

2020 REPORT ON HATE INCIDENTS IN THE BASQUE COUNTRY

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2020 REPORT ON HATE INCIDENTS IN THE BASQUE COUNTRY

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ABBREVIATIONS

ACPOS	<i>Association of Chief Police Officers in Scotland</i>
AGIFUGI	Romani Association for the Future of Gipuzkoa
Sec.	Section
AP	Provincial Court
APNI	Alliance Party of Northern Ireland
art.	Article
arts.	Articles
BOE	Official Gazette of the State
CAPV	Autonomous Community of the Basque Country
CCOO	Comisiones Obreras trade union
CDA	<i>Crime and Disorder Act 1998</i> (United Kingdom)
CEAR	Spanish Commission for Refugees
CHS	<i>Criminal History System</i> (Scotland)
CITE	Information Centre for Foreign Workers
CJNIO	<i>Criminal Justice (No. 2) (Northern Ireland) Order 2004</i> (Northern Ireland)
CJSA	<i>Criminal Justice (Scotland) Act 2003</i> (Scotland)
CLCS	<i>Criminal Law (Consolidation) (Scotland) Act 1995</i> (Scotland)
CMS	<i>Crime Management System</i> (Scotland)
COPFS	<i>Crown Office and Procurator Fiscal Service</i> (Scotland)
CP	Criminal Code of 1995
CRMS	<i>Contact Record Management System</i> (Northern Ireland)
ICIS	<i>Integrated Crime Information System</i> (Northern Ireland)
INE	National Institute of Statistics (Spain)
IVPD	<i>Interim Vulnerable Persons Database</i> (Scotland)
JANI	<i>Justice Act (Northern Ireland) 2011</i> (Northern Ireland)
LeCrim	Code of Criminal Procedure
LGTB(I)	Lesbian, Gay, Transgender and Bisexual and Intersex
LO	Organic Law
M	Million
n	Number of cases
NIHRC	<i>Northern Ireland Human Rights Commission</i>
OAPSA	<i>Offences (Aggravation by Prejudice) (Scotland) Act 2009</i>
OBFTCSA	<i>Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012</i>
OCMT	<i>Occurrence & Case Management Teams</i> (Northern Ireland)
POA	<i>Public Order Act 1986</i> (United Kingdom)
PONIO	<i>Public Order (Northern Ireland) Order 1987</i>
PPS	<i>Public Prosecution Service for Northern Ireland</i>
App.	Appeal
RJ	Aranzadi Compilation of Jurisprudence
SCRS	<i>Scottish Crime Recording Standard</i>
ff.	following
STC	Judgment of the Constitutional Court (Spain)
STS	Judgment of the Supreme Court (Spain)
STORM	<i>System for Tasking and Operational Resource Management</i> (Scotland)
UUP	Ulster Unionist Party

INTRODUCTION

This is the fourth report that has been produced since the first Official Report on Hate Incidents in the Basque Country was presented at the **Basque Parliament** (Institutions, Security and Public Governance Commission) on **4 June 2018**. Therefore, we already have data for an **entire five-year period (2016-2020)**, which provides some perspective and consolidation to this instrument.

It is always important to repeat that, to start with, this Report aims at improving the knowledge, prevention and most effective eradication of hate crime in the medium and long term. Moreover, it seeks to facilitate coordination with legal professionals and contribute to transferring hate crime work experience to international authorities.

Therefore, this Report on Hate Incidents in the Basque Country corresponds to the period **from 1 January to 31 December 2020** and, unlike the previous reports, it only addresses those potentially criminal incidents that, due to their nature and circumstances, came to the notice of the Basque Police (Ertzaintza). The outbreak of the pandemic and its direct and dramatic effect on night leisure and sports events has led to the records of the administrative offences corresponding to these sectors not being included this year in order to avoid distortions.

Further to what has been said, the 2020 Report has a well-established structure. Firstly, it provides information and analysis of the potentially criminal hate incidents of the year 2020 (first point). Secondly, it provides a comparative study with the European area (second point). What is new this year is the fact that the latter contains an update of data from both the most relevant countries within the sphere of our legal culture (Germany, France, England and Wales) as well as Scotland and Northern Ireland, bringing together and updating the comparison perspective with regard to countries with a long tradition in this subject as well as large demographic weight as well as countries that represent a federal experience closer to ours. This way, the evolution of the data from these countries can be monitored in the light of the efforts recorded in the previous Reports.

This year the third point includes something new. It is a short analysis of the reports produced by the Erabe-rean network. This section does not involve a critical analysis but rather an attempt to broaden the view on the matter. The reports from this network are a valuable source of information due to their direct contact with the target groups, which enables them to reach discrimination and potential hate incident realities beyond the scope of police detection. In this regard, the aim is to extend the view from this report to that other information focus so as to establish contact points that in the future may enable certain approximation to mutual information complementarity. Naturally, the aim is to reveal the dark figure.

Finally, the Report ends with the usual block of synthesis and conclusions, followed by the more instrumental sections (bibliography, list of figures) as well as the information sections (appendix I and II: major cases in the press; extract from the Reports, respectively, of the Chief Prosecutor of the Basque Autonomous Community and the Prosecutor General of the State).



1. HATE INCIDENTS IN 2020

1. HATE INCIDENTS IN 2020

241 potentially criminal hate incidents were recorded in the Basque Country in 2020¹. This figure does not include administrative offences this year. This is due to the situation caused by the pandemic, which has affected the offences this report drew from: the offences regarding sports events and the right of admission. These areas are mainly linked to the hospitality industry and night leisure and, as is known, their activity has declined dramatically. To start with, holding sports events with public is not allowed now and, in addition to this, the use of hospitality and night leisure establishments is limited as a consequence of the curfew and the opening restrictions for restaurants, thus reducing the possibility of potential victims and offenders meeting. This distortion has made it advisable to leave administrative offenses out this year.

The following charts show, respectively, the evolution of hate crime in the last 5 years. As can be seen, the number of crime incidents has increased exponentially in the last year, which calls for an explanation. The experience of previous years in the collection and recording of data, the joint work of Ertzaintza and University, together with the intensification of training has made it possible to change and improve the detection and centralization of the information regarding this type of incidents. That is the reason why there has been an increase in crime incidents that is attributable to greater police efficacy in their detection and recording. This scenario was already forecast in the previous reports and is sought-after, as the report aims, amongst other things, to improve the awareness and technical skills of those who carry out the proceedings regarding these incidents in order to reveal the dark figure. Therefore, the increase resulting from an improvement in the police activity on the site and in the recording system is positive and encouraging, to the extent that it enables bringing to light a more realistic picture that would otherwise remain hidden, with the resulting defencelessness and victimization of the target groups. Nowadays, in the Basque Country, police detection antennas have improved and impunity has decreased accordingly.

In any case, in spite of the aforementioned step forward, attention must still be paid to the ups and downs² in the recording of hate incidents in order to find multicausal explanations, since, even though the dark figure of those crimes is decreasing, it is still very high³, which prevents knowing the true extent of victimization, or whether the number of hate crimes committed in 2020 has actually increased that much⁴.

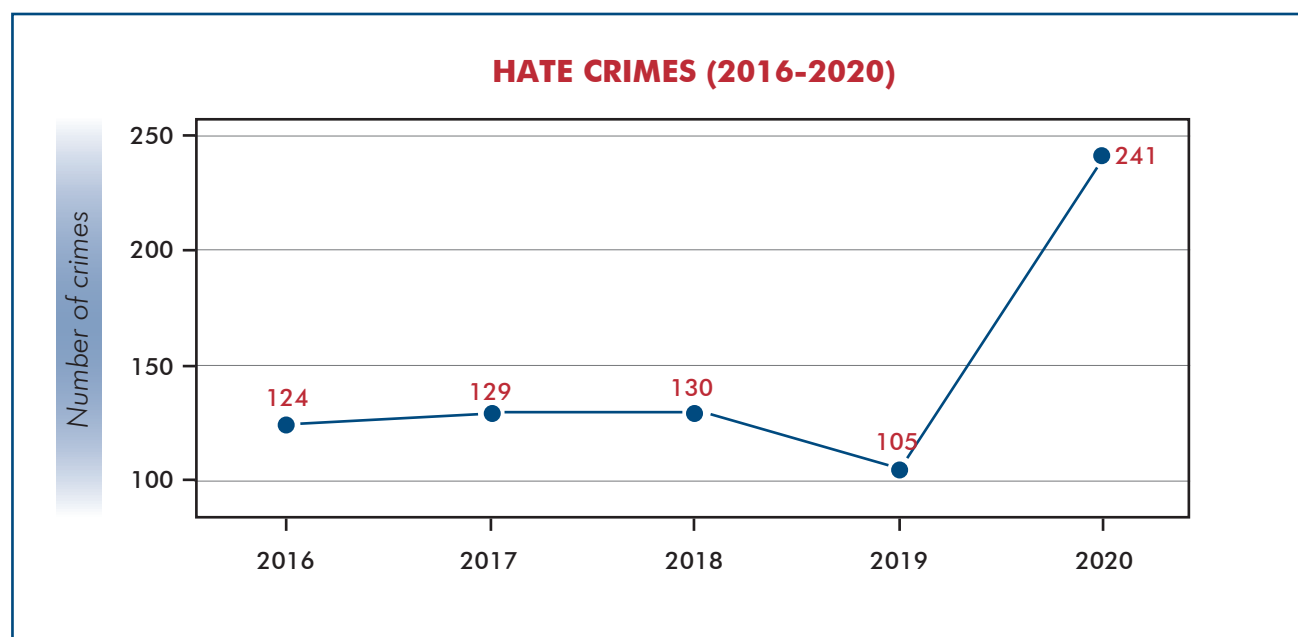
¹ The incidents included in this report are incidents recorded in 2020, regardless of their having taken place during that year or not. In fact, 9 of those crimes were committed in 2019.

² Throughout this report it can be seen that there are ups and downs in the recording of hate incidents and crimes, especially last year, as mentioned above. These ups and downs must be viewed with caution, due to the low number of cases recorded, as well as the limited value of police statistics. In fact, the precariousness of the issue as regards the recording of hate incidents and crimes seems to indicate a high dark figure. This is why the existence of the exponential increase experienced by the number of incidents recorded in 2020 could be due, not only to an improvement in the data recording systems, but also to a possible increase in the target groups' trust on the law enforcement forces or an improvement in the training of the Law Enforcement officers who record the complaints from those groups, amongst other reasons, and not necessarily to an actual increase in this criminal phenomenon. LANDA GOROSTIZA, J.M., "El mapa de odio..." *op. cit.*, page 17. On the limited value of police statistics as the only source to know the actual extent of criminality, see GARCÍA ESPAÑA, E./DÍEZ RIPOLLÉS, J.M./PÉREZ JIMÉNEZ, F./BENITEZ JIMÉNEZ, M.J./CEREZO DOMÍNGUEZ, A.I./ (2010), "Evolución de la delincuencia en España: Análisis longitudinal con encuestas de victimización", *Revista Española de Investigación Criminológica*, Art. 2, No. 8, *passim*.

³ The dark figure of hate crime comprises those crimes that are not reported and, therefore, are not known to the Law Enforcement Forces. VOZMEDIANO SANZ, L./SAN JUAN GUILLÉN, C., *Criminología ambiental: ecología del delito y de la seguridad*. Editorial UOC: Barcelona, 2010, *passim*.

⁴ MASON, G./MAHER, J./MCCULLOCH, J./PICKERING, S./WICKERS, R./MCKAY, C., *Policing hate crime: Understanding communities and prejudice*, Routledge, Oxon, 2017, page 127.

In fact, there is research that, on the basis of data from the European Fundamental Rights Agency (FRA), puts that dark figure at around 80%, although there are differences between the various groups of reference⁵.



1.1 DISTRIBUTION OF HATE CRIMES

As we will see below, the map has undergone a profound transformation in the last year. Racist or xenophobic crimes, like in previous years, account for most of the crimes recorded ($n=117$; 48.55%), the figure being substantially higher than the previous year, which can be partly due to the change in the incident recording system that was mentioned in the previous paragraph.

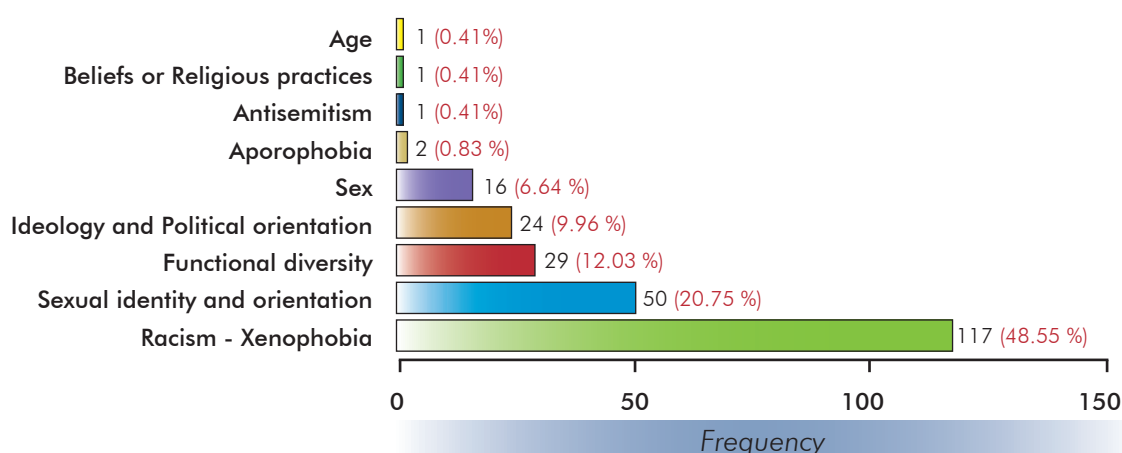
These are followed by crimes against sexual identity and orientation ($n=50$; 20.75%) and against functional diversity ($n=29$; 12.03%). In this regard, it must be pointed out that the crimes committed against both groups have almost trebled in the first case and quadrupled in the second case during the last year; the former having gone from being the third most victimized group to taking the second position again, and the latter from being the fifth most victimized group to taking the third position. As for hate crimes on the grounds of ideology and political orientation ($n=24$; 9.96%), they have also increased as compared to the previous year, but it is not as sharp an increase as in the previous groups.

⁵ This high dark figure can be due to different reasons, such as the victims' reluctance and fear to report, or the lack hate crime training of the public bodies that are in charge of recording and classifying the crimes. Moreover, there are incidents that are not reported to the police, but to other authorities, such as the prosecutor's office or directly to the court on duty. This is why we should take into account other instruments that enable the gradual establishment of the dark figure, such as victimization surveys or the reports produced by NGOs, such as Eraberean's Report (see section 3 of this report below), which provide data from different sources that supplement police statistics. ACHUTEGUI OTALAURRUCHI, P., "Victimización de los delitos de odio. Aproximación a sus consecuencias y a las respuestas institucional y social", *Journal of Victimology*, No. 5, 2017, pages 36 and ff. See also, LANDA GOROSTIZA, J.M., "El mapa de odio..." op. cit., pages 6 and ff.

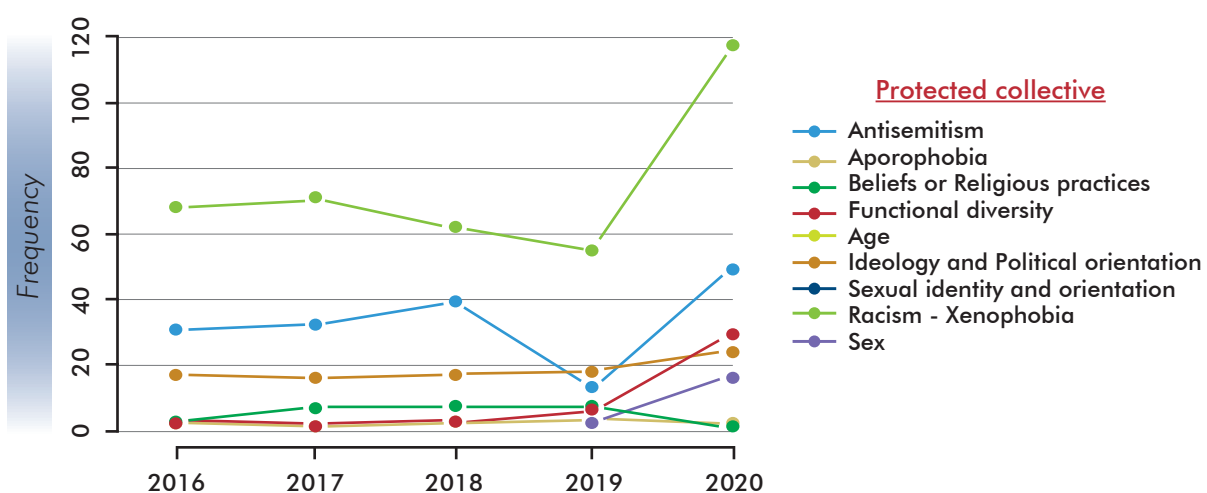
In the fifth place, we find hate crimes on the grounds of the sex of the victim, which have also quadrupled in this last year ($n=16$; 6.64%). This can be due, in addition to the change in the data recording system, to the fact that it is now the second consecutive year in which this variable has been recorded in an autonomous manner and, therefore, those in charge of taking the complaints may be more familiarised with it. However, the fact that this variable has only been recorded for two years also makes it impossible to appreciate an evolution throughout the five years under study, as happens with the rest of the variables mentioned so far.

As for aporophobia ($n=2$), anti-Semitism ($n=1$), age ($n=1$) and beliefs and religious practices ($n=1$), they account for 2.06% of the total recorded crimes. As can be seen, aporophobia is the only group among those that have just been mentioned that presents a figure similar to that of the previous years, whereas hate crimes on the grounds of beliefs and religious practices have decreased considerably in spite of the increase in the number of recorded incidents. As for anti-Semitism and age, no evolution whatsoever can be appreciated, since this is the first year in which data of this type have been recorded.

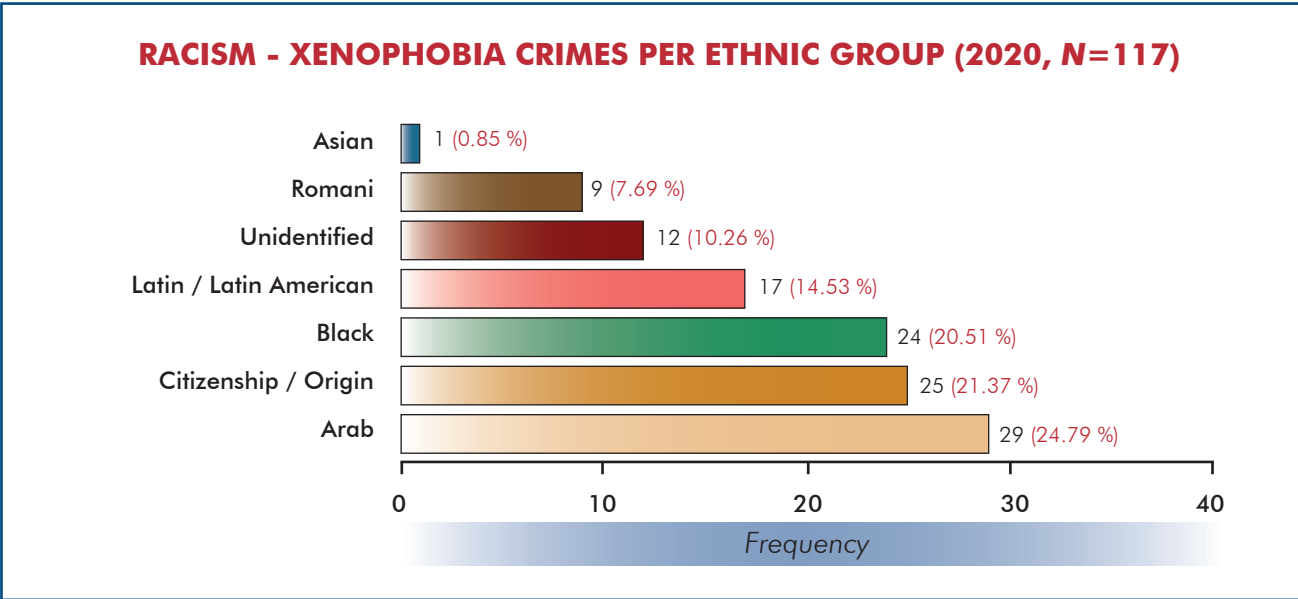
CRIMES PER PROTECTED COLLECTIVE (2020, N=241)



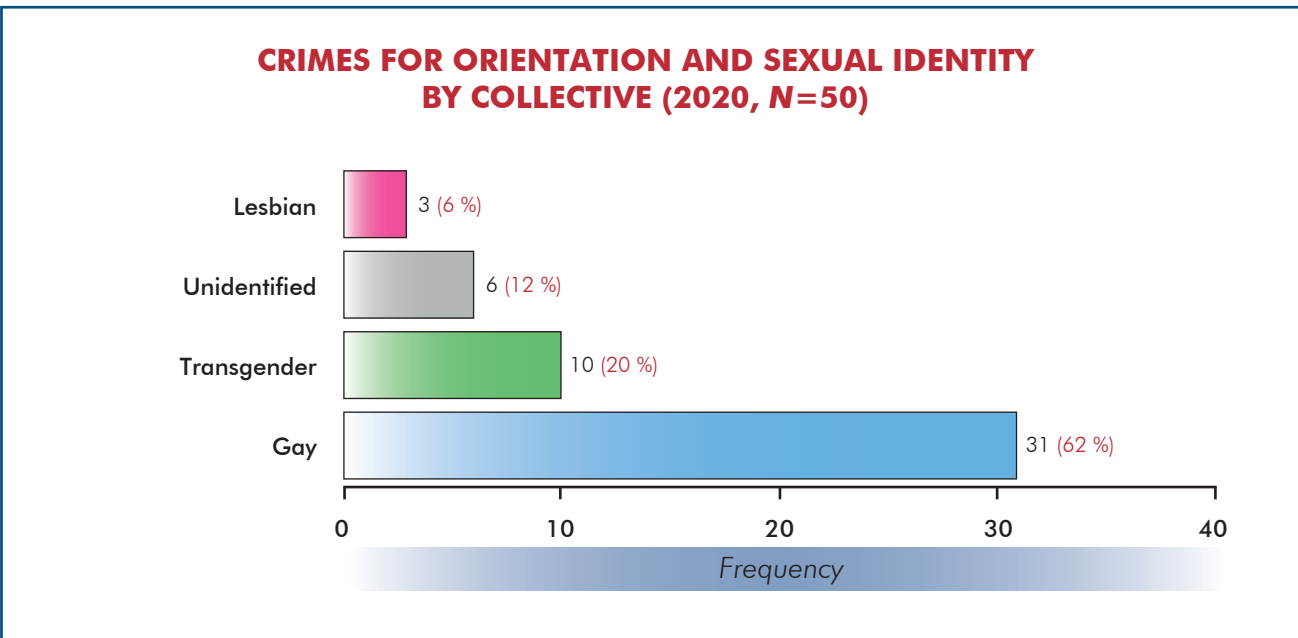
CRIMES PER PROTECTED COLLECTIVE (2016-2020)



