the data are available in open access statistics or in an online database, contact the competent authorities and request information
- National hate crime reports (see http://hatecrime.osce.org/)
- Other IGO reports (for example ECRI)

When collecting data from academia or civil use the following methods:

- The questionnaire and interview table (in annex)
- National Shadows report (such as ENAR national country reports)
- Reports for IGOs (i.e. FRA, ECRI, ODHIR, CERD, OHCHR)
- Web pages of national NGOs dealing with HC, extremism
- Final reports to research and surveys
- Reports at regional level (municipalities, regions)

Obligatory sources :

- official statistics from state bodies or requesting information
- Questionnaire for NGO (if your ngo is not the only one which has collected such data before)

B. QALITATIVE ASSESMENT OF HATE CRIME AND HATE SPEECH ISSUES – IDENTIFICATION OF OBSATACLES TO INVESTIGATION AND PROSECUTION

This is the main analytical part of the report. In this part, identify main problems and obstacles related to investigation, prosecution and conviction of hate crime cases, support this assessment by official information, information from NGOs or from victims. The main question this part of the report should answer is:

What are the obstacles and difficulties in detecting, investigating and prosecuting hate crimes in your country?

In this section, please elaborate on the following issues, (describe the ones which are the most relevant to your country situation):

1. **Is the criminal legislation or the rules of criminal procedure an obstacle to effective criminal proceedings?**

- for example inadequate definition of criminal statutes, poor wording of the constituent elements of particular crimes, or poorly set rules of criminal procedure – deadlines, evidence requirements, remedies etc.)
- Explain what is the problem and how it is manifested in practice

2. Is the institutional setting of law enforcement agencies the main obstacle?

- f.e. inappropriately organized police force for the given area, high turnover od staff, lack of specialisation, bad regional coverage, lack of specialised police officers, insufficient training and awareness of the police, prosecutors, inadequate remuneration and motivation of the law enforcement…)
- Briefly describe the organisational structure and its errors and the ways they manifest in practice. (use case studies to illustrate your findings)

3. Which barriers and problems are present in law enforcement procedures ? f.e:

- o Disparagement of hate crime cases ?(criminal proceedings are not even initiated, cases are qualified as misdemeanours, mild punishments etc.)
- o Problems with evidence ? (legislation does not allow the use of some evidence, problems with proving the motive, lack of technical equipment and know-how , lack of cooperation by hate crime victims)
- o Approach to victims (questioning the racial / ethnic / religious motive of the crime, lack of trust towards the victims, secondary victimisation of victims etc.)
- o Incorrect interpretation of the constituent elements of a given crime, problem of inconsistent interpretation of legislation in practice
- o Problems with experts involved to investigation
- o other

DATA COLLECTION

Proceed as in the previous chapter, use the **resources listed in previous Table**, according to their relationship and relevance to the issues described. Aside from sources listed in previous chapter, In this chapter, substantiate your conclusions and analysis by hate crime cases - Illustrate your arguments by using examples from particular cases you came across during the research or legal aid:

- decisions taken by law enforcement agencies
- Court judgements
- Cases reported by the media
- Cases from your practice, or practice of other NGOs.
- You can include the point of view from the police officers or prosecutors, if you find it relevant to explaining the situation (but it is not necessary and you don´t have to questioning them)

Regardless of the source used, please substantiate every issue with a footnote and a relevant source of information.

CHAPTER 3: LEGAL ASSISTENCE TO VICTIMS OF HATE CRIME AND HATE SPEECH

In this chapter, the report should briefly describe the hate crime victim support service. We are focusing only on legal assistance - whether there is a right to free victim assistance stipulated by law, whether there are legal aid centres and cover the area of hatecrime and hate speech, whether there are NGOs providing legal assistance pro bono, and how they work in your country, whether it is sufficient for the victims etc..

1. **Legal assistance**

- Is it provided by NGOs or other institutions?

- Do legal aid centres provided by state cover the area of hatecrime and hate speech?

- Do the victims have to pay for this services or is it pro bono? What are the conditions to get a legal aid? What barriers victims have to face when accessing and using such services?

2. **Reporting the case of hate crime / hate speech by victims**

- What are the most common reasons stated by the hate crime victims and NGOs for not reporting the cases and not seeking the legal aid? (lack of awareness, lack of trust to the police, NGOs, fear of facing the perpetrators, or fear of secondary victimisation, etc...)
- You don't have to do detailed research – use the Questionnaire for ngo to get answers, or use your own knowledges and experience as a subject providing legal aid.

DATA COLLECTION
• Hate crime case studies
• Questionnaires for NGOs dealing with hate crime victims
• Reports on hate crime victims (see FRA report o http://fra.europa.eu/en/country-data/2016/country-studies-project-victim-support-services-eu-overview-and-assessment-victims
• Media research on hate crime cases
• Information gathered from hate crime victims themselves (in case, you are not an NGO working with hate crime victims, identify and talk to NGO providing assistance, or working with the communities at risk)
Note : here is no need to do new research, please just collect the existing data in your country. Answers from Questionnaire about non reporting can be formulated as expert opinion, not as hard data.

CHAPTER 4: SUMMARY OF FINDINGS AND RECOMMENDATIONS

This section should be a summary of the main findings of the report:

- What is the real situation regarding hate crimes and hate speech in your country and what are the main reasons for underreporting and under-recording
- What are the main barriers to successful investigation, prosecution and sentencing of hate crimes and hate speech?
- Situation of hate crime victims – real options and barriers in accessing their rights Institutional and legal problems regarding the whole area of hate crimes
- Reporting mechanism

Recommendations including short description an rationale for suggesting them