
SUMMARY

11 May 2021

Aporophobia

Challenging Hate Crime Against People Experiencing Homelessness in the EU

Hate crime is the most severe expression of discrimination and core fundamental rights abuse. Various member states adopted measures targeting such crime. However, both in the EU and in the Member States' legislation, hate crime against homeless people is not always conceptualised as "hate crime" because homelessness is not understood as a ground for discrimination such as race, disability, gender etc. This webinar highlighted the need for aporophobia to be recognised and given sufficient importance in hate crime. The webinar, hosted by **FEANTSA** and **Hogar Sí**, presented two panels.

The first panel, chaired by **Maribel Ramos Vergeles**, Deputy Director of **Hogar Sí**, explored experiences on the ground on aporophobia and hate crime against homeless people. Ms Ramos Vergeles underlined that the reality of homeless people is often unknown. Aporophobia is a structural problem that goes hand in hand with hate crimes against homeless people. She presented the Spanish **Observatory Hatento** that carries out studies on the issue, such as the obstacles that homeless people are experiencing for denouncing hate crimes against them.

Noémi Molnár, lawyer at **Utcajogász**, the Street Lawyers Association in Budapest (Hungary), presented the issue of criminalisation of homelessness in Hungary and the impact on hate crime. In 2011, the Hungarian Government has adopted a statutory law criminalising people experiencing homelessness. As the Hungarian Constitutional Court declared this law unconstitutional in 2012, the Government amended the Fundamental law, giving municipalities the competence to regulate and criminalise homelessness. After five years of legal disputes on the implementation, the Government amended in 2018 the Fundamental Law, inserting a general ban on rough sleeping. The so-called refugee crisis led to rising hostility. With the pandemic, the criminalisation arrived at a new level, with curfew breaches being heavily fined.

Ms Molnár gave examples of how criminalised homeless people were treated by the state authorities: the Street lawyers had clients being arrested and in detention up to 72 hours for rough sleeping, clients not being allowed to enter the courtroom because not corresponding to the stereotypes of homeless people and clients being handcuffed throughout the trial in Court.

Hungarian researchers have shown that the criminalisation of people experiencing homelessness is often seen as a justification for violence against the homeless in Hungary. The full empirical research paper can be read [here](#).

Miguel Angel Aguilar, Prosecutor Attorney in Barcelona (Spain), spoke about the need for proper regulatory instruments and specialised services to fight hate crime. Since 2009, Barcelona has a service specialised in discrimination and hate crime in the prosecutor's office. Before that, Catalonia did not gather statistics on crimes linked to racism, homophobia, religious intolerance, and other crimes related to discriminative bias. Mr Aguilar underlined that without data, it is very difficult to convince the legislator to tackle hate crime linked to aporophobia and create special police units to investigate these crimes. In 2010 the police in Barcelona were mandated to include aporophobic hate crimes in their statistics. Still, there is a huge data gap as many victims do not denounce the crimes against them.

Organisations in Spain are advocating for the inclusion of aporophobia in the Spanish criminal code as aggravating factor. There is also a proposal on a new civil law on discriminative behaviour, including discrimination against homeless people. In Catalonia, aporophobia is already acknowledged in the law but only for civil, employment and administrative matters, addressing discriminative behaviour based on social or economic conditions. The acknowledgement should be extended to criminal matters addressing hate crime against homeless people.

The second panel, chaired by **Freek Spinnewijn** and **Maria Aldanas**, gave a European perspective on the topic.

The German MEP **Katrin Langensiepen** spoke about the role of the EU in fighting the criminalisation of homelessness. Ms Langensiepen was satisfied that the fight against violence against homeless people was finally high on the political agenda. The [report on access to decent and affordable housing for all](#) by rapporteur Kim Van Sparrentak says that especially during the Covid-19 pandemic, it has become clearer that the fundamental right to live in an affordable, adequate and healthy home should be guaranteed to everybody. This document called, inter alia, on the FRA for greater monitoring of hate crimes and incidents motivated by aporophobia; stressed that poverty and homelessness are not a crime, urged Member States to establish mechanisms to guarantee the safety of homeless people and to introduce aporophobia as a hate crime.

Henri Nickels from the Fundamental Rights Agency, FRA in Vienna (Austria) explored how the collection of data on crimes against poor people in the EU could be encouraged. Professionals working in the field of hate crime acknowledge that hate crime targeting homeless people is a problem. Still, there remains a general lack of awareness of the issue among them.

In the EU Member States, hate crime targeting homeless people is generally not explicitly covered in the criminal code, contributing to the lack of official data and evidence on the issue.

Mr Nickels noted that there are very high levels of under-reporting of hate crime among victims, with the main reasons given for non-reporting being: having 'normalised' experiences of bias-motivated violence and harassment because they happen so often; not trusting law enforcement

agencies; feeling that nothing would happen as a result of reporting; not being aware of one's rights, and not knowing about existing support services.

Mr Nickels advocated for a victims-centred approach to hate crime to enable victims of hate crime to seek and obtain redress against perpetrators. Incidents that do not meet the criminal threshold should also be reported and recorded properly to show the extent of the phenomenon.

All the "hate crime chain" elements need to be strengthened: reporting, recording, investigation, prosecution, sentencing. Furthermore, it is important to consider intersectionality in experiences of hate crime among homeless people.

Mr Nickels referred to the [key guiding principles](#) on encouraging reporting of hate crime and highlighted how these principles could be transposed to the context of homelessness:

- Removing barriers to reporting
 - Principle 1: Address the invisibility of hate crime and actively communicate and disseminate hate crime data.
 - Principle 2: Counter discriminatory perceptions and practices in policing
 - Principle 3: Facilitate effective access to specialist support services for hate crime victims.
- Enabling structures
 - Principle 4: Ensure proper recording of reported incidents.
 - Principle 5: Set up alternative reporting options.
- Enabling processes
 - Principle 6: Tailor outreach measures to reach those at risk of hate crime victimisation and raise the general public's awareness.
 - Principle 7: Build institutional capacity through specialisation, comprehensive training and specific guidance.
 - Principle 8: Cooperate within, across and beyond institutional boundaries.
 - Principle 9: Cooperate with civil society and community organisations.
 - Principle 10: Regularly assess progress and impact.

At the end of the discussion, **Ales Giau Hanek** from the [ODIHR](#) intervened, stating that the ODIHR is not monitoring hate crime against homeless people because the organisation does not have a specific mandate on it. Furthermore, neither the civil society nor the states are providing data on this issue, with the sole exception being Spain that gives info on hate crime targeting poor people. Mr Hanek encouraged NGOs and civil society organisations to report hate crime incidents against homeless people to the ODIHR using the form on [this website](#).