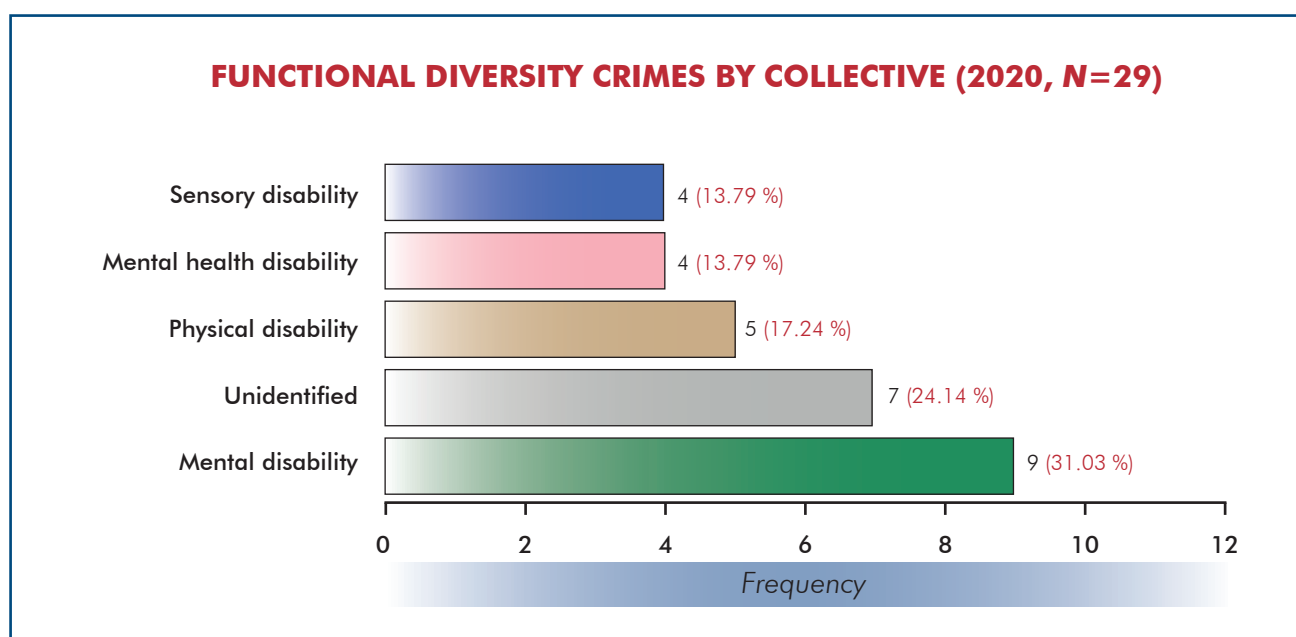
If we focus on data relating to racist and xenophobic crimes, they can be broken down into the following groups: Arab ($n=29$; 24.79%), Asian ($n=1$; 0.85%), Romani ($n=9$; 7.69%), Black ($n=24$; 20.51%), Citizenship/ Origin ($n=25$; 21.37%), Latin/ Latin American ($n=17$; 14.53%), and Unidentified ($n=12$; 10.26%).



If we do this same exercise with hate crimes against sexual identity and orientation, it can be seen that the most victimized group is undoubtedly the gay group ($n=31$; 62%), much above the rest. In the second place we find the transgender group, which accounts for one fifth of this type of incidents ($n=10$; 20%).



Finally, as regards the persons who are victimized on the grounds of their functional diversity, the mentally disabled are the most affected, accounting for almost one third of the incidents of this type ($n=9$; 31.03%).



1.1.1 Classification of hate crimes by crime type

On the subject of the most prevalent crime types, the following chart shows that standing out above the rest is bodily harm (71 cases, trebling the number of cases recorded the previous year), followed by threats (53 cases, twice as many as those identified the previous year), coercion (30 cases) and degrading treatment (30 cases). However, the prevalence of more serious crimes, such as bodily harm, must be viewed with caution since, according to some research, many victims of less serious hate crimes think that “there is not much that the police can do” in relation to these types of crimes and therefore they are not reported⁶.

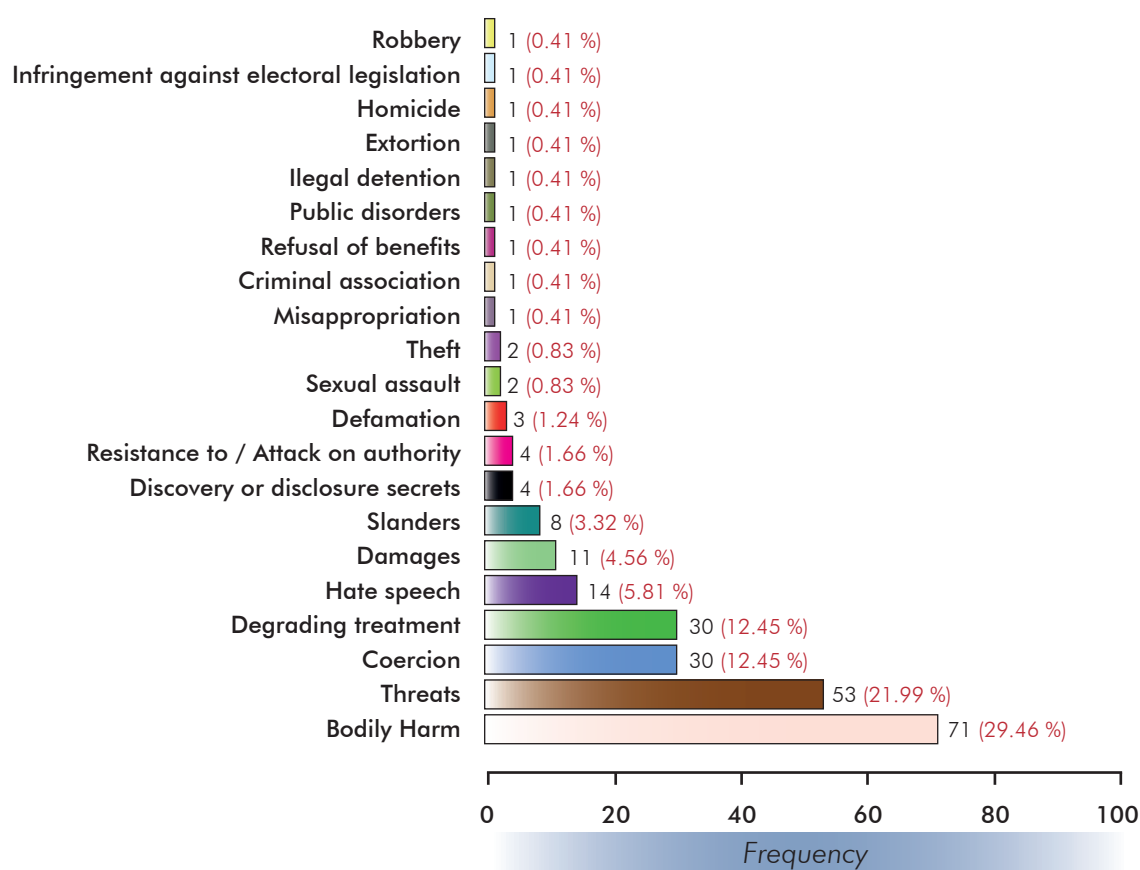
To a lesser extent, hate speech (14 cases) also stands out from the rest. In relation to this crime, it is worth noting that it has lost the clear prevalence it used to have, going down from the third most prevalent crime category to the fifth. In any event, as pointed out in previous reports, hate speech cases have to be considered with reservations, due to the fact that they rarely make it far in the judicial process.

⁶ MASON, G./MAHER, J./MCCULLOCH, J./PICKERING, S./WICKERS, R./MCKAY, C., *Policing hate crime*, ... op. cit., page 89

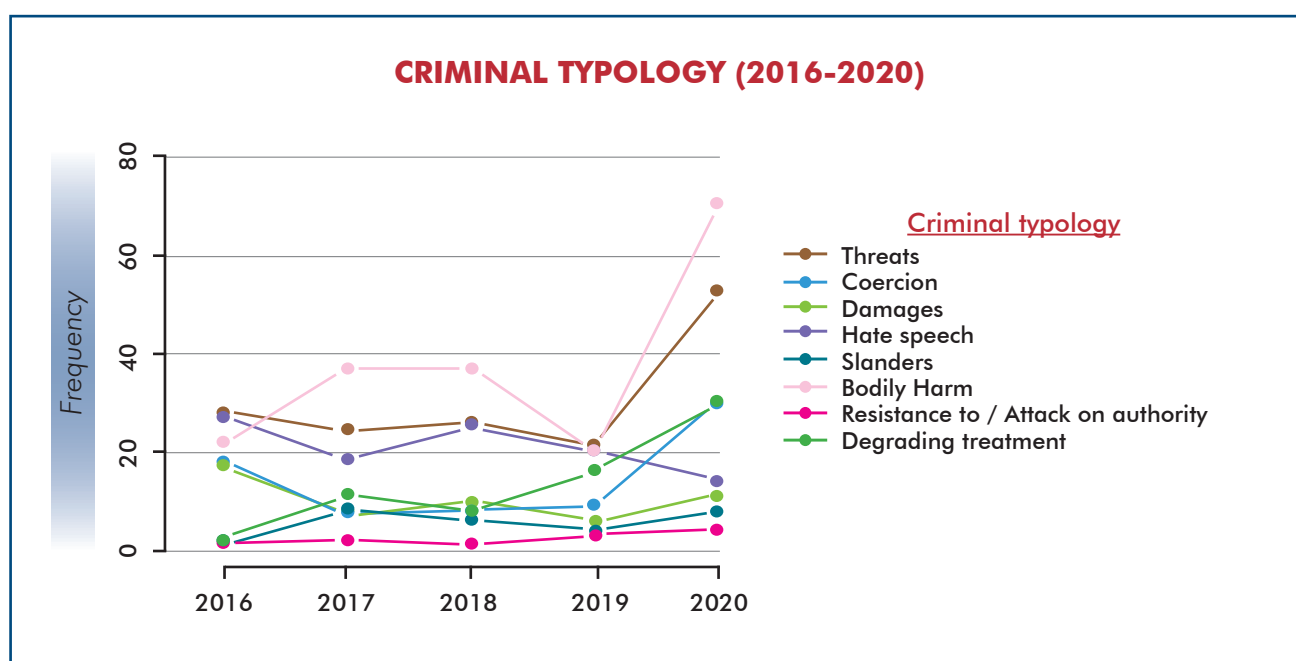
Likewise, it is worth noting that there were 2 sexual assault cases and 1 homicide (non-accomplished).

- **Sexual assault:** art. 181 CP.
- **Threats:** arts. 169, 170 & 171 CP.
- **Misappropriation:** art. 253 CP.
- **Criminal association:** art. 515CP.
- **Defamation:** art. 206 CP.
- **Coercion:** art. 172 CP.
- **Damages:** arts. 263 & 266 CP.
- **Refusal of benefits:** art. 511 CP.
- **Disclosure of secrets:** art. 197 CP.
- **Illegal detention:** art. 163. CP
- **Extortion:** art. 242 CP
- **Public disorder:** art. 557 CP.
- **Hate Speech:** art. 510 CP.
- **Homicide:** art. 138 CP.
- **Theft:** art. 234 CP.
- **Slandering:** arts. 209 CP.
- **Bodily Harm:** arts. 147 & 153 CP.
- **Resistance to/attack on authority:** art. 550 CP.
- **Robbery:** art. 242 CP.
- **Degrading treatment:** art. 173 CP.
- **Infringement against electoral legislation.**

CRIMINAL TYPOLOGY (2020, N=241)

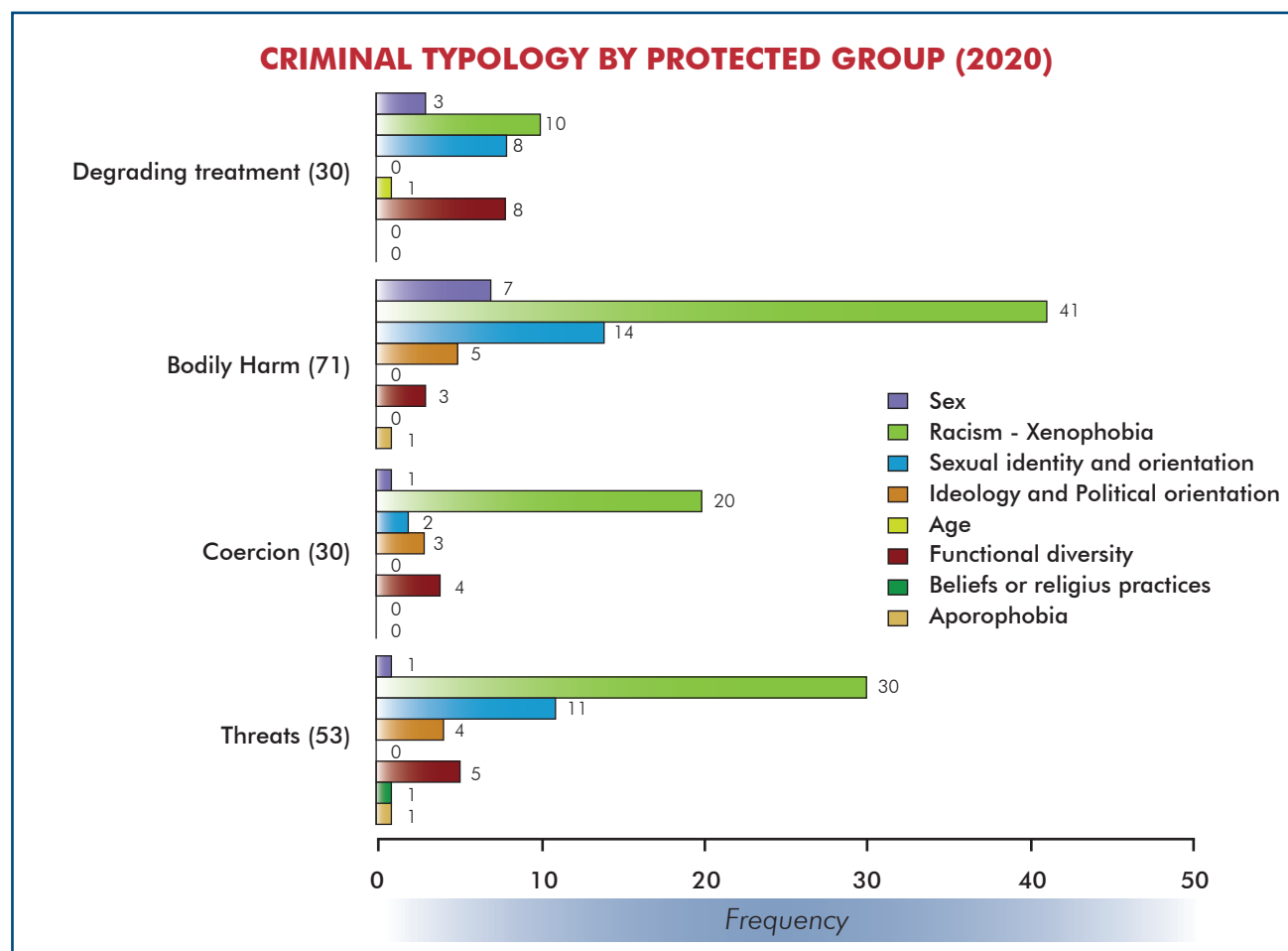


The following chart shows the evolution of crime types since 2016 up to the present⁷. It can be seen that, whereas there has not been any significant variation in the commission of certain crimes, in spite of the increase in the number of cases recorded (as in the case of resistance to/attack on authority), most of the crimes show considerable ups and downs. This is the case of bodily harm, which, after increasing considerably in 2017 and staying the same in 2018, experienced a sharp fall in 2019 and increased considerably again in 2020. Something similar can be said about threats, which decreased in 2017, increased slightly in 2018, decreased again in 2019 and increased significantly in 2020.



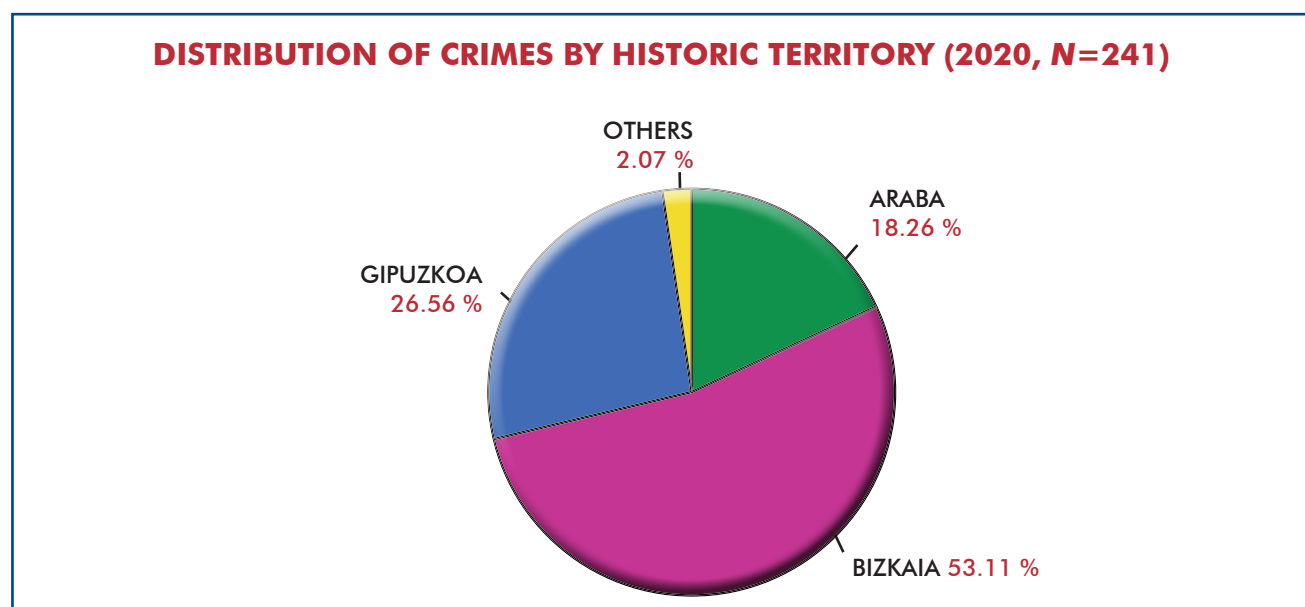
Below is the analysis of the most prevalent crime types, that is, threats, coercion, hate speech, bodily harm and degrading treatment with the various groups, in order to find out if certain groups are more likely to suffer certain types of crime than others. Thus, data show that race is the group that most suffers these types of crimes, being the victim of bodily harm, threats and coercion, mainly. Likewise, it is worth noting that the sex group is, by far, the third group as far as bodily harm is concerned.

⁷ The chart only shows those crime types that have had continuity over the years, that is, those types that have appeared all the years under study, leaving out those that only appeared one or two years.

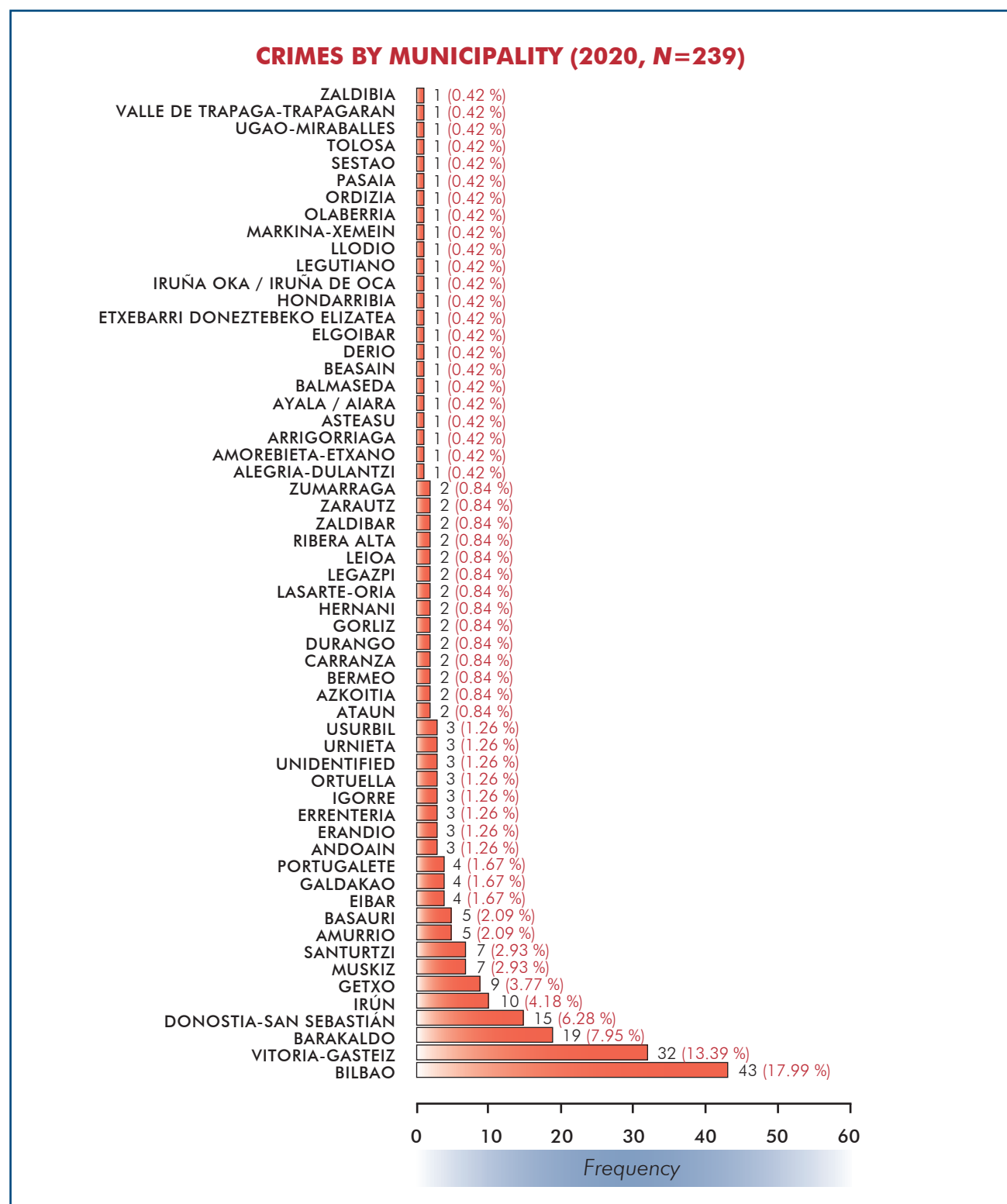


1.1.2. Spatial distribution of hate crimes

On the subject of the distribution of the 241 crimes in the historical territories, the following chart shows that Bizkaia accounts for more than half of the hate crimes ($n=128$), whereas Gipuzkoa accounts for one fourth ($n=64$) and Araba a little less than one fifth ($n=44$). Likewise, there are 3 cases for which it has not been possible to identify the historical territory where they were committed and 2 cases that took place in other provinces (one in Cantabria and another in Asturias).



