

Opening Statement to the Joint Committee on Justice
on the
General Scheme of the Criminal Justice (Hate Crime) Bill 2021
by
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Thank you to the Committee for inviting us here today, we are delighted to share our expertise with you. At the European Centre for the Study of Hate we study the treatment of hate crime in the Irish criminal justice process, as well as legislative models to address hate, all grounded in empirical research and comparative legal scholarship. With Prof Ross Macmillan, we have conducted the first ever general population survey of public awareness and beliefs about hate crime, and hate crime legislation in Ireland.

We welcome the publication of the General Scheme. Our written submission includes specific suggestions with respect to each Head. In this opening statement, we would like to highlight some of the overarching principles we think should guide your scrutiny of the General Scheme.

First, we all want the legislation to be effective. We propose that we critically reflect on what effective legislation is – we think it is a scheme which achieves a balance of rights between victims and offenders; upholds the principal of certainty, the principal of minimal criminalisation, and the principal of fair labelling; and sends a clear message to society that we do not tolerate targeted victimization.

Second, we believe that effective legislation achieves a balance between the need to leverage the declaratory potential of hate crime offences on the one hand, and their potential exclusionary effects on the other. We have shown in our survey of the general population that labelling an individual a “hate criminal” is likely to prove an additional impediment to securing employment, as well as social integration. At the same time, our research on the treatment of hate crime in the criminal justice process shows that the creation of aggravated offences is crucial to achieving an integrated system-wide response to hate crime. We believe that these findings underscore the need for a scheme which creates new offences, but also establishes a high threshold for conviction.

Third, in learning from other jurisdictions, we note that while it is possible to later expand the scope and protections afforded by hate crime legislation, it is difficult to contract or remove protections given the message this will send to victims, communities and society at large. For this reason, we commend the cautious, incremental approach taken in the general scheme, and further advise a statutory requirement for a legislative review after 5 years.

Fourth, we emphasise that to be effective the legislation requires a scaffolding of supports for victims, offenders, and criminal justice professionals to ensure its accurate and consistent implementation. In the absence of strong implementation measures, legislation is bound to fail.

Finally, and fundamentally, we should learn from the experiences of other jurisdictions and draw on international good practice. This must be done carefully however, recognising the need to adapt international lessons and examples to our own jurisdiction, and ensure that the General Scheme is appropriate to the Irish legal, policy, and social context.

In conclusion, we would like additionally refer the Committee to the submission of the Coalition Against Hate Crime, which is supported by eighteen civil society organisations and an academic researcher, as well as the ECSH.