

Vera Jourová

Commissioner for Justice, Consumers and Gender Equality
European Commission
Rue de la Loi 200
1049 Brussels

**AMNESTY
INTERNATIONAL**



EUROPEAN INSTITUTIONS OFFICE

Ref: B1657

Brussels, 11 February 2015

Dear Commissioner Jourová,

AMNESTY INTERNATIONAL REPORT, MISSING THE POINT: LACK OF ADEQUATE INVESTIGATION OF HATE CRIMES IN BULGARIA

Amnesty International would like to draw your attention to its [report](#) on the lack of adequate investigation of hate crimes in Bulgaria, documenting hate crimes and revealing the reasons why victims are being denied justice.

Hate crimes are not adequately investigated and prosecuted

Bulgarian authorities fail to investigate thoroughly discriminatory motives associated with hate crimes. They tend to treat hate crimes as crimes motivated by hooliganism rather than racism or xenophobia, even when multiple factors point to a discriminatory motive and despite the Bulgarian Criminal Code including provisions on crimes perpetrated on grounds of race, ethnicity, religion and nationality. Hooliganism is the usual motive that authorities ascribe to racist or xenophobic murder, arguing that murder motivated by hooliganism attracts the same penalty. Furthermore, the evidence required to substantiate hooliganism is simpler to obtain and authorities lack experience and training in dealing with hate crimes. It is crucial that crimes perpetrated with a discriminatory motive are identified as such. This is essential to ensuring effective measures are implemented for combating hate crimes and justice is brought to victims.

Hate crimes are not sufficiently reported and properly recorded

Minority groups in Bulgaria are reluctant to report hate crimes to the police due to a general lack of trust and fear of secondary victimisation. The underreporting is exacerbated by the failure of authorities to bring officers responsible for human rights violations to justice. Police are failing to record hate crimes notably because of entrenched prejudice against minority groups. Due to underreporting and underrecording, the full extent of hate crimes in Bulgaria and their impact on victims remain largely hidden. This situation is aggravated by the lack of comprehensive data on discriminatory violence.

Sexual orientation and gender identity are not taken into account as discriminatory motives

The Bulgarian Criminal Code does not consider gender identity and sexual orientation to be protected characteristics. The inclusion of sexual orientation as a protection ground in the draft new Criminal Code was a positive step, although it is unclear whether this proposal will be taken forward by the new government. When sexual orientation and gender identity are not taken into account as discriminatory motives, homophobic and transphobic hate crimes remain invisible. This makes it difficult to combat negative attitudes towards LGBTI people and enact policies preventing hate crimes against them.

Rights of victims are not respected

Several victims of hate crimes confided in Amnesty International that authorities failed to recognise them as such, even in cases where they had sustained physical injuries. Other victims said that they received no

information about the follow-up of the investigation concerning their cases, and others pointed to a lack of support services. The denial of the rights of victims of crime is at odds with domestic and EU laws.

Lack of recognition of hate crimes and denial of victims' rights fails to address the devastating effects that such crimes have not only on victims, but also on the groups or communities to which they belong.

How the European Union can improve the situation of hate crimes in Bulgaria and across the EU

In light of the findings in our report, we call on the European Commission to put the fight against hate crime at the forefront of EU anti-discrimination and justice policies, and in particular:

- Raise concerns on investigation and prosecution of hate crimes in member states in the context of the monitoring of the implementation of the Framework Decision on Racism and Xenophobia (2008/913/JHA), and specifically in relation to Bulgaria, give due consideration to the findings in our report in this monitoring process;
- Consider proposing guidelines on investigation and prosecution of hate crimes to assist the implementation of the Framework Decision on Racism and Xenophobia to ensure that any alleged discriminatory motive is thoroughly investigated and taken into account in the prosecution phase;
- Review the Framework Decision on Racism and Xenophobia to ensure there are specific provisions on investigation and prosecution of hate crimes, and to include in its remit all crimes perpetrated with any discriminatory motive, as suggested in Amnesty International's submission on the implementation of the Framework Decision;¹
- Provide guidance to Bulgaria and other member states on transposing and implementing the EU Directive on the rights of victims of crime (2012/29/EU), to ensure that victims of hate crimes have equal access to all rights protected by the Directive.

We stand ready to provide you with further information and would welcome your commitment to tackling hate crimes at EU level.

Yours Sincerely,



Ivana McGowan
Acting Director

¹ See also Amnesty International submission to the European Commission and the Council of the European Union on the Framework Decision on Racism and Xenophobia (Council Framework Decision 2008/913/JHA), available at <http://www.amnesty.org/en/library/asset/IOR52/001/2013/en/8cb55bdd-37bf-4d3d-9322-3381e57b7337/ior520012013en.pdf>