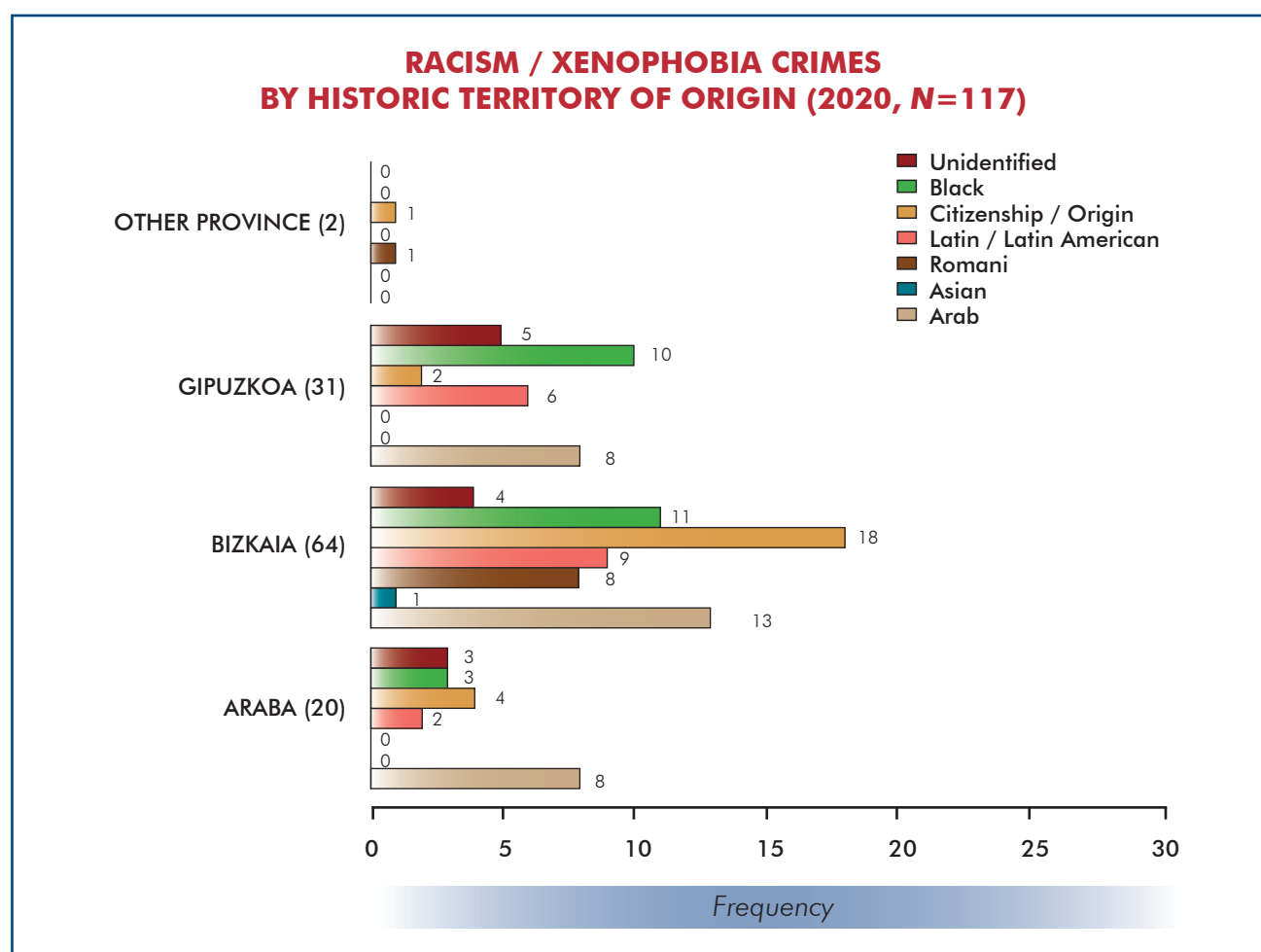
Below is the distribution of hate crimes by municipality⁸. The capitals of the historical territories stand out for the fifth consecutive year: Bilbao (n=43), Vitoria-Gasteiz (n=32) and Donostia-San Sebastian (n=15). Worthy of note are also the municipalities of Barakaldo (n=19, ranking even above Donostia-San Sebastian in the number of recorded cases) and Getxo (n=9), in Bizkaia, as well as Irun (n=10), in Gipuzkoa.



⁸ This chart exclusively shows the crimes that took place in the Basque Autonomous Community, leaving out those that, in spite of being recorded here, were merely reported in this territory but were not actually committed in the Basque Country.

The prevalence of these municipalities is not surprising since, according to data from the National Institute of Statistics, Barakaldo and Getxo are the second and third most populated municipalities in Bizkaia and, together with Bilbao, account for 45.66% of the population⁹. The same can be said about Irun, which is the second most populated municipality in Gipuzkoa and, together with Donostia-San Sebastian, accounts for 35.54% of the population of that historical territory¹⁰. This is in keeping with the research that shows that these crimes are usually committed in places with high volume, density or movement of people or lots of traffic¹¹.

If we focus exclusively on the 117 racist/xenophobic crimes, it can be seen that, in the line of the previous years, Bizkaia was the province with the most cases for the fifth consecutive year, with 64 of the 117 cases recorded (54.7%), whereas the cases recorded in Gipuzkoa increased significantly, with 31 cases (26.5%), twice as many as in 2019. Araba recorded 20 cases (17.09%), 4 times more than the previous year. Besides, there are two crimes for which the territory where they were committed has not been identified¹².



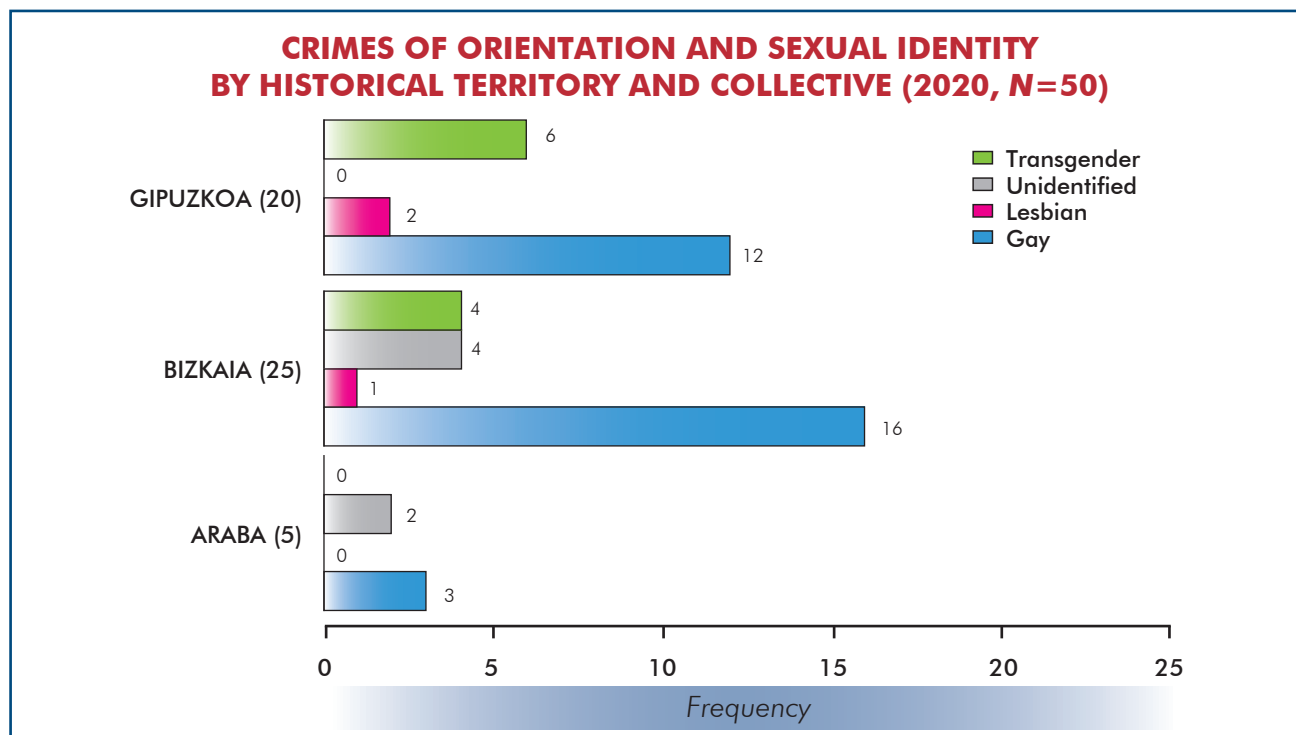
⁹ For further information visit the website of the NATIONAL INSTITUTE OF STATISTICS (INE), which has the official population figures of Bizkaia available for reference: <https://www.ine.es/jaxiT3/Datos.htm?t=2905#!tabs-tabla>.

¹⁰ For further information visit the website of the NATIONAL INSTITUTE OF STATISTICS (INE), which has the official population figures of Gipuzkoa available for reference: <https://www.ine.es/jaxiT3/Datos.htm?t=2873#!tabs-tabla>.

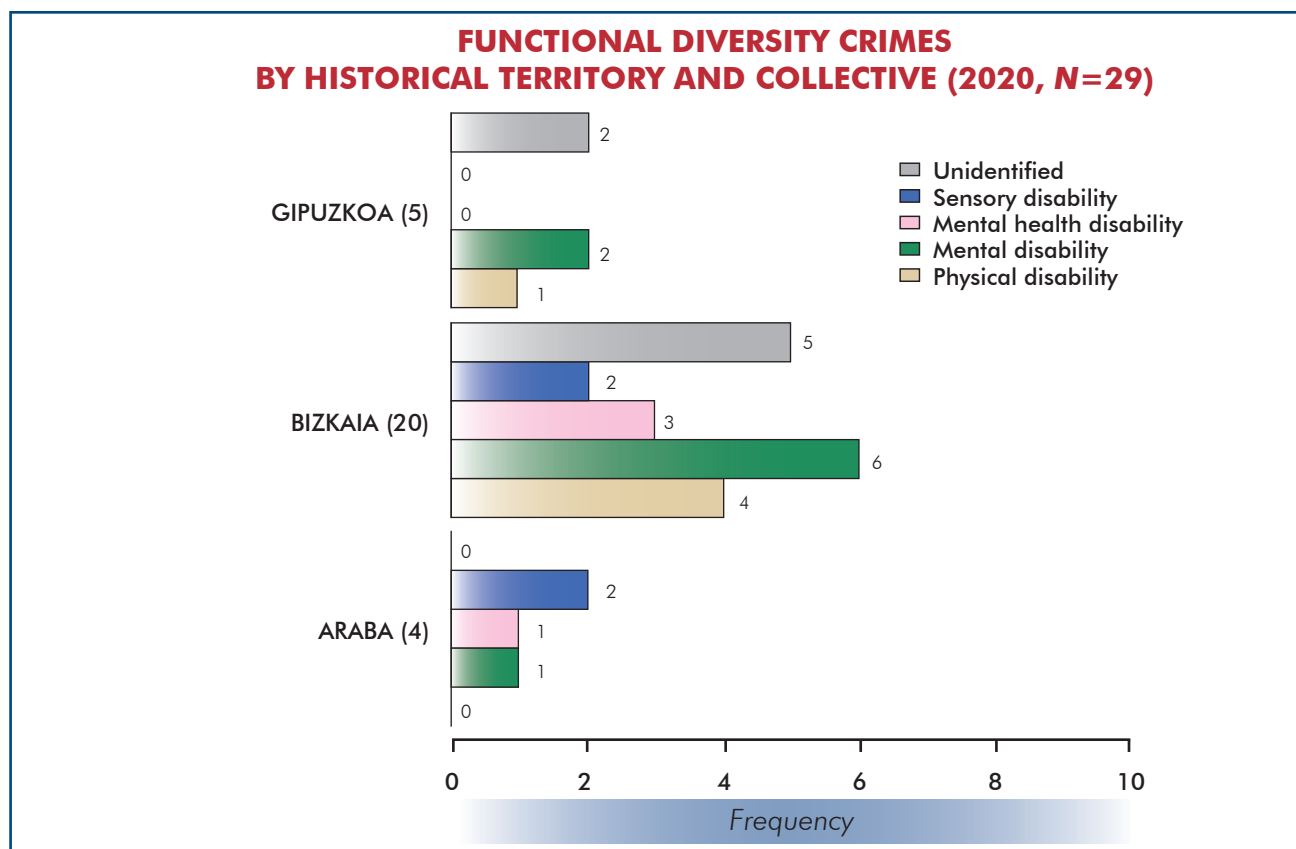
¹¹ IGANSKI, P., *Hate crime and the city*, Policy Press, Bristol, 2008, *passim*.

¹² Of these 3 hate crimes whose province of origin has not been identified, 2 were committed on the Internet (hence the impossibility of locating the territory where they were committed) and another was committed by phone. Besides, two other crimes were committed in a flat and another in a pub, situated in Asturias y Cantabria respectively, but were reported in the Basque Country.

On the other hand, if we consider the 50 hate crimes committed on the grounds of the sexual orientation of the victim, it can be seen that most of the incidents took place in Bizkaia (50%) and Gipuzkoa (40%).



As for those crimes committed on the grounds of the functional diversity of the victim, two thirds were recorded in Bizkaia (20 cases). Out of the remaining 9 cases, 4 took place in Araba and 5 in Gipuzkoa.



With respect to the 24 crimes recorded by the Ertzaintza and motivated by ideology and/or political orientation, 11 took place in Bizkaia, 8 in Araba, 3 in Gipuzkoa and 2 were not located.

The following table summarizes the historical territories where the hate crimes against the various groups were committed, as well as the variation with respect to the previous year.

	ARABA	BIZKAIA	GIPUZKOA	OTHER PROVINCES ¹³	TOTAL	+ - (2019)	%
ANTI-SEMITISM	-	-	1	-	1	-	0
BELIEFS / RELIGIOUS PRACTICES	-	1	-	-	1	-6	-85,71%
AGE	-	1	-	-	1	-	0
APOROPHOBIA	2	-	-	-	2	-1	-33,33%
SEX	5	6	4	1	16	13	433,33%
IDEOLOGY / POLITICAL ORIENTATION	8	11	3	2	24	6	33,33%
FUNCTIONAL DIVERSITY	4	20	5	-	29	23	383,33%
SEXUAL IDENTITY / ORIENTATION	5	25	20	-	50	37	284,62%
RACISM/XENOPHOBIA	20	64	31	2	117	62	112,73%
TOTAL	44	128	64	5	241	136	%129,52

The following chart also analyzes the distribution of hate crimes from the spatial point of view but, in this case, the focus is on the place where they were committed. As can be seen, public spaces account for over one third of the places, to be precise, 38.59% of the cases.

In any event, one may as well wonder about the exact location of those crime scenes classified as “public spaces”. Even though some places may be classified as public spaces in the strict sense (such as streets, paths, parks, etc.), various research has shown that what police statistics call public spaces are, on many occasions, places that are very close to the victim’s homes¹⁴. The fact that a high percentage of hate crimes take place in the victim’s home or its surroundings, is also crucial, since in these cases the psychological impact derived from the attack can be more intense¹⁵, and can even affect the victim’s family¹⁶.

Moreover, homes or dwellings account for 21.16% of the places where crimes are committed. If we add the spaces referred to as “other dwellings or communal areas”¹⁷, the total of hate crimes that took place in these spaces amounts to 25.31%.

¹³ The term “Other provinces” refers to those crimes that were committed in a place that has not been identified by the Ertzaintza (for example, because they were committed on the Internet), as well as those cases in which the crime was committed in another province but the complaint was filed in the Basque Country.

¹⁴ See, in this respect, the research by MASON, G., “Being hated: Stranger or familiar?”, *Social & Legal Studies*, Vol.14, no. 4, 2005, pages 593-594; and MC-DEVITT, J./BALBONI, J./GARCIA, L./GU, J., “Consequences for victims: A comparison of bias- and non-bias-motivated assaults”, *American Behavioral Scientist*, Vol.4, no. 4, 2001, *passim*.

¹⁵ SCHEPPELE, K. L./ BART, P. B., “Through women’s eyes: Defining danger in the wake of sexual assault”, *Journal of Social Issues*, Vol. 39, no. 2, 1983, *passim*.

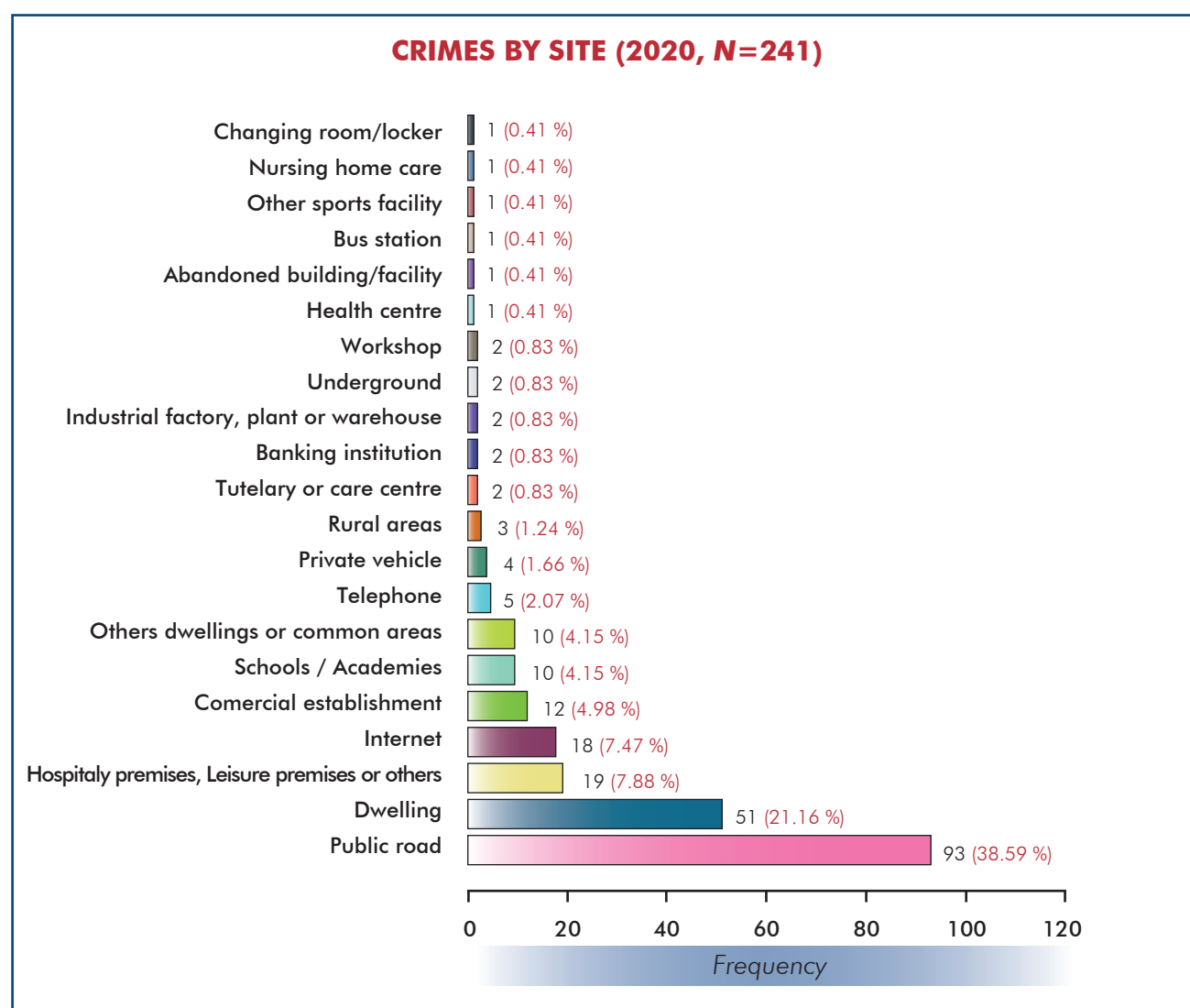
¹⁶ CHAKRABORTI, N./GARLAND, J./HARDY, S. J.,. *The Leicester hate crime project: Findings and conclusions*. University of Leicester, Leicester, 2014, *passim*. Online access <https://www2.le.ac.uk/departments/criminology/hate/documents/fc-full-report>

¹⁷ This section must be understood in the wide sense, since it comprises spaces close to the home itself, such as the building entrance, the stairs and landings, the mail box, etc.

In the third place, we find the establishments related to hospitality, leisure and the like, whose percentage has gone down by half. It must be remembered that these are the establishments that have most suffered the restrictions related to the pandemic, since they had to close on many occasions throughout the year 2020. Therefore, it is not surprising that the percentage of crimes in this setting has decreased.

A possible explanation to the above can be found in the routine activities of the victims, in such a way that the places that are most frequented by them in their daily lives, such as the area around their homes or the business establishments or food stores they usually go to are more likely to be the scene of the hate crime¹⁸.

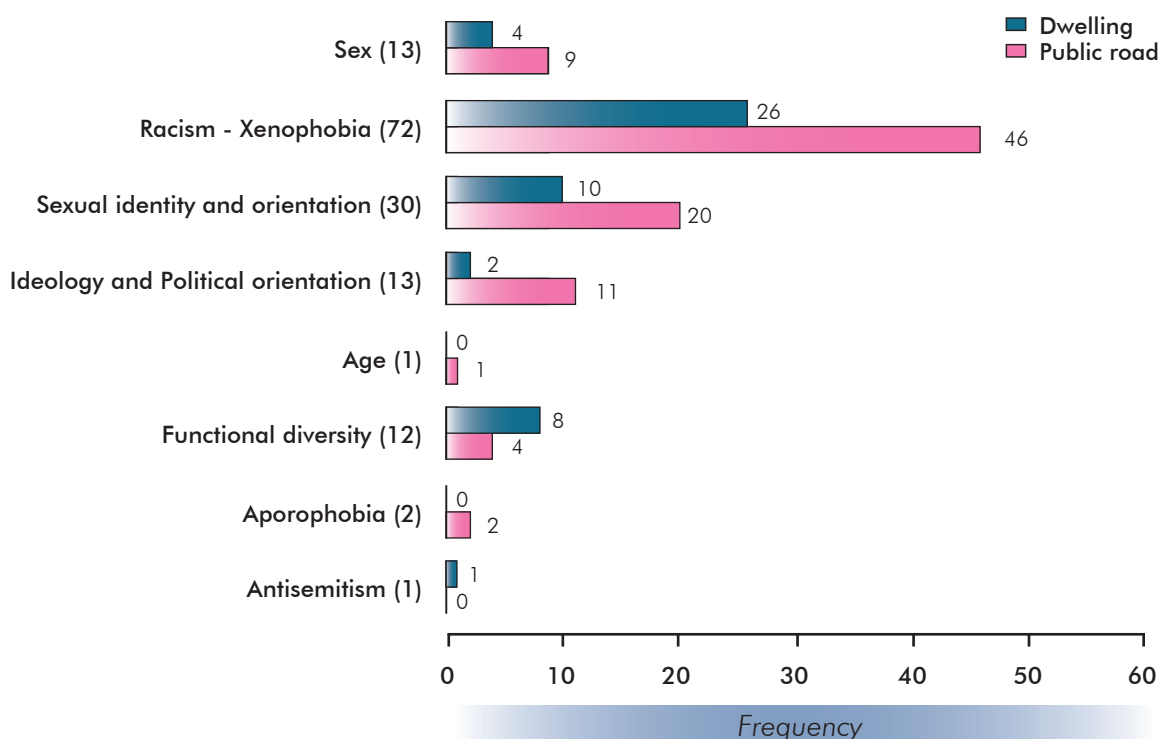
Internet takes the fourth place, accounting for 7.47% of the crimes. It is no surprise that the crimes committed in a virtual setting have trebled this year, the figure being basically as high as that of hospitality and leisure establishments. It is well known that the mobility restrictions introduced as a result of the Covid-19 pandemic have had an effect on this sphere and people have been encouraged to use the Internet as an alternative to carrying out certain activities face to face. In fact, out of the 18 incidents committed on the Internet, 38.9% (7 cases) took place in March, April and May.

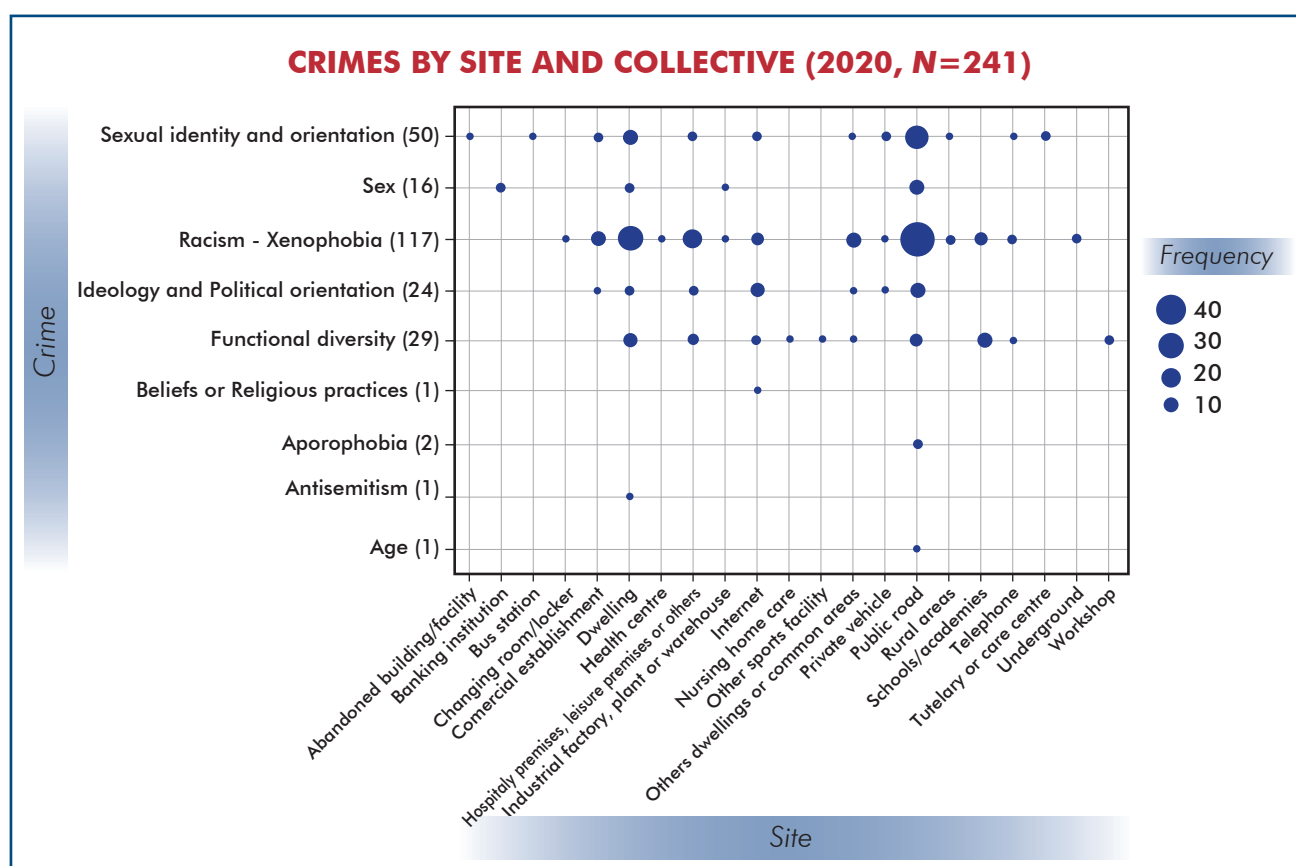


¹⁸ MCNEELEY, S./OVERSTREET, S. M., "Lifestyle-routine activities, neighbourhood context, and ethnic hate crime victimization", *Violence and Victims*, Vol. 33, 2018, pages 16 and ff.

Below are the data regarding the places where the crimes were committed by victimized group. To this end, a preferential place has been given to the most common crime scenes, that is, public spaces and dwellings, and a chart where all the crime scenes are broken down has been added for the first time. With respect to public spaces and dwellings, the conclusion is that in both places the most common hate crimes are the racist and xenophobic crimes (49.46% in the case of public spaces and 51% in the case of dwellings). It is striking that 27.6% of hate crimes based on the victim's functional diversity, 25% of the crimes based on the victim's sex, 22.22% of the racist/xenophobic crimes and 20% of the crimes based on sexual identity and orientation are committed at the victim's own home, in such a way that not even this space can be considered to be safe to take refuge against possible prejudiced attacks. In the same way, it is striking that, in the case of functional diversity, the second place where most incidents of this type occurred after the home is a teaching centre, and that this is one of the places where racist and xenophobic incidents usually take place (even though to a lesser extent than in other places).

CRIMES IN PUBLIC ROADS AND DWELLING BY GROUP (2020, N=144)

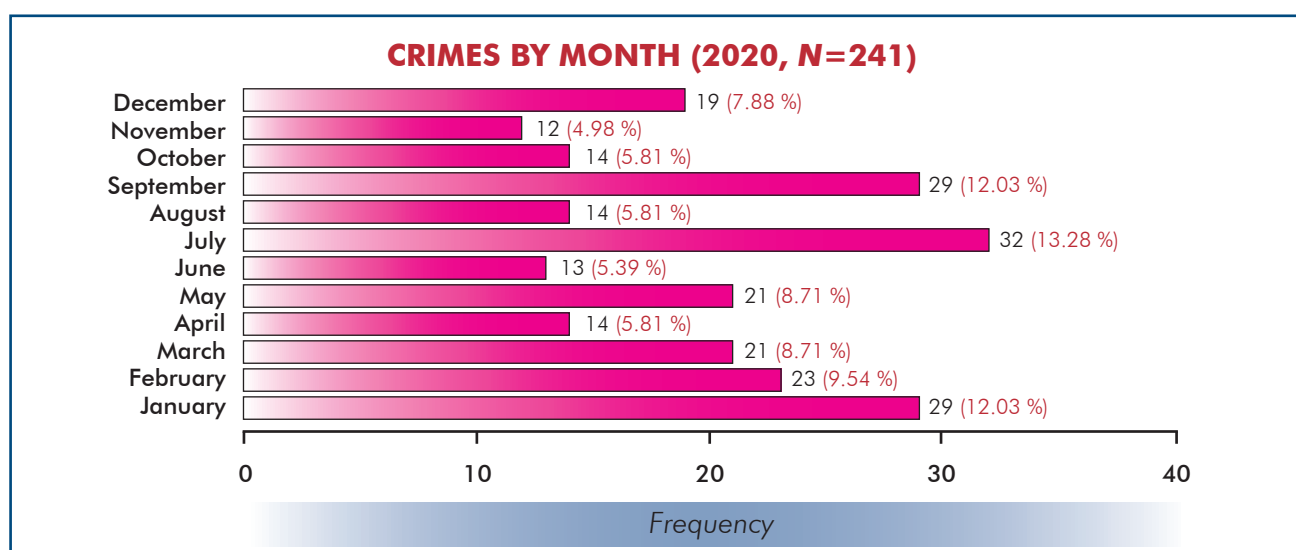




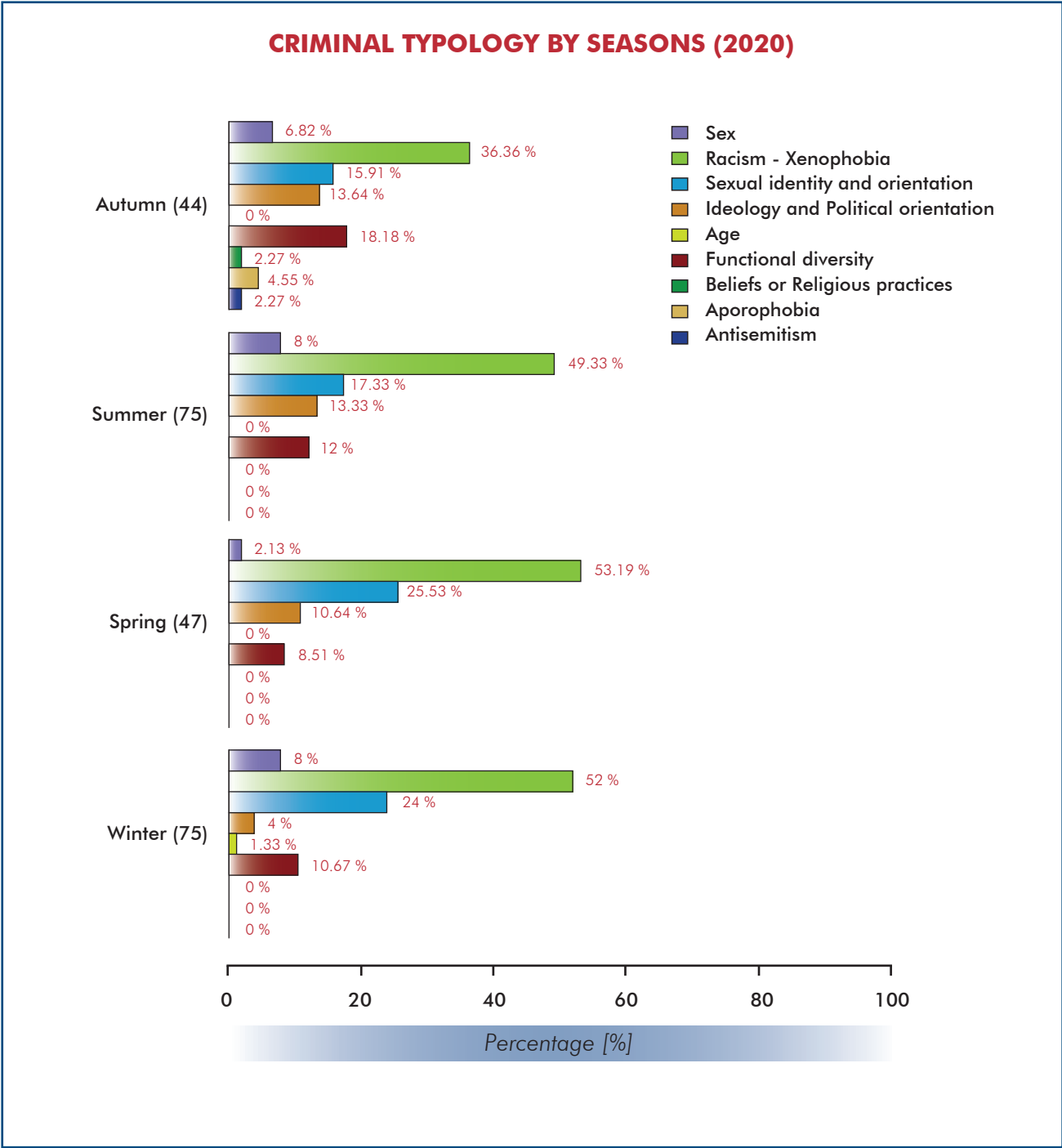
Likewise, 18 crimes committed on the Internet were identified, three times as many as the previous year, 6 (33.33%) were based on the victim's ideology and political orientation; 4 (22.22%) on the victim's sexual identity and orientation and on the victim's race/ethnicity respectively, 3 (16.67%) on their functional diversity and, the rest (5.56%), on their beliefs and religious practices.

1.1.3. Temporal distribution of hate crimes

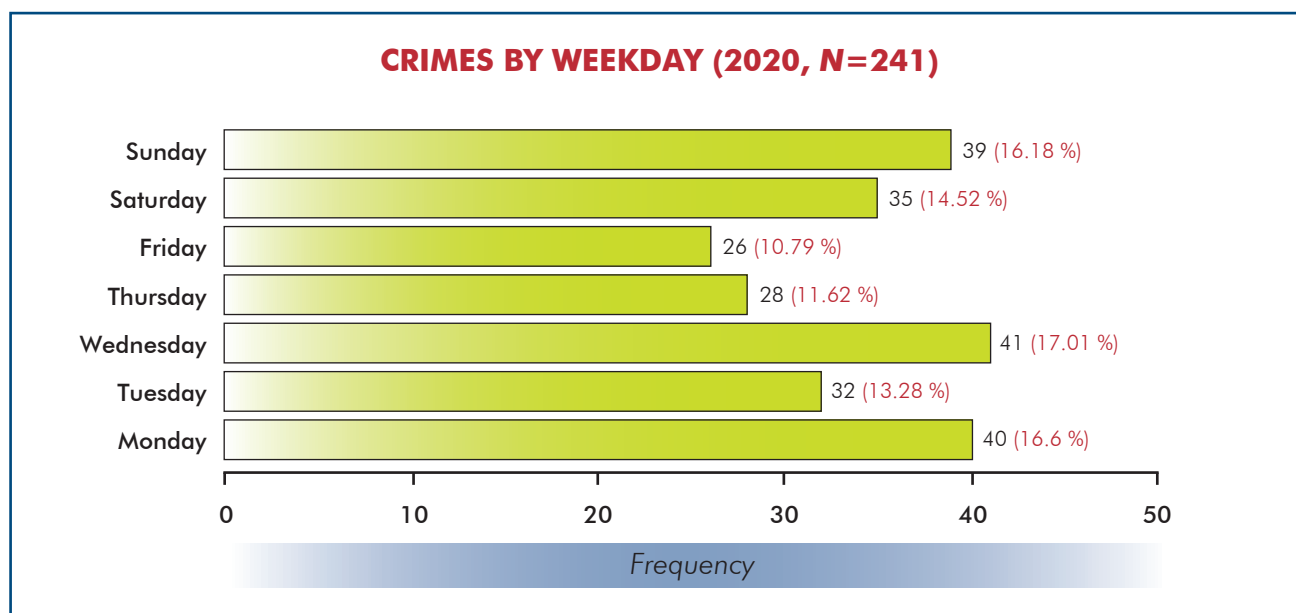
Below is the monthly, seasonal, weekly and hourly distribution of crime. First of all, the months in which more hate crimes occurred were July (13.28%), September and January (12.03% each) and February (9.54%).



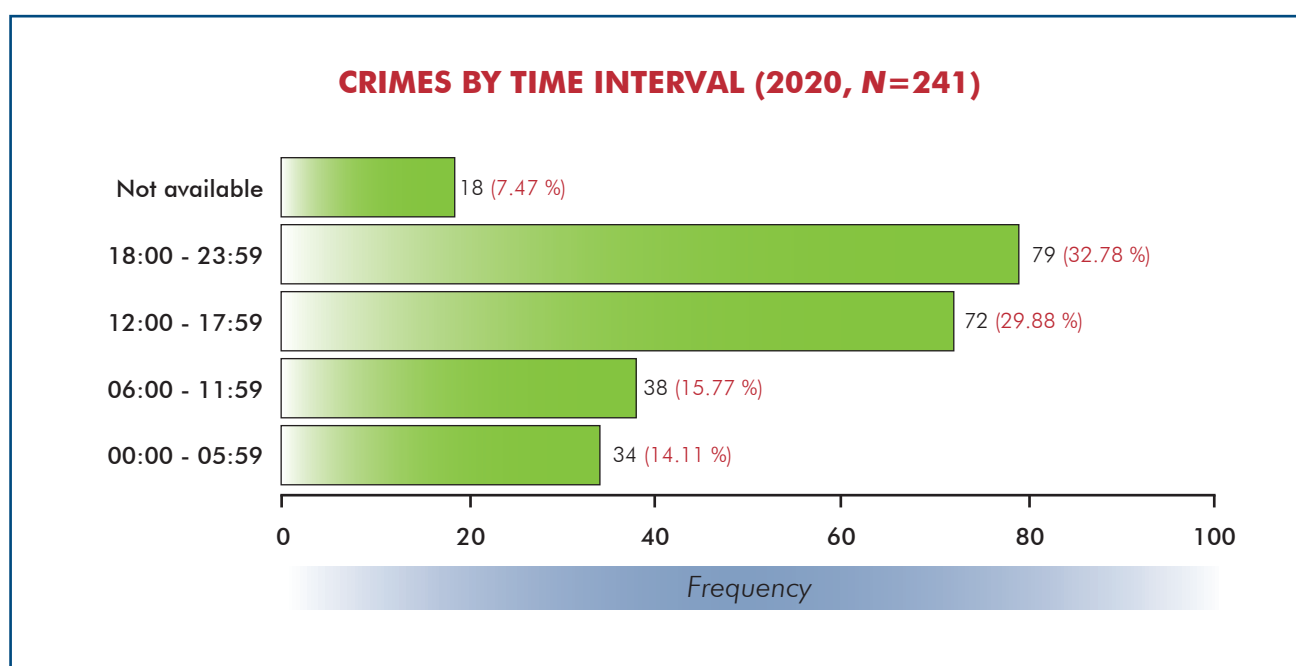
Secondly, there is an analysis of the distribution of crimes by the season of the year in which they were committed and the group of reference. As can be seen, racist or xenophobic hate crimes prevail in all the seasons with a relatively homogeneous percentage. Something similar happens with hate crimes based on sexual identity and orientation, as well as those based on the victim's functional diversity, whose percentage is quite similar in all the seasons. The analysis of the season as the unit of reference intended to explore the impact that the hardest confinement in the spring of 2020 may have had on the distribution of hate crimes and has shown that it had no incidence, at least with regard to the reported incidents.



Thirdly, the data regarding the weekly distribution show that most hate crimes occur on Wednesday (17.01%), Monday (16.6%) and Sunday (16.18%).

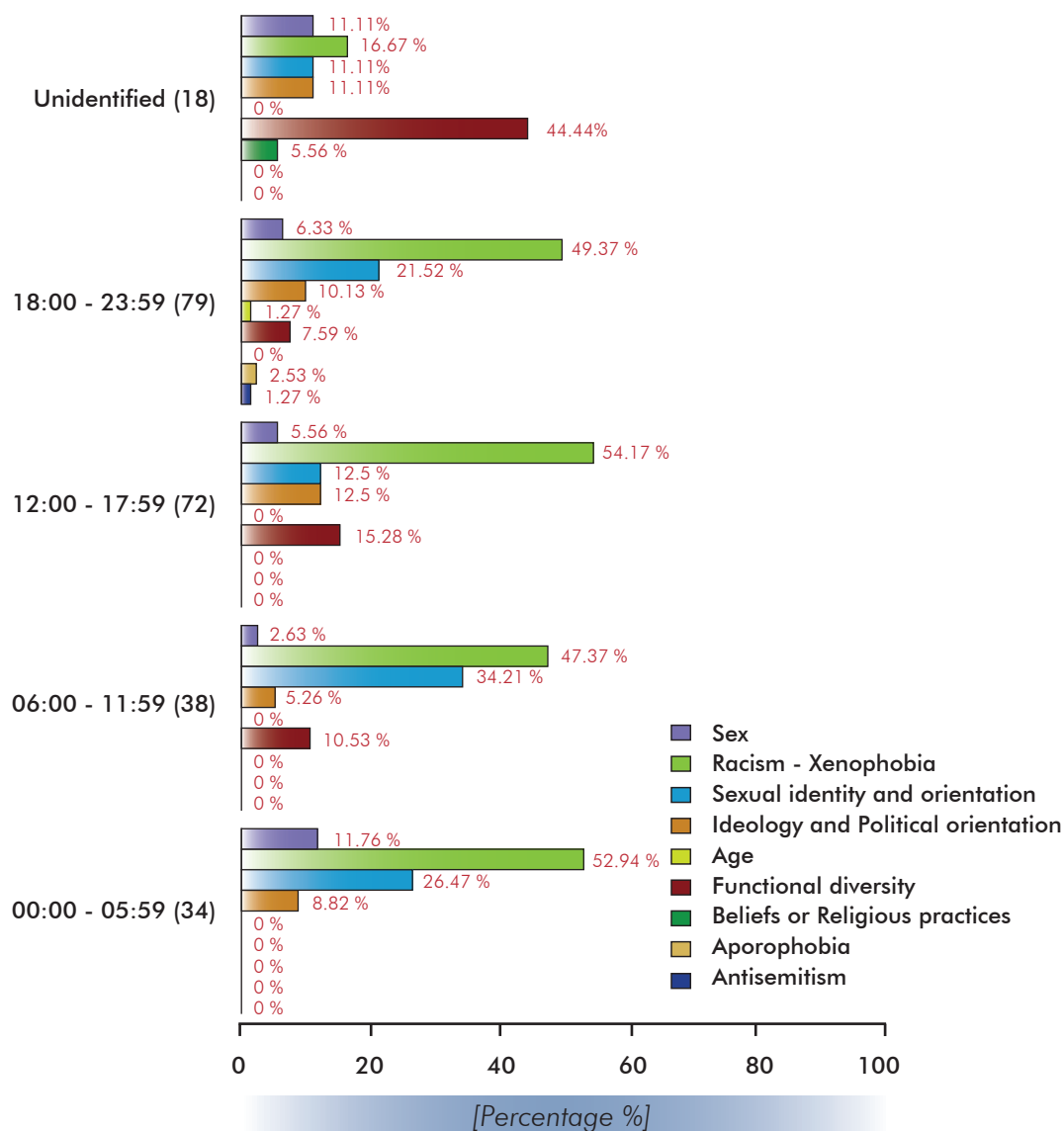


Finally, as regards the hourly distribution, most hate crimes occur, once again, in the evening (61%), with a percentage that is almost identical to that of the previous year. The explanation could be that it is precisely at this time when there is a higher volume or movement of people in the street, either returning from work or carrying out different leisure activities (such as going to pubs and shopping centres, doing sport, etc.) which makes it easier for victims and potential offenders to meet and clash. Moreover, this fact does not seem to have changed due to the curfew at 10 p.m.



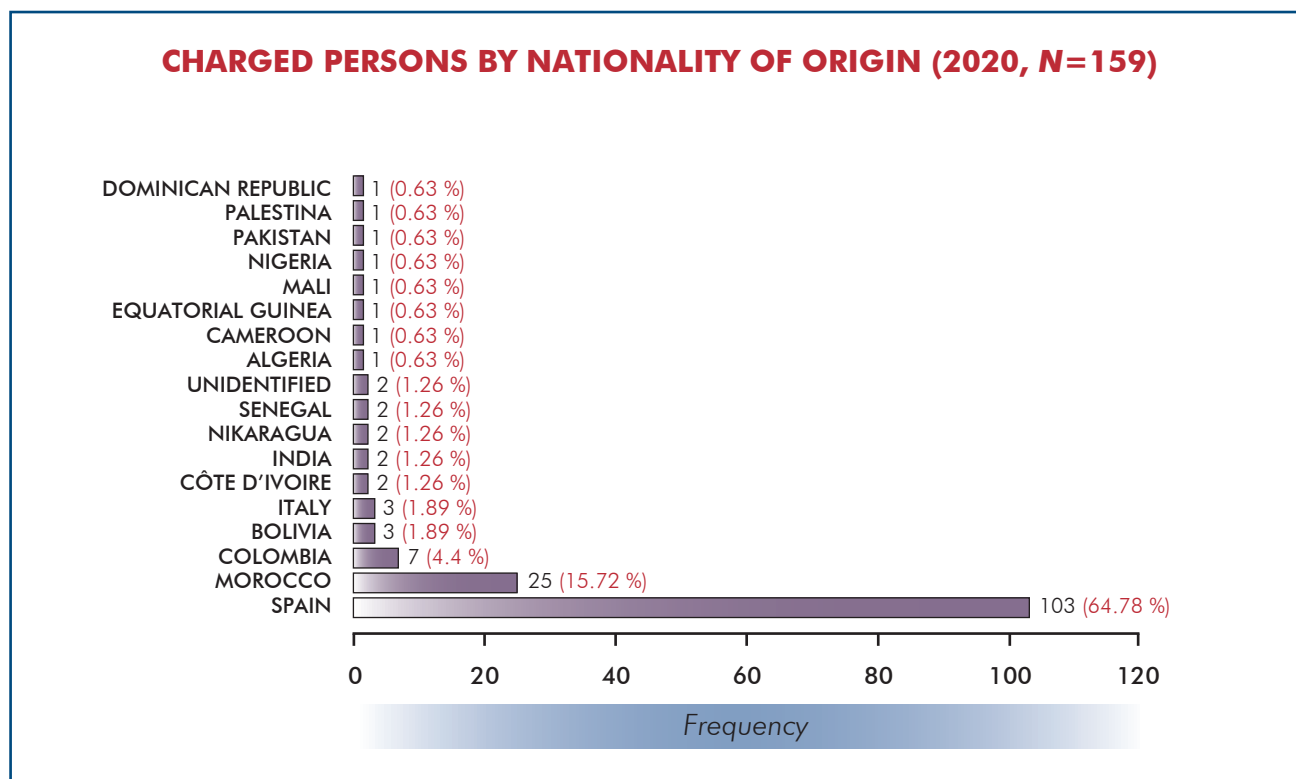
If the time intervals are broken down by group of reference, it can be seen that the crimes based on a racist/xenophobic motivation prevail in all the intervals (with the exception of Not Available), especially in the last two time intervals (12:00-23:59), when 66.67% of the crimes of this type take place. These intervals, perhaps due to what was explained in the previous paragraph, account for 52% of the hate crimes based on sexual identity and orientation, 70.83% of the crimes based on ideology and political orientation, 58.62% of the crimes based on functional diversity and 56% of the crimes based on sex, as well as all the crimes based on age, aporophobia and anti-Semitism. As for functional diversity, it is noteworthy that in almost 30% of the cases it is not possible to know the time interval in which the crime was committed.

CRIMINAL TYPOLOGY BY TIMEFRAME (2020)



1.2. DISTRIBUTION OF CHARGES¹⁹

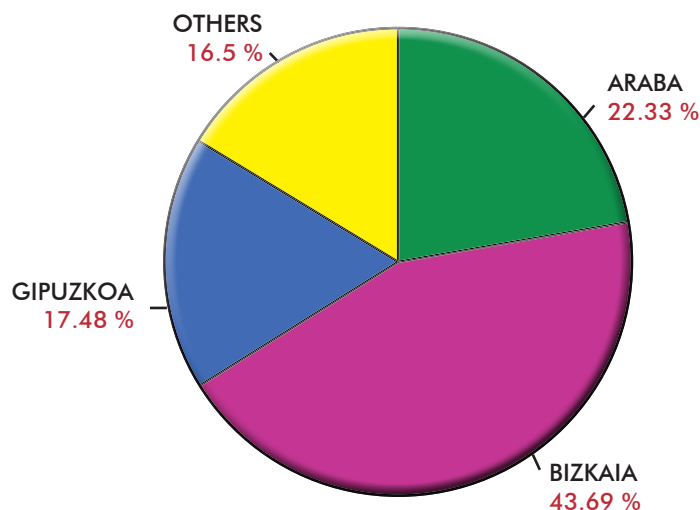
With regard to the people charged²⁰, the following chart shows that more than half are Spanish (63.52%): 101 of 159 total, 86 of whom are from the Basque Country (85.15%). As for the rest of those charged, 58, are foreigners (36.47%), most of them from Africa (58.62%) and, to a lesser extent, from Central and South America (22.41%).



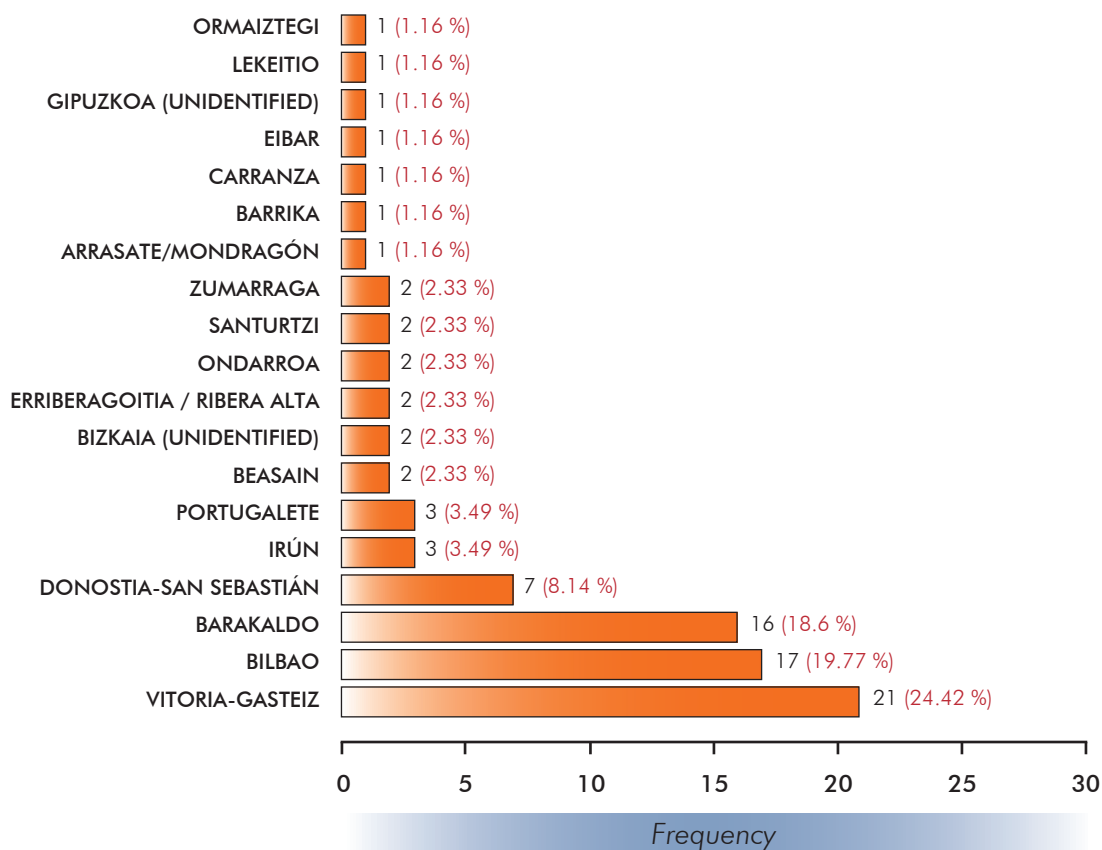
With regard to the historical territory of origin within the Spanish State, the number of people charged from Bizkaia has increased considerably as compared to the previous year, rising from one third to almost half of the cases (43.69%), with 45 charges –out of the 86 from the Basque Country (52.32%). Nevertheless, the most significant increase took place in Araba, going from just over one tenth of the total in 2019 to one fourth in 2020 (26.74%). However, in Gipuzkoa, we find the opposite, since the number of charges from this historical territory went down to one fifth of the total (20.93%).

¹⁹ Charged persons –or persons under investigation, after the reform of the Code of Criminal Procedure by Organic Law 13/2015–, are those who have been charged with committing a crime and with regard to whom the Ertzaintza has opened an investigation.

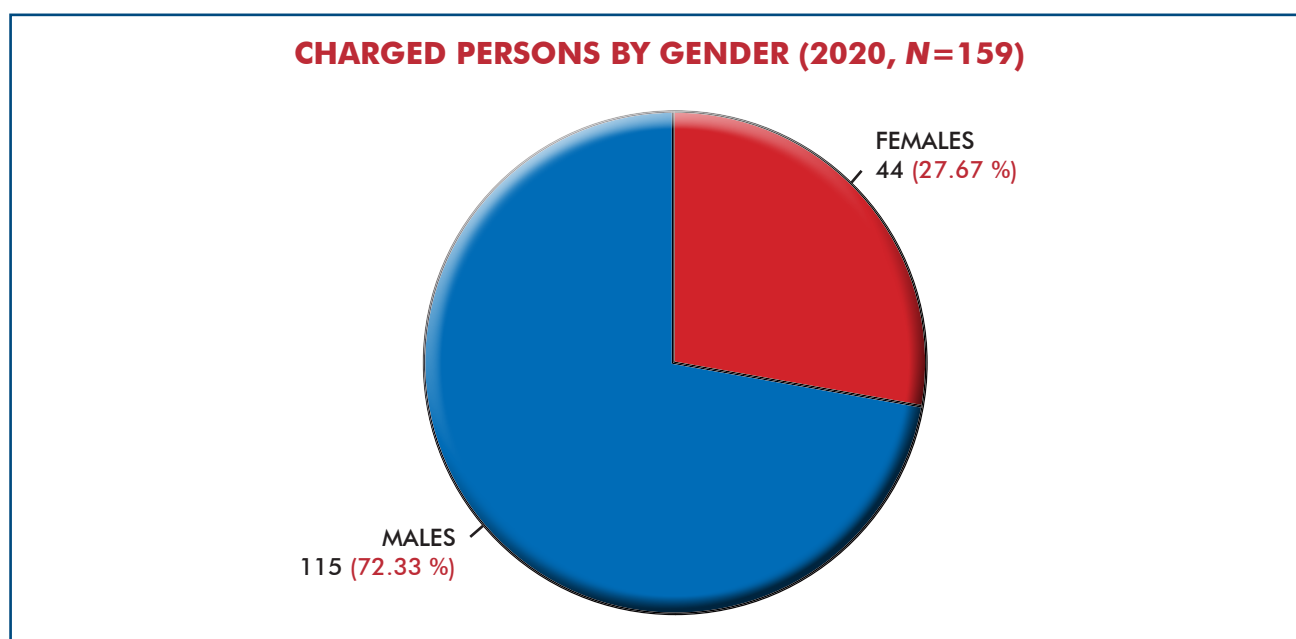
²⁰ The figures correspond to people charged that were identified by the Ertzaintza, regardless of their place of origin. It must be taken into account that in 90 out of the 241 crimes, the perpetrator could not be identified (37.19%) and, therefore, he/she was not classified as either charged or arrested. Likewise, there are many cases in which more than one person was charged/arrested for each crime. Moreover, for the purposes of this research, those who have committed a hate crime and whose place of origin is situated in this territory but have not committed the hate crime in this territory will not be taken into account.

CHARGED PERSONS BY HISTORIC TERRITORY OF ORIGIN (2020, N=103)

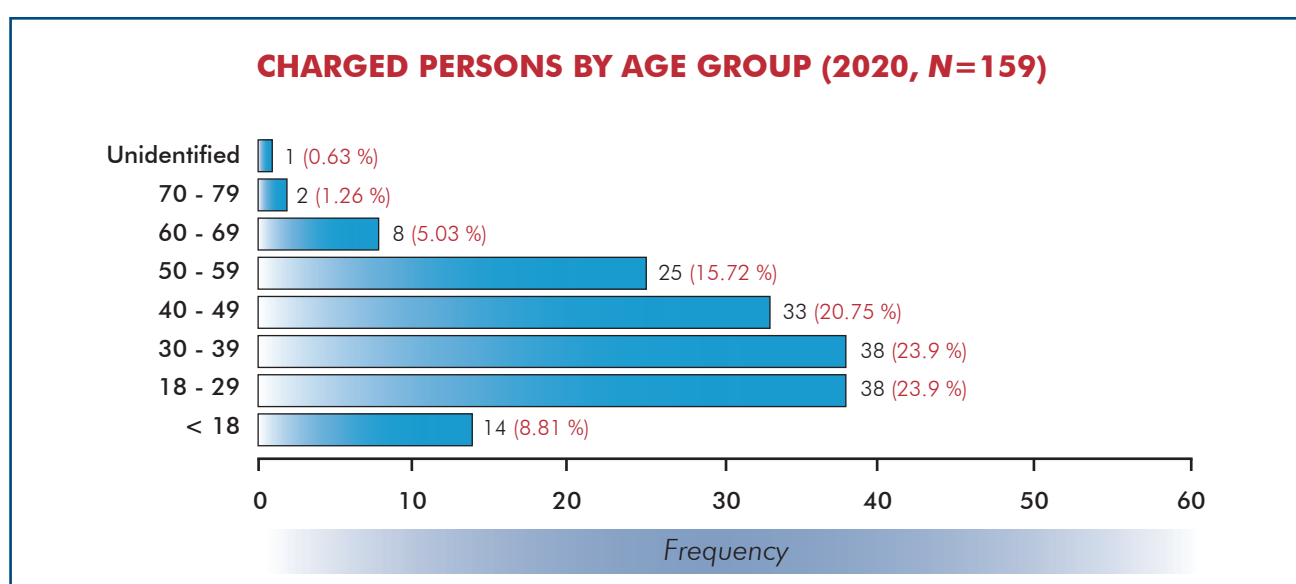
Below is the distribution of investigations by municipality. For the fifth consecutive year, the cities that stand out are the capitals of the historical territories, Vitoria-Gasteiz $n=21$, Bilbao $n=17$ and Donostia-San Sebastián $n=7$. Moreover, it can be seen that the municipality of origin of almost one fifth of the persons charged is also one of the main cities of Bizkaia, i.e. Barakaldo $n=16$.

CHARGED PERSONS BY MUNICIPALITY OF ORIGIN IN BASQUE COUNTRY (2020, N=86)

As for the distribution by gender, the following chart shows that 44 women (27.67%) and 115 men (72.32%) were charged in 2020. It is worth noting that the percentage of women charged has decreased considerably as compared to the previous year, standing at a figure almost identical to that of the 3 preceding years.

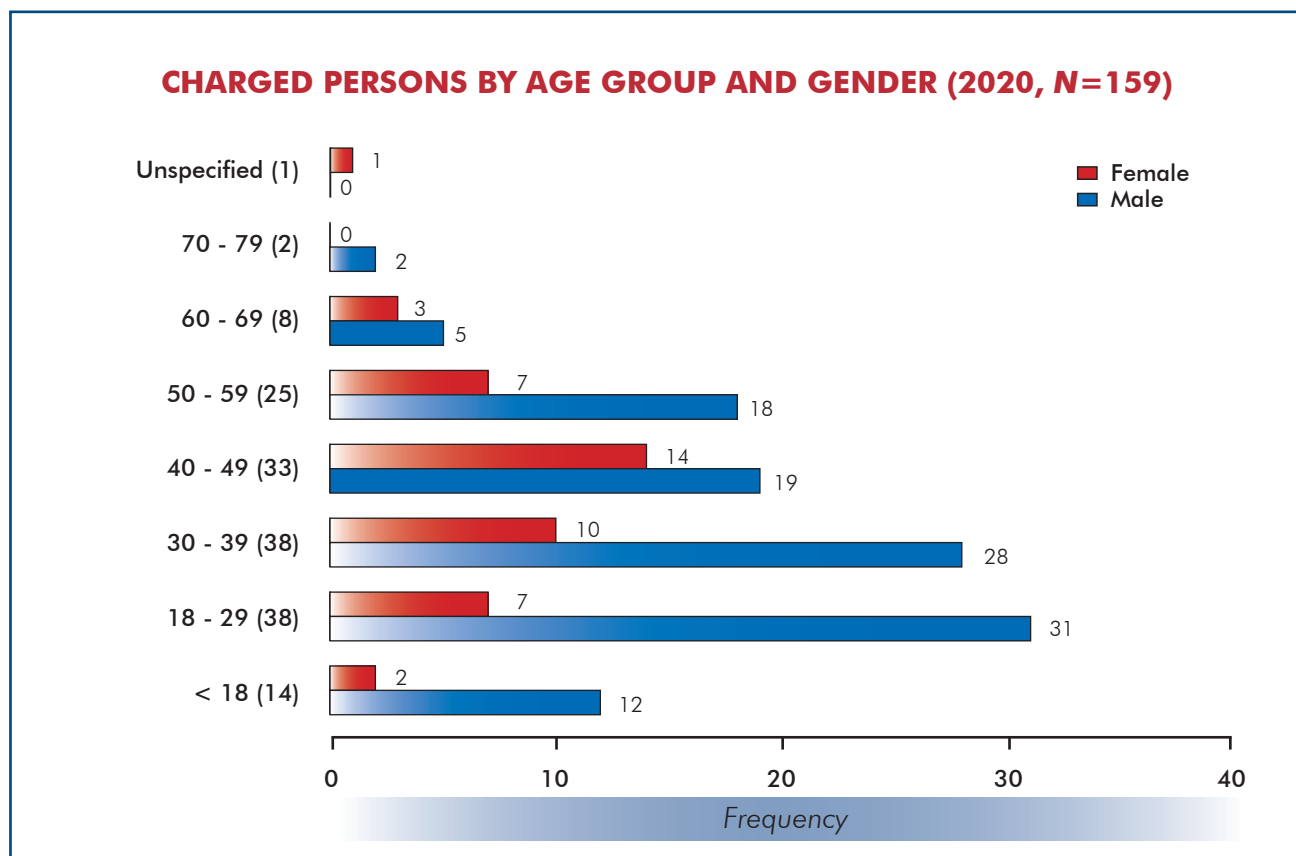


With regard to the age of those charged, the average is 37.3 years²¹, and the age range is between 14 and 72 years. A decrease to levels that had not been recorded since 2017 can be noticed, especially as regards the highest age range. The charges are distributed in a relatively homogeneous manner amongst the following ranges: 18-29 years (23.9%), 30-39 years (23.9%), 40-49 years (20.75%) and 50-59 years (15.72%), which account for 84.27% of the cases. This is similar to the figure obtained in 2019. As for the rest of the age groups, people over 60 account for the remaining 6.92%. Likewise, it must be pointed out that the age group <18 has decreased considerably, going from 20 persons charged in 2019 to 14 in 2020 (8.81%).

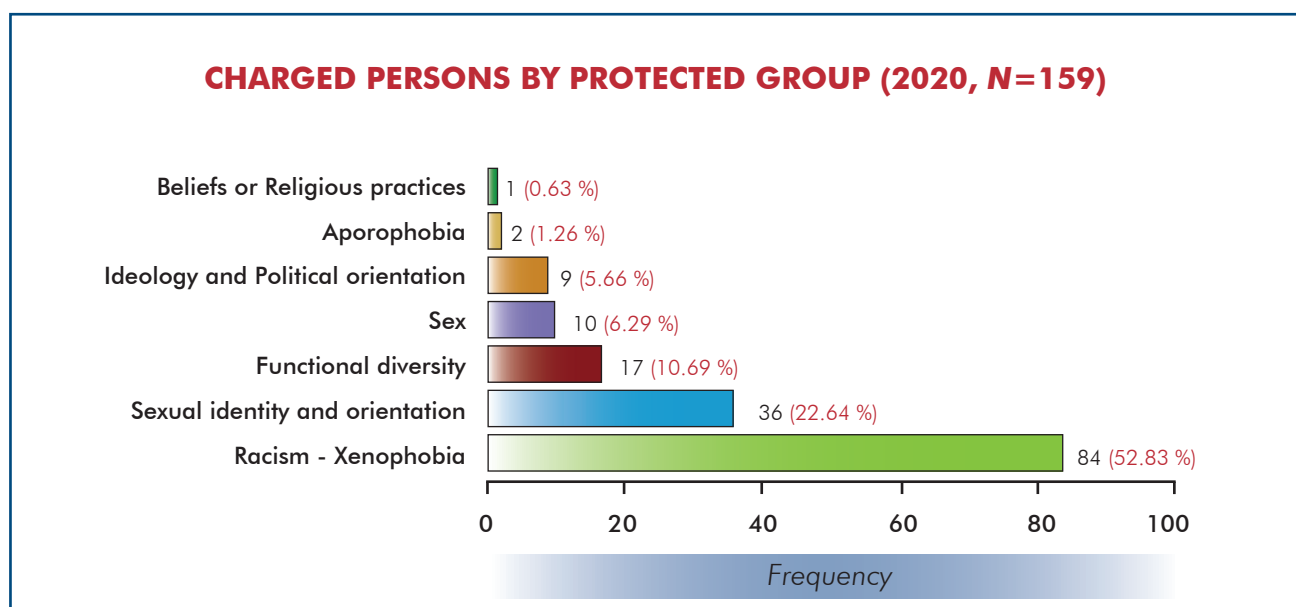


²¹ The average age must be considered with caution, since in the case of one of the persons under investigation it has not been possible to know the age and, therefore, it has not been taken into account when calculating the average.

Furthermore, if these data are broken down by gender, we can see that men prevail by far in the lowest 3 age ranges. In fact, most of the male offenders are younger than 40 (61.74%), whereas this figure goes down to 43.18% in the case of women.

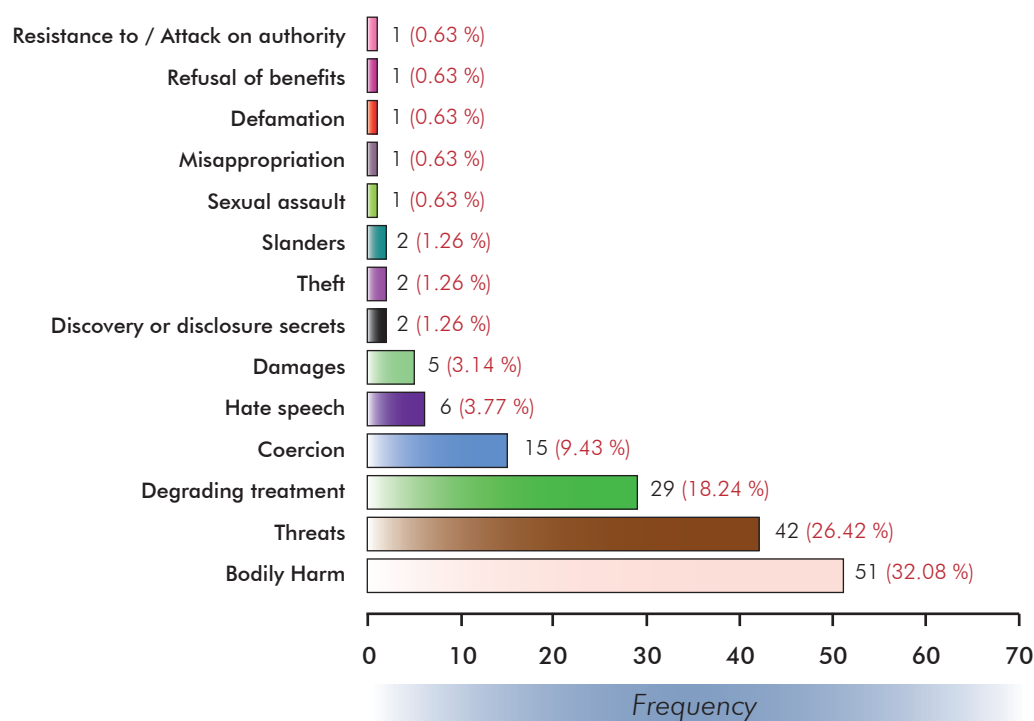


Likewise, the following chart shows that most of the charges lie within the sphere of racism ($n=84$, 52.83%), which is not surprising if we take into account that a very similar percentage of hate crimes were committed with this motivation (48.55%). They are followed by those investigations based on hate crimes relating to the victim's sexual identity and orientation ($n=36$, 22.64%), functional diversity ($n=17$, 10.69%), sex ($n=10$, 6.29%).



Finally, with regard to the distribution of those charged by crime type²², unlike the previous year, most of the charges were related to bodily harm (32.06%), which, as stated above, is the most prevalent crime category. They are followed by those charged with threats (26.42%) and degrading treatment (18.24%).

CHARGED PERSONS BY CRIMINAL TYPOLOGY (2020, N=159)

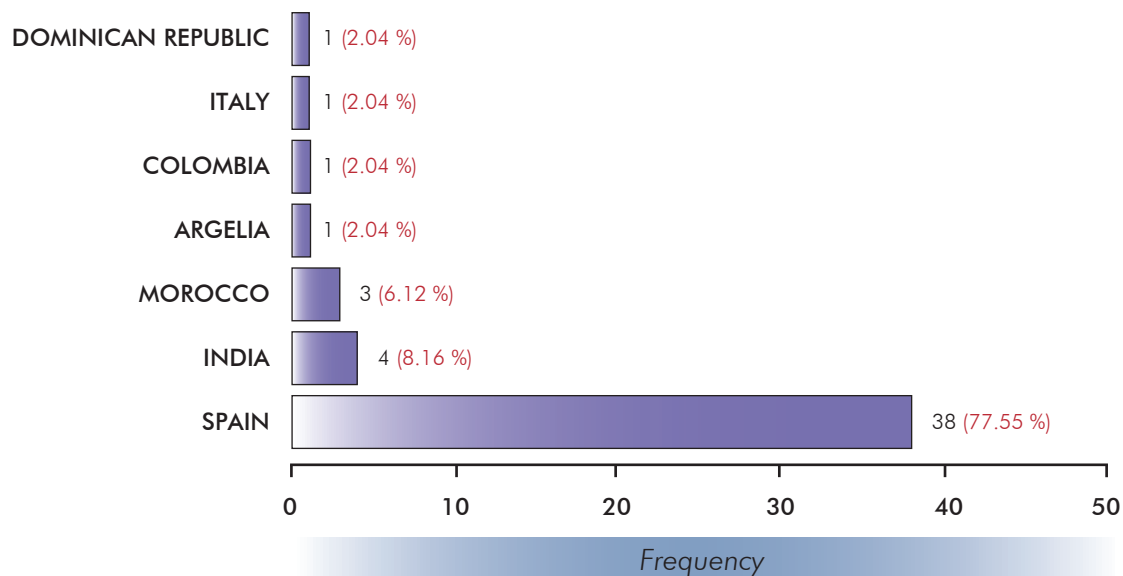


1.3. DISTRIBUTION OF ARRESTS

In 2020 the Ertzaintza arrested a total of 49 people, a figure that sextuples that of the previous year. Below is the analysis of the origin of the arrested persons. The figures show greater heterogeneity as compared to the previous year, since more than one fifth are foreigners ($n= 11$, 22.45%). Standing out among the arrested foreign nationals are those from India and Morocco (8.16% and 6.12% of the total).

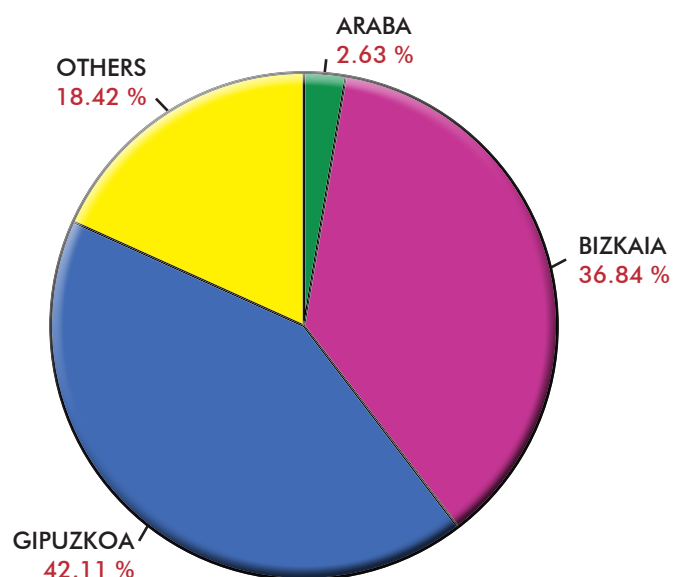
²² To have a global view of the number of offenders by crime type it is also necessary to take into account the chart of arrested persons.

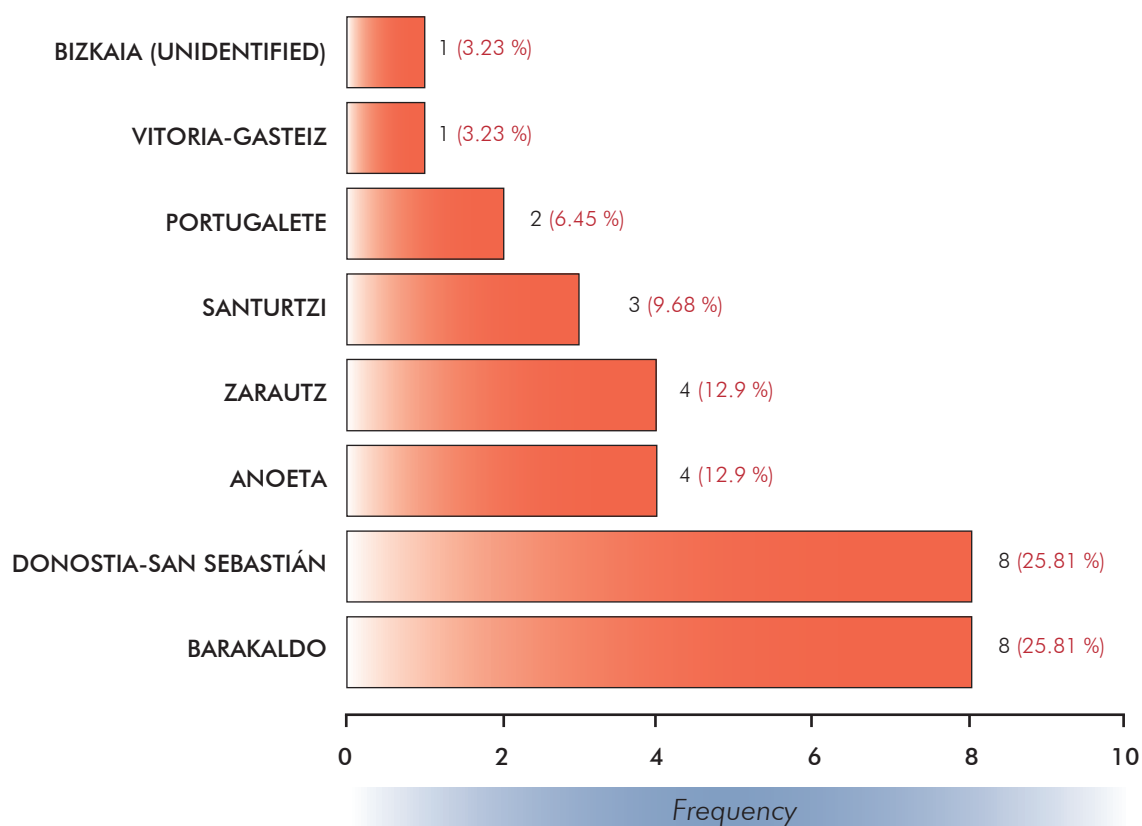
CHARGED PERSONS BY NATIONALITY OF ORIGIN (2020, N=49)



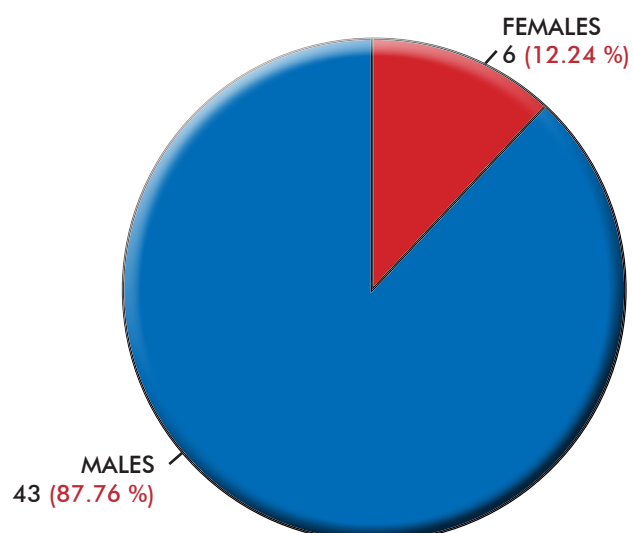
Among the Spanish nationals arrested, 81.58% come from the Basque Country. Almost all the arrested persons of Basque origin come from Gipuzkoa (42.11%) and Bizkaia (36.84%), especially from two of their most populated municipalities, Donostia-San Sebastian ($n=8$, 25.81%) and Barakaldo ($n=8$, 25.81%). It is noticeable that none of the arrested persons comes from Bilbao, despite the fact that almost half of them were from Bizkaia.

ARRESTED PERSONS BY HISTORIC TERRITORY OF ORIGIN (2020, N=38)

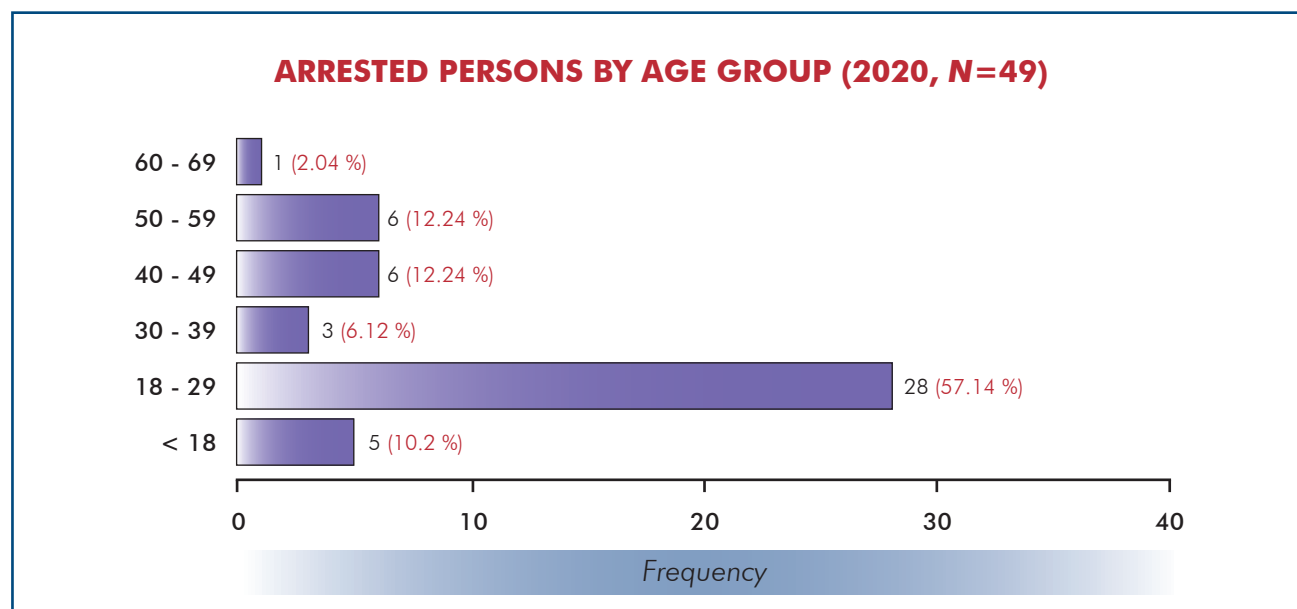


ARRESTED PERSONS BY MUNICIPALITY OF ORIGIN (2020, N=31)

Demographically speaking, it must be noted that most of those arrested were men (87.76%), but not all, unlike in 2017, 2018 and 2019.

CHARGED PERSONS BY GENDER (2020, N=49)

Their average age is 28.5 years, a much lower figure than that of the previous year, and the age range is between 15 and 63 years. As for the distribution of the age ranges, the following chart shows a significant prevalence of those aged between 18 and 29 (57.14%), much more prevailing than in 2019. As for the rest of those arrested, they are distributed in the following age ranges: under 18 (10.2%), 30-39 years (6.12%), 40-49 years (12.24%), 50-59 years (12.24%) and 60-69 years (2.04%).



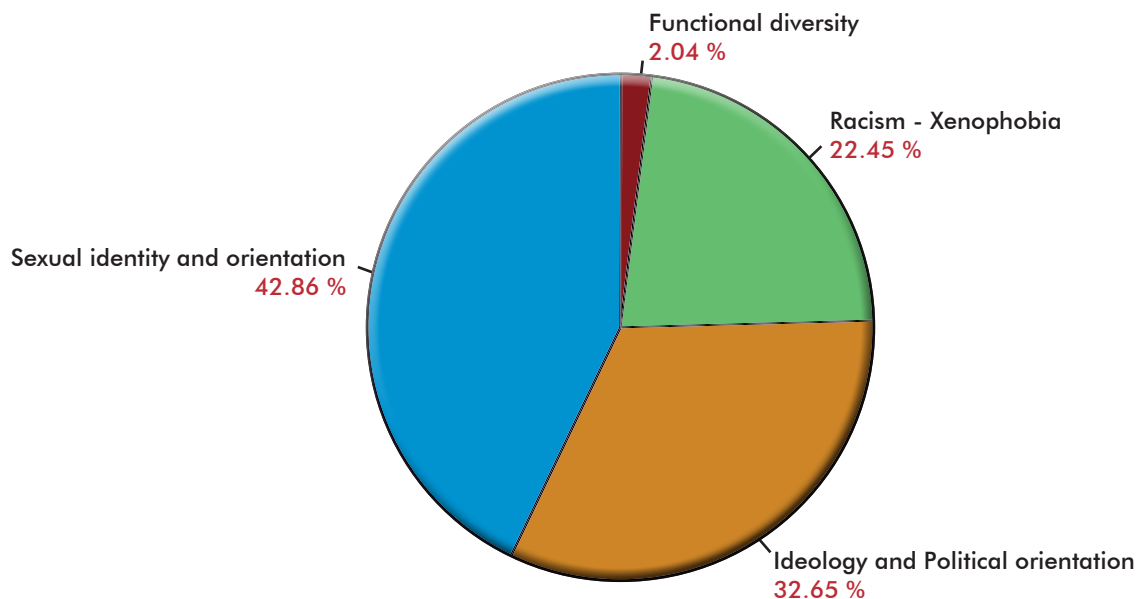
If we take a look at the categories with more arrests, we see that, this year, arrests are distributed in a more homogeneous manner amongst the most attacked target groups. However, it is striking that most of the arrests lie within the sphere of sexual identity and orientation (42.86%), even though they represent 20.66% of the hate crimes recorded. The same can be said about the people arrested on the grounds of ideology and political orientation, since they account for one third of those arrested (32.65%), even though they hardly represent 10% of the hate crimes recorded.

Below are the arrests made within the sphere of racism and xenophobia (22.45%). Even though this is the most victimized group (accounting for 50% of the cases), the arrests that take place within this sphere hardly represent one fifth (even though they suffer 57.75% of the bodily harm and 56.6% of the threats). In an attempt to explain why there have been so few arrests in this sphere, it can be said that, even though this type of hate crime is the most reported as compared to other crimes (such as those motivated by the victim's sexual identity and orientation²³), they are not usually the most violent or serious²⁴. Thus, the lesser seriousness of the crime may lead to the perpetrator not being arrested, in spite of having been charged.

²³ DUNBAR, E., "Race, gender, and sexual orientation in hate crime victimization: Identity politics or identity risk? *Violence and Victims*, Vol. 21, no. 3, 2006, pages 32 and ff.

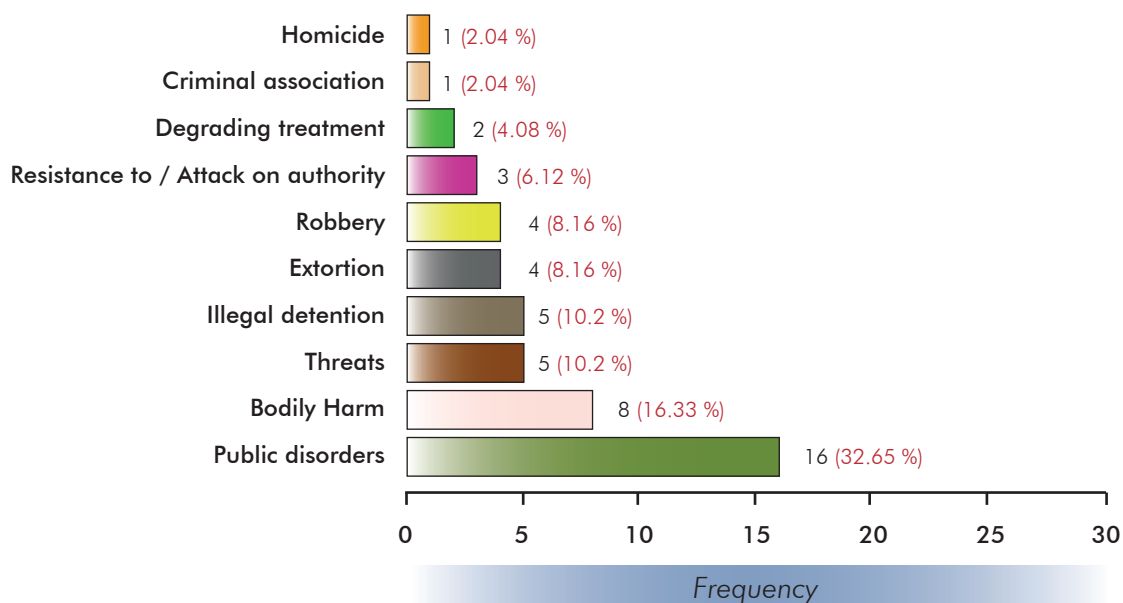
²⁴ CRÈVECOEUR-MACPHAIL, D. A., "Sociodemographic profiles of hate crime offenders", in DUNBAR, E./AMALIO BLANCO, A./CRÈVECOEUR-MACPHAIL, D. A. (Eds.), *The psychology of hate crimes as domestic terrorism: U.S. and global issues. Volume 2: Assessment issues with victims and offenders*, Praeger, Santa Barbara, CA, 2017, *passim*.

ARRESTED PERSONS BY PROTECTED GROUP (2020, N=49)



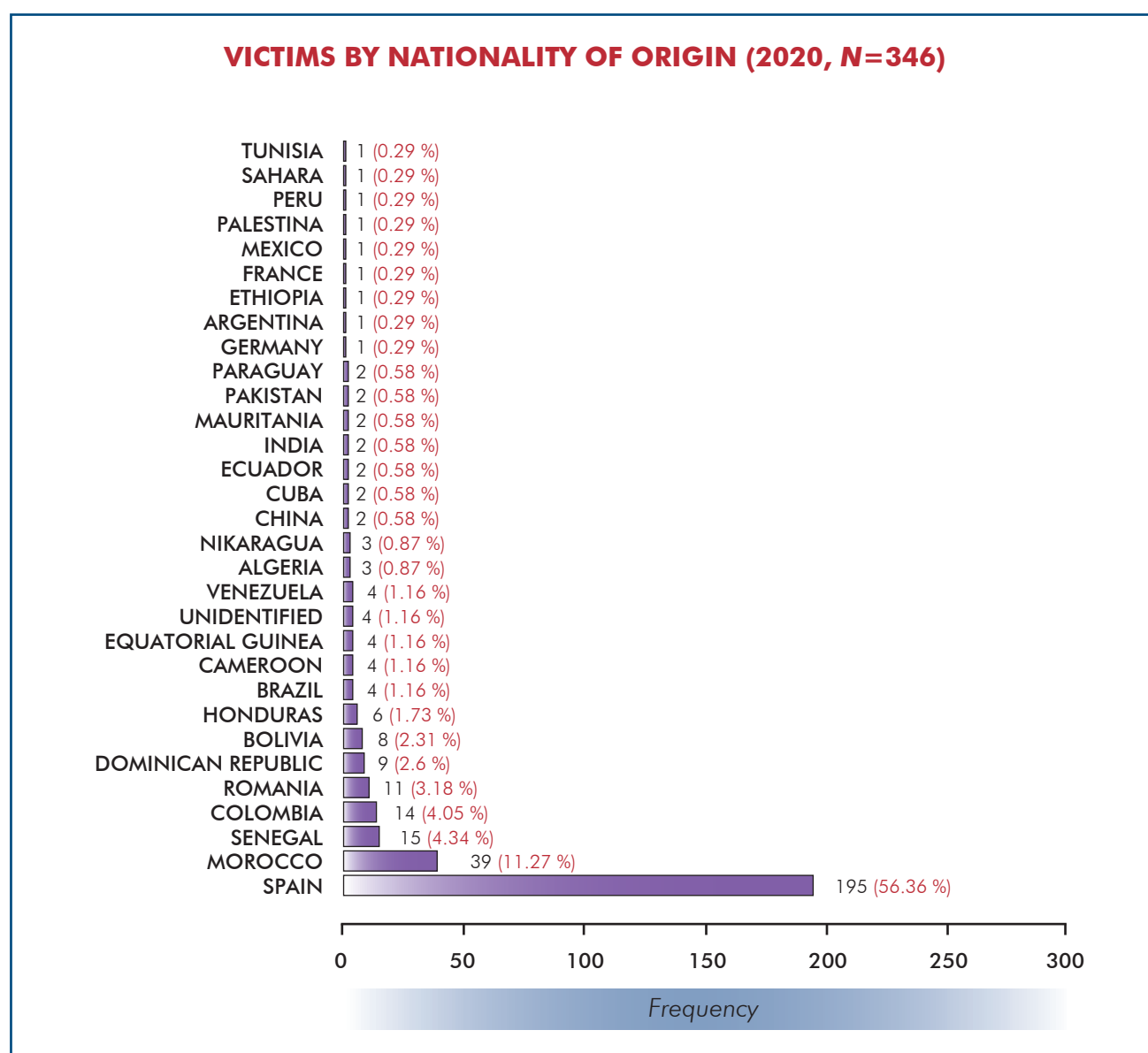
Finally, with regard to the distribution of arrested persons by crime type, the following chart shows that public disorder (32.65%) and bodily harm (16.33%) stand out as the types for which more people have been arrested. Particularly noteworthy is the case of public disorder, considering that the only incident of this type that was recorded ended with 16 persons being arrested. The fact that there have only been 8 arrests for bodily harm in spite of its being the most prevalent crime type is also worthy of note.

ARRESTED PERSONS BY CRIMINAL TYPOLOGY (2020, N=49)



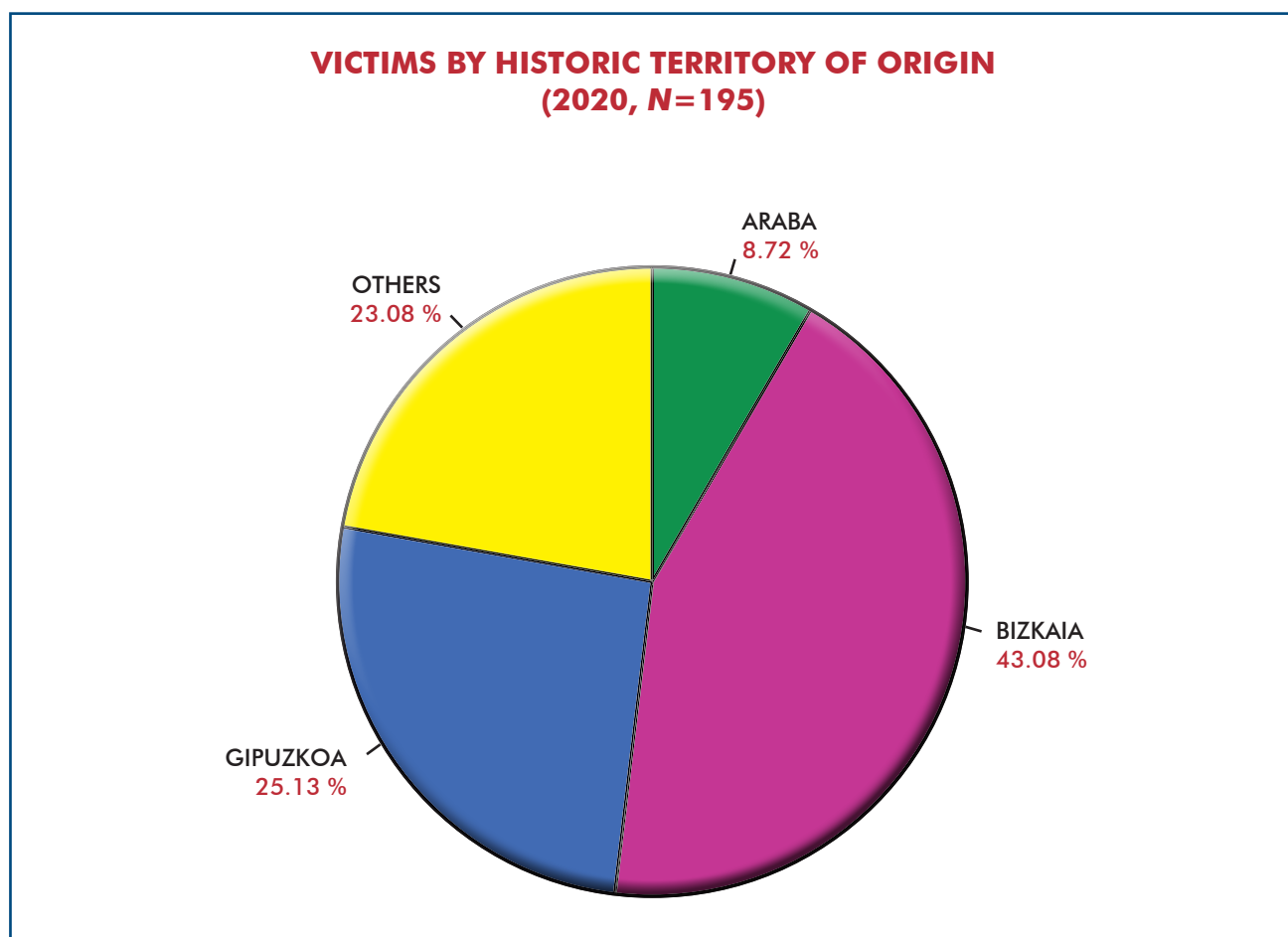
1.4. DISTRIBUTION OF VICTIMIZATIONS²⁵

56.36% of the victims are of Spanish nationality (195 out of 346), most of whom, almost 76.92% of the cases, are from the Basque Country (150 cases). On the other hand, foreign victims account for less than the remaining half (around 43.64%, 151 cases). With regard to the latter, the victims from Latin America and Africa are the most numerous (16.47% and 20.23% of the total respectively). As for the victims from Africa, like the previous year, it is important to highlight the strong presence of people of Moroccan origin, who account for 11.27% of the victims of hate crimes.

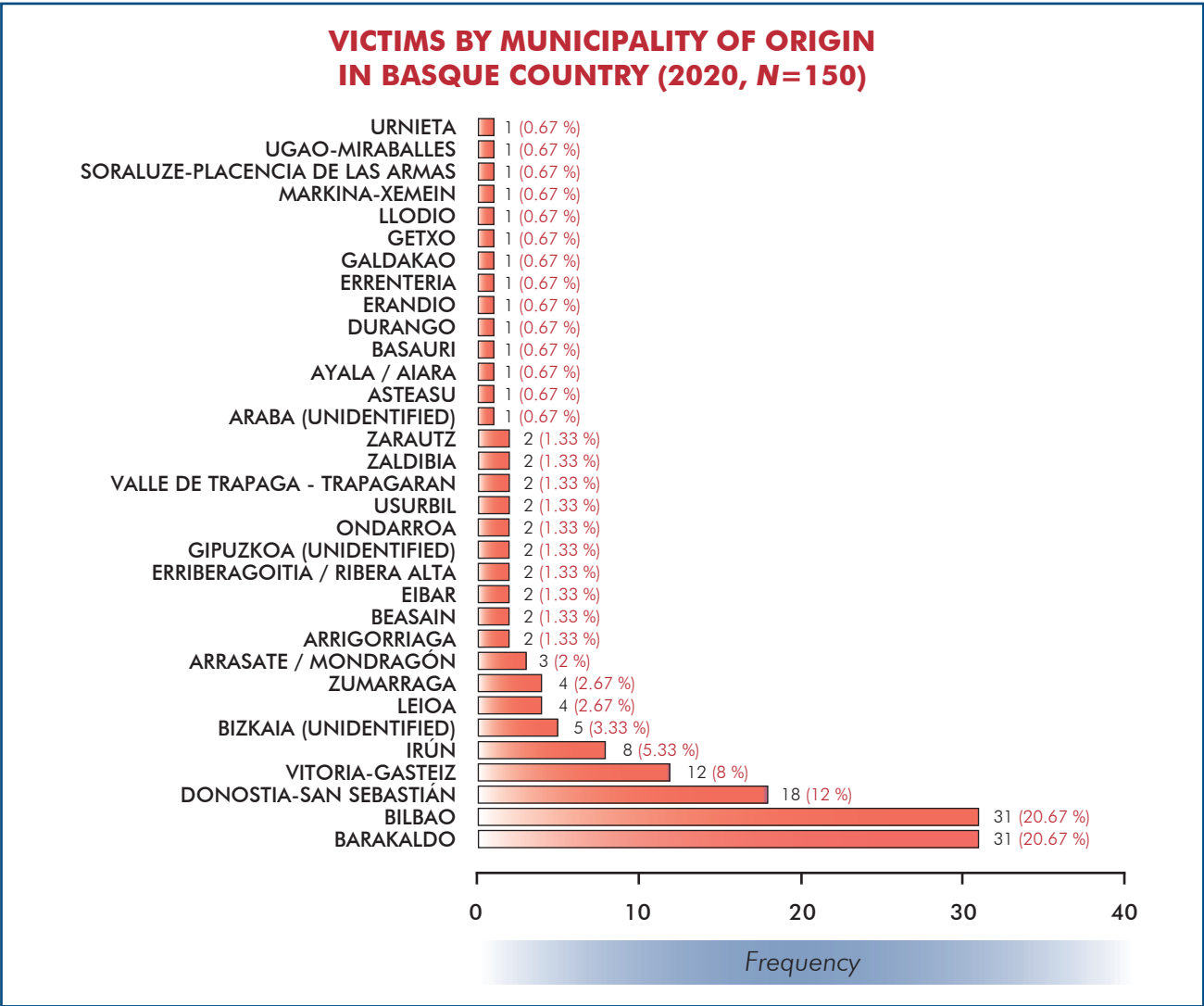


²⁵ In this case, as in the case of the people under investigation and the arrested persons, the number of victimizations does not coincide with the number of hate crimes, for several reasons. On the one hand, in 3 of the cases it was not possible to identify the specific victim. On the other, some of the incidents had more than one direct victim.

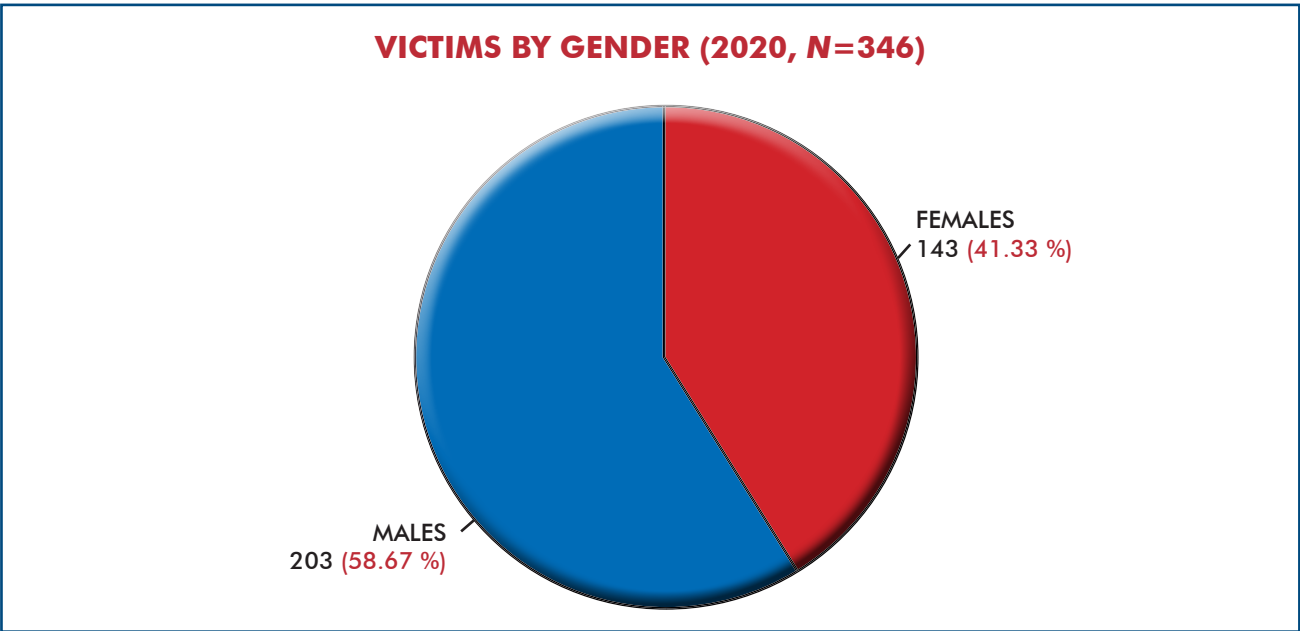
Below is the analysis of the distribution of victims by their historical territory of origin within the Spanish State. The data show that, once again, Bizkaia is the province where most of the victimizations took place (43.08%). The rest are distributed among Gipuzkoa (25.13%), Araba (8.72%) and the rest of the State (23.06%).



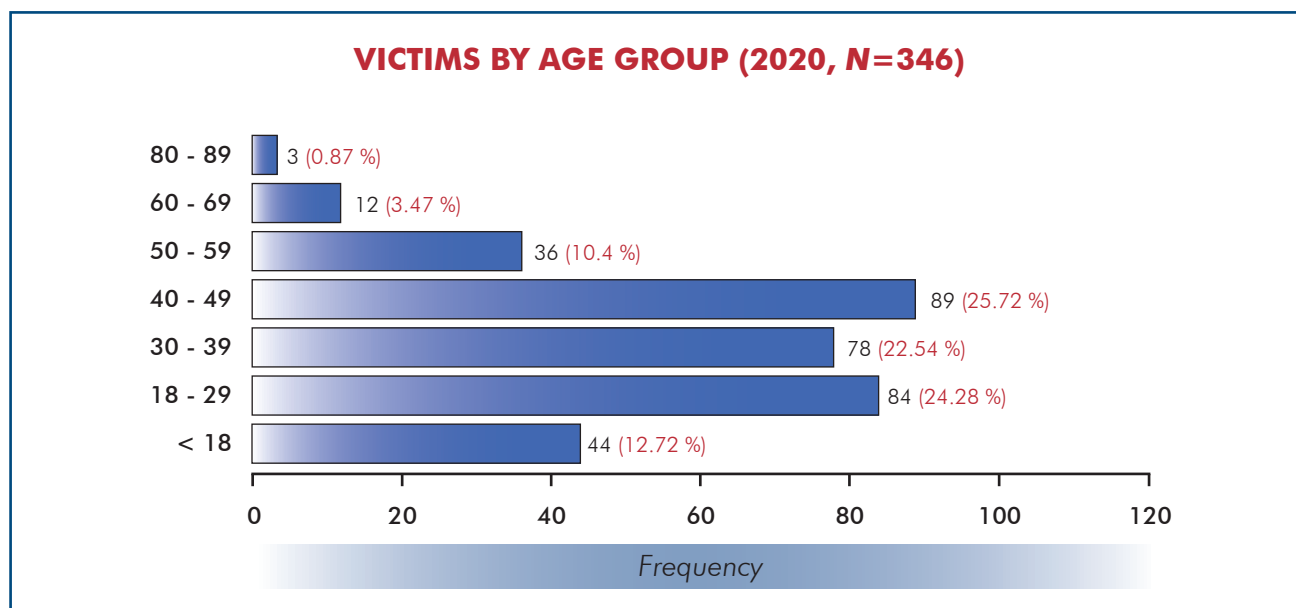
If the data are broken down by municipality, we can see that, for the fifth consecutive year, Bilbao and Barakaldo stand out from the rest (31 cases each), with figures that are much higher than in 2019. Especially in the case of Barakaldo, it is noticeable that the number of victims from this city has quadrupled. However, this may have to do with the fact that most of those charged and arrested were also from this city, and most of the incidents took place there. Moreover, like the previous year, the other capitals of the historical territory (Donostia-San Sebastian, $n=18$; and Vitoria-Gasteiz, $n=12$) are also worthy of note this year.



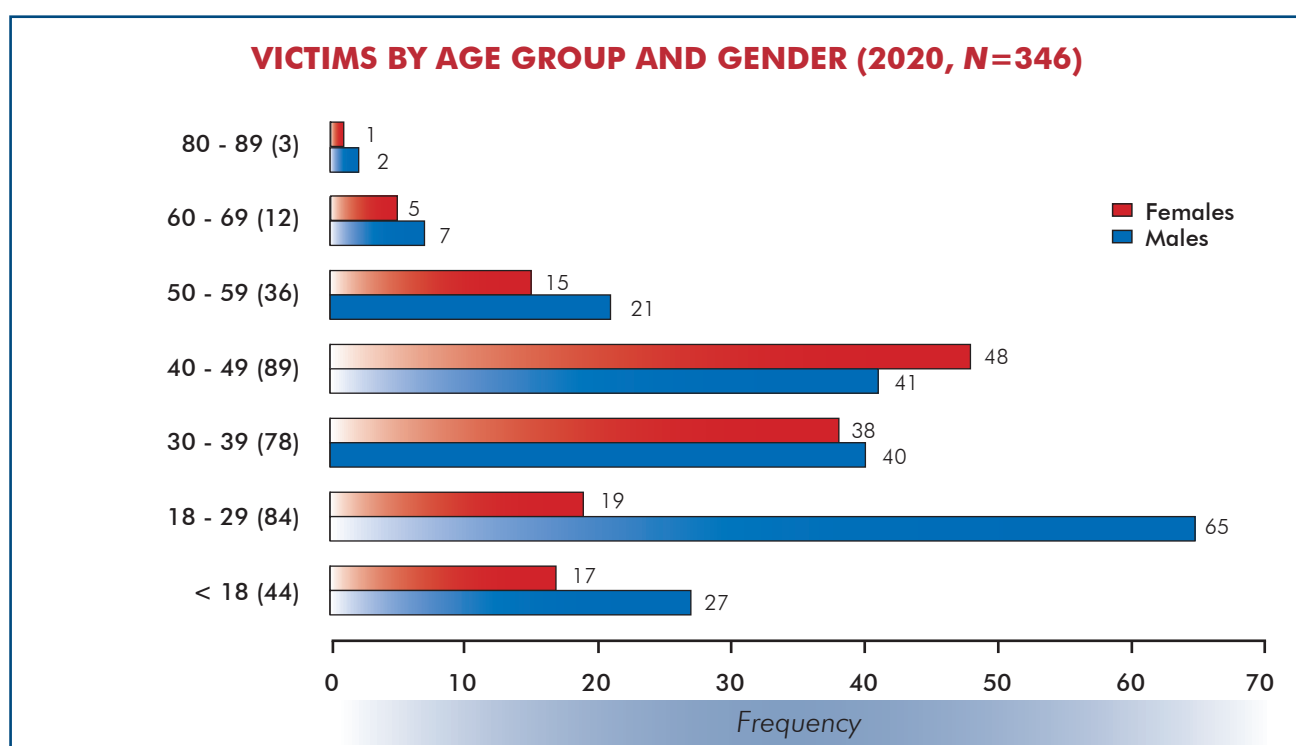
If we take into account the gender of the victims, we see that most of the victims are men ($n=203$), but the percentage of women is considerably higher than that of the previous year ($n=143$).



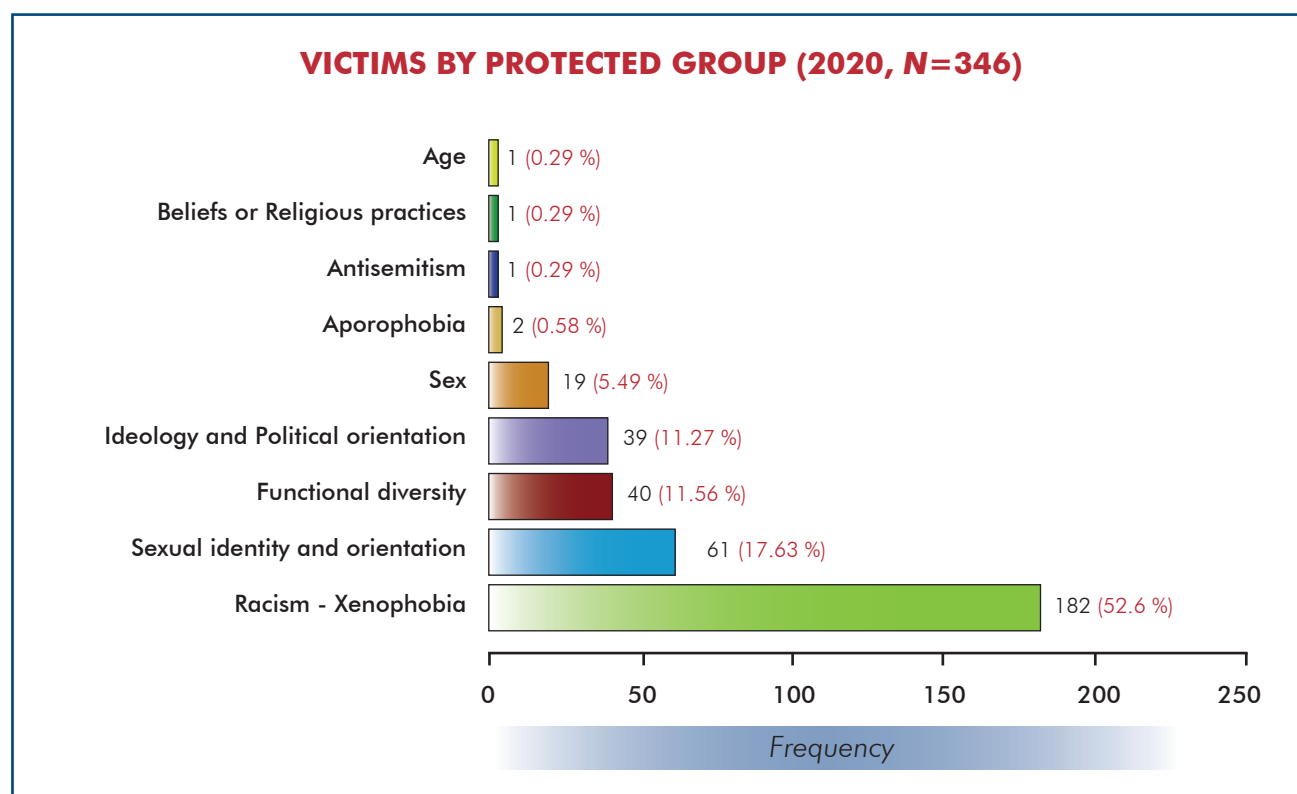
Demographically speaking, the average age is 28 years, the lower average of all the reports. More specifically, most of the victims are in the following age ranges: 18-29 years (24.28%), 30-39 years (22.54%), and 40-49 years (25.72%). As for the rest of the age groups, the range between 50 and 59 accounts for 10.4% of the cases, whereas those under age have experienced a slight increase up to 12.72%. Finally, the elderly (>60) account for the remaining 4.34%. All in all, the age range is between 2 and 87 years.



Nevertheless, if these data are broken down by gender, it can be seen that, as in the case of the persons under investigation, men prevail in the lowest ranges, mainly in the 18-29 years range, where they treble the number of women. However, from that age range upwards, the percentage of men and women becomes increasingly even, to the point that women exceed men in the 40 to 49 age range.



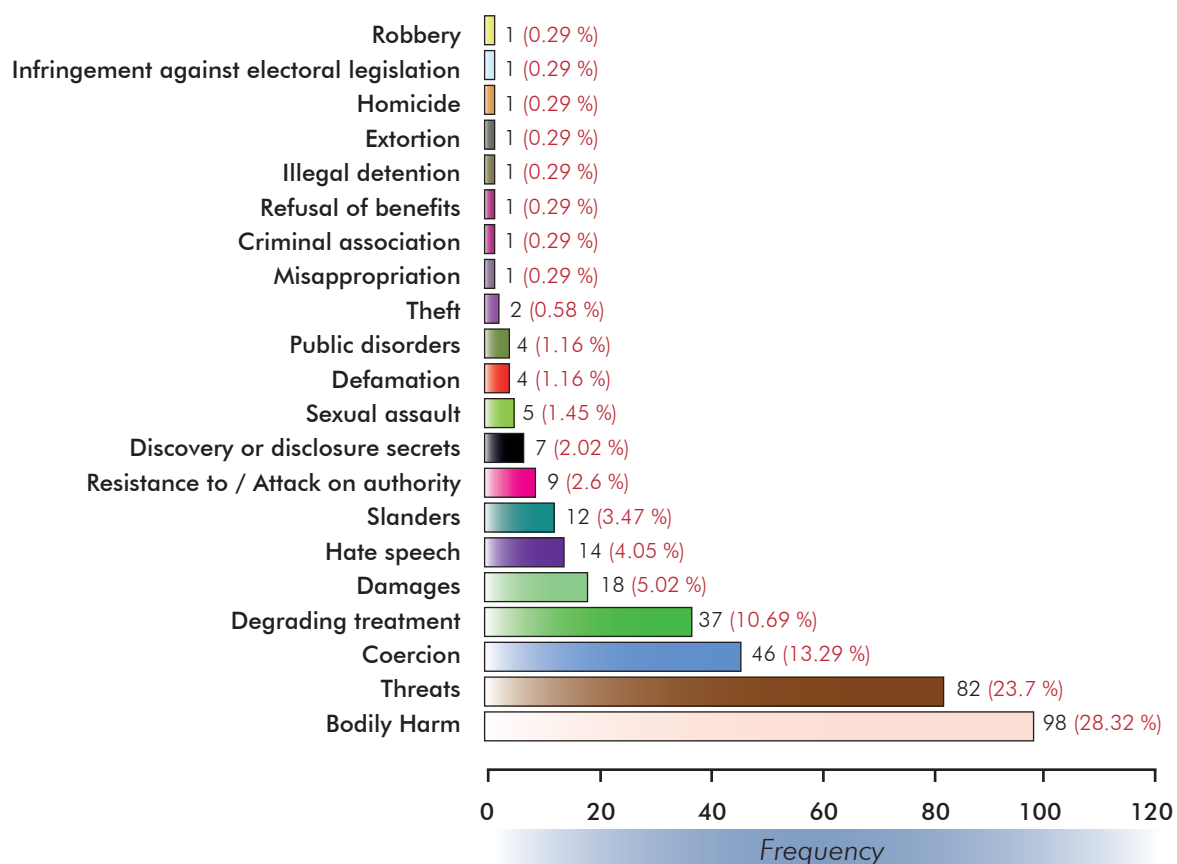
Moreover, as shown in the next chart, more than half the victimizations occurred within the sphere of racism ($n=182$, 52.6%)²⁶, followed by victimizations resulting from the victim's sexual identity and orientation ($n=61$, 17.63%), which is logical if we take into account that these are precisely the groups that have suffered the most hate crimes in the last year. In the third, fourth and fifth places we find those victimizations committed on the grounds of the victims functional diversity ($n=40$, 11.56%), ideology and political orientation ($n=39$, 11.27%) and sex ($n=19$, 5.49%).



Finally, with regard to the distribution of the victims by crime type, the following chart shows that those who have suffered threats and bodily harm account for more than half of the victims (51.45%). In the third and fourth place we find coercion and degrading treatment (12.45% each).

²⁶ In this regard, it must be pointed out that 60.34% of the people victimized on the grounds of their race/ethnicity are of foreign origin, whereas the remaining 39.66% are of Spanish nationality.

VICTIMS BY CRIMINAL TYPOLOGY (2020, N=346)



1.5. CONCLUSIONS

1.5.1. Total number of incidents

241 hate incidents were recorded in the Basque Country in 2020. As mentioned above, administrative offences have been omitted due to the fact that they dealt with two spheres (sports events and the right of admission linked to the hospitality and night leisure industries) whose use and enjoyment by citizens have been limited as a consequence of the restrictions imposed to mitigate the impact of the SARS-CoV-2 pandemic.

If we take into account that 124 criminal incidents were recorded in 2016, 129 in 2017, 130 in 2018 and 105 in 2019, a clear increase can be noticed as far as the number of incidents is concerned, after the slight decrease of the previous year. The extraordinary increase this year is due to the change and improvement of the recording and classification system for these types of incidents, both at the level of the enquiry as well as the central absorption of statistical information.

1.5.2. Map of target groups of incidents

Racist or xenophobic incidents account for 48.55% (117 cases) of the recorded crimes, with a considerable increase as compared to the previous year (+61 incidents: 108.93%). The sphere of sexual identity and orientation represents 20.75% of the crimes (50 cases), whereas crimes relating to functional diversity account for 12.03% of the crimes (29 cases). These figures are considerably higher than those of the previous year (+37, 284.62% in the case of sexual identity and orientation and +23, 383.33% in the case of functional diversity). In the fourth place we find hate crimes based on ideology and political orientation, which account for 9.96% (24 cases), followed by hate crimes based on the sex of the victim, with 6.64% (16 cases). These groups have also experienced an increase in their victimization, which was more remarkable in the case of the sex group (+13, 433.33%) and +6, 33.33% in the case of ideology and political orientation. Aporophobia (2 cases), beliefs and religious practices (1 case), anti-Semitism (1 case) and age (1 case) account for 2.06% of the crimes recorded and, with the exception of anti-Semitism and age (which did not exist as an autonomous category in 2019), they have experienced a decrease, more remarkable in the case of beliefs and religious practices, as compared to the previous year.

Notwithstanding the above, the quantitative increases in each target group have not involved substantial changes in the groups map from the point of view of the relative weight of each group with regard to the rest. Thus, the ethnic group considered at length (racism, xenophobia, ideology, political orientation, beliefs and religious practices and anti-Semitism) represents 58.92%, that is, three fifths of the hate map, a figure that is just slightly lower than that of 2019. As we have seen, this is not due to a decrease in the victimization of those groups, with the exception of beliefs and religious practices, but to the increase in the sex group considered at length too (comprising those crimes motivated by sexual identity and orientation as well as gender identity)²⁷, which now account for 27.39% of the cases, as well as the sharp increase in hate crimes motivated by the victim's functional diversity, which now account for 12% of the recorded crimes.

1.5.3. Crime typology

a). Prevalent groups.

Two criminal incident groups, bodily harm (71 cases: 29.46%) and threats (53 cases: 22%) continue to be the most numerous in this fourth report, at a considerable distance from the following criminal groups. Both together account for 51.46% of all criminal incidents, that is, more than half of the hate map. Moreover, it can be seen that hate speech (14 cases: 5.8%) has experienced a considerable decrease, especially as regards the percentage within the total of recorded crime types.

b). Violent incidents.

Bodily harm, representing almost one third of the total (71 cases: 29.46%), is, as mentioned in previous reports, the benchmark for those conducts that will eventually be aggravated pursuant to the circumstance modifying criminal liability provided for in Article 22.4 of the Criminal Code. This year it has been the highest figure ever recorded, being almost twice as high as the highest recorded so far, in 2018.

If it is considered at length with other crimes likened to crimes committed "with deeds" (thus adding homicide $n=1$, sexual assault $n=2$, resistance and attack $n=4$; damages $n=11$; and even misappropriation $n=2$) the percentage is almost 40% ($n=92$; 37.76%) of the potentially criminal incidents.

²⁷ UNESCO CHAIR IN HUMAN RIGHTS AND PUBLIC AUTHORITIES/ERTZAINZA, "2017 Report on Hate Incidents in the Basque Country", Basque Government, 2018, p. 26 and ff.

c). Hate crimes “with words” («hate speech» in the broad sense).

In contrast with hate crimes in the strict sense (with deeds), hate propaganda incidents remain the majority. If we bring together threats (53), hate speech in the strict sense (14), slandering (8), and defamation (3), they account for up to 32.36% (78), and even reach 57.26% (138) if we also include general but close categories such as coercion (30) and degrading treatment (30). In any case, it is necessary to point out that the majority represented by these incidents is not as robust as in previous years, with a percentage that is quite similar to that obtained in 2017.

As we have been reporting since last year, a detailed consideration of the group of degrading treatment cases may be reflecting the doubts when carrying out an onsite classification of hate incidents that could lie within the diffuse context of threatening, insulting and demeaning/contemptuous behaviour.

Therefore, the line drawn in the crime map this year is quite different from that obtained in the previous years, with an “overrepresentation” of expressive conducts much less noticeable than in previous years, 6 to 4, with respect to the potentially more serious violence involved in bodily harm or the violence around it.

1.5.4. Spatial-temporal distribution, persons under investigation, arrested persons and victims of hate crimes

For the fifth consecutive year, Bizkaia is the province where most hate crimes were recorded (53.11%), mainly in Bilbao (17.84%) and Barakaldo (7.88%). The other capitals of the historical territory, Vitoria-Gasteiz (13.28%) and Donostia-San Sebastian (6.22%), as well as the municipality of Irun in Gipuzkoa (4.15%) are also noteworthy in this regard. As for the place where the crimes are committed, urban public spaces (35.68%) are the place where more hate crimes are committed, followed by dwellings (21.16%).

With regard to the temporal distribution, most of the incidents take place on Wednesday (17%), Monday (16.6%) and Sunday (16.18%) and in the evening (61%).

With regard to the persons charged, most of them, 101, are Spanish (63.52%), 85% of whom come from the Basque Country, mainly from Bizkaia (43.69%). Amongst the persons of foreign origin charged (36.47%), who have increased considerably as compared to the previous year, those coming from Africa (58.62%) and Latin America (22.41%) stand out from the rest. By municipality, most of the persons charged come from the main cities of Bizkaia, Bilbao ($n=17$) and Barakaldo ($n=24$), but the number of charges from the rest of the capitals of the historical territory, Donostia-San Sebastian ($n=15$) and Vitoria-Gasteiz ($n=22$) is also noteworthy this year.

Moreover, in 2020 there were 49 arrests, 6 times more than in the previous year. Most of them were men of Spanish nationality and came from the Basque Country (63.3%, 14 from Bizkaia, 16 from Gipuzkoa and 1 from Araba).

56.35% of the victims were of Spanish nationality, 76.92% from the Basque Country. As for the foreign victims (43.24%), those from Latin America (16.47%) and Africa (20.23%) are the most noteworthy. Most of the victims from the Basque Country were from Bizkaia, mainly from Bilbao (20.7%) and Barakaldo (20.7%).

1.5.5. The hate map of the Basque Country within the context of the State

a). Global data and target groups.

241 hate crimes were recorded in the Basque Country in 2020. With regard to the data of the whole of the State, if we take the Report on the Evolution of Hate Incidents in Spain for the year 2019²⁸ as the starting point, 6% of the hate incidents that were reported to the police authorities throughout the State took place in the Basque Country (103 incidents, 14.9% less than in 2018). In this regard, to put these data into context, at the end of 2019, the Basque Country had 2,207,776 inhabitants — Bizkaia (1.15M inhabitants, Gipuzkoa (0.72M inhabitants) and Araba (0.33M inhabitants) — of a total of 47,026,208 inhabitants (INE, 2021).

Consequently, the data recorded in the Basque Country, which seem to be quite stable so far, reveal a significant increase with regard to the detection of the phenomenon, whereas the data at the level of the State gathered by the Ministry of the Interior in recent years (2013-2019) reveal a gradual increase in the data year after year.

Moreover, it is necessary to point out that this is the first year that the report drawn up by the Ministry of the Interior also includes the administrative offences committed in the State, which amounted to 122 in 2018 and 108 in 2019.

In Spain, in 2019 there was an increase in the percentage of crimes committed in connection with the main categories, ideology and racism/xenophobia, which account for almost two thirds of the 1,706 incidents recorded, a trend which is starting to be seen in the Basque Country. As regards the groups, it is surprising that the most affected groups do not coincide in both cases: in the Basque Country, racism and xenophobia are clearly predominant, accounting for 48.55% of the incidents, followed by sexual identity and orientation, which accounts for 20.75% of the crimes; however, in Spain, racism and xenophobia are surpassed by ideology, which accounts for 34.9% of the crimes, although it is closely followed by the former, which accounts for 30.2% of the cases. At the level of the State, crimes against sexual identity and orientation account for 16.3% of the cases, whereas in the Basque Country ideology hardly represents 10% and is surpassed by crimes against functional diversity (12%, 1.5% in Spain).

In the report of the Ministry of the Interior most of the categories have experienced a more or less upward trend as compared to the previous year, with the exception of anti-Semitism, aporophobia, beliefs or religious practices and generational discrimination, which have decreased; sex/gender-based discrimination remains stable. However, at the level of the Basque Country, the categories that have experienced a greater increase are gender (from 3 to 16 incidents) and functional diversity (from 6 to 29 incidents), followed by sexual identity and orientation (from 23 to 50 incidents) and racism and xenophobia (from 56 to 117 incidents). Moreover, ideology and political orientation has experienced a significant increase, but not as much as the rest of the groups (33.33%); whereas religion and beliefs and aporophobia have decreased considerably (-85.7% and -33.33% respectively).

In conclusion, it can be said that the most victimized groups in both reports are racism/xenophobia, ideology and sexual identity and orientation (in addition to functional diversity in the case of the Basque Country), although the figures are quite different; little victimization has been recorded with regard to aporophobia, age/generational discrimination and anti-Semitism.

²⁸ MINISTRY OF THE INTERIOR, "Informe sobre la evolución de los incidentes relacionados con los delitos de odio en España 2019" (2019 Report on the Evolution of Hate Incidents in Spain), *Ministry of the Interior – Government of Spain*, 2020, 54 pages Online access: <http://www.interior.gob.es/documents/642012/3479677/informe+evolucion+2019/631ce020-f9d0-4feb-901c-c3ee0a777896>.

b). Crime typology.

As regards crime types, bodily harm (18.8% in Spain and 29.75% in the Basque Country) and threats (20.5% in Spain and 21.9% in the Basque Country) stand out in both reports as the most prevalent types, with similar percentages. Damages (10.3%), discrimination (5.5%) and crimes against the Constitution are also noteworthy at the level of the State (5.3%), whereas coercion (12.4%) and degrading treatment (12%) stand out in the Basque Country.

c). Others: victims, offenders, spatial-temporal distribution and crime scene.

With regard to the demographic profile of the victims, in both reports most of them were men (64.2% in Spain and 58.7% in the Basque Country) aged between 18 and 50 (over two thirds of the cases). As for the place of origin, it is surprising that in Spain 72.3% of the victims were Spanish, whereas in the Basque Country this figure goes down to 56.4%, 77% of whom came from the Basque Country. Likewise, with regard to the foreign victims, the groups that suffered more victimization in both cases were the people from Africa (12.2% in Spain and 20.23% in the Basque Country) and from America (9.6% in Spain and 16.47% in the Basque Country).

With regard to the demographic profile of the offenders, both in Spain and in the Basque Country, the perpetrators of the hate incidents were mainly men (83% in Spain and 76.5% in the Basque Country), young-adults (under-40 68.81% in Spain and 60.58% in the Basque Country) and of Spanish nationality (84.7% in Spain and 66.5% in the Basque Country).

With regard to the spatial-temporal distribution of these incidents, the report of the Ministry of the Interior shows that the months in which more incidents of this type were recorded were October and April, with 199 and 173 incidents respectively. However, in the Basque Country, the months in which more incidents were recorded were September, with 29 incidents, and December, with 19 incidents.

Moreover, both in Spain as well as the Basque Country, a large part of the incidents took place in public spaces (37.33% in Spain and 21.16% in the Basque Country) However, in the private sphere, dwellings (18.58 in Spain and 21.16 in the Basque Country) stand out, although to a lesser extent, as the places where these incidents are committed. It is noteworthy that in Spain the Internet has not had much presence as a place to commit these incidents, whereas in the Basque Country it takes the fourth position in the ranking of most frequently used places, accounting for 4.47% of the incidents.

A final consideration. The comparison State vs. Basque Country has always been done using data from the Report of the Ministry of the Interior, which, due to its being from a year before, always involves a "structural" jump, since we are dealing with different years. This eventual distortion may be even more remarkable or pronounced this year, if we consider that we are comparing periods of time with and without pandemic. In addition to this, there has been a change in the recording methodology in the Basque Country this year, which has brought about greater efficacy in qualitative terms. In any case, we think that the information provided is still useful as it has been maintained year after year.



2. COMPARATIVE FRAMEWORK OF UPDATED OFFICIAL DATA

2. COMPARATIVE FRAMEWORK OF UPDATED OFFICIAL DATA

The analysis of the international and comparative trends²⁹ allows the state of the question and the eventual progress of the domestic efforts to be contextualized and appropriately measured. Therefore, below is a comprehensive collection of available data aimed at showing the efforts made by countries that are relevant within the sphere of our legal culture to identify not just the police recording activity, but also its traceability. We can advance that it is still not possible to provide a complete traceability scenario with regard to any of the countries under analysis, but some progress has clearly been made in that direction which should be described, since it sets the tone for the future.

■ 1. UNITED KINGDOM

In this Report, United Kingdom is going to comprise data regarding not only England and Wales but also Scotland and Northern Ireland. It must be pointed out that the added difficulty of the pandemic and the variety of information sources have made it necessary to divide the presentation into sections, seeking not just a plethora of data but certain rigour so as to know the exact scope of each information source. Nevertheless, to make interpretation easier, there will be a final summary for this country as well as the others in the final part of this Section 2. This summary, in any case, helps statistical grouping so as to try and show traceability throughout the different instances of the administration of justice (police, prosecution, the judiciary).

1.1. Empirical reality according to OSCE data

The most recent statistical information handled by the Organization for Security and Cooperation in Europe (OSCE/ODIHR) on hate crimes in the United Kingdom, according to the data dumped by the national authorities of this country to the organization itself, is the information regarding the year 2019³⁰. The total figure amounts to 106,672 hate crimes recorded by the police. Of these 106,672 hate crimes, 105,090 have to do with England and Wales (98.52%) and 1,582 with Northern Ireland (1.48%), leaving Scotland outside. It is pointed out that more than half of the hate crimes recorded by the police involve public order offences but, except for this nuance, the particular crime categories have not been specified and, therefore, no data are provided in this respect³¹.

With regard to the motive of the perpetrator, there are disaggregated data regarding England and Wales. To be precise, there were a total of 109,401 prejudiced motives involved in the 105,090 hate crimes. The following classification ranks the number of prejudiced motives present in the hate crimes recorded by the police from

²⁹ See recently LANDA GOROSTIZA, Jon-Mirena, "Delitos de odio y estándares internacionales: una visión crítica a contra corriente", *Revista Electrónica de Ciencia Penal y Criminología (online) RECPC* 2020 no. 22-19, passim. (available online at <http://criminnet.ugr.es/recpc/22/recpc22-19.pdf>).

³⁰ Online access: <https://hatecrime.osce.org/united-kingdom>. Although from now on we will try to update the data, for other comments that may be of interest we refer to UNESCO CHAIR IN HUMAN RIGHTS AND PUBLIC AUTHORITIES/ERTZAINZA, "2018 Report on Hate Incidents in the Basque Country", *Basque Government*, 2019, pages 58-60 and 65-66.

³¹ Moreover, even if data were provided, some of the aforementioned public order offences would not have been taken into account by the OSCE either, since it is considered that they fall outside the definition of what must be understood by hate crime provided by this organization.

the highest to the lowest incidence: racism and xenophobia³² (76,070), sexual orientation or gender identity³³ (18,375), disability (8,469), prejudice against Muslims (3,089), prejudice against members of other religions or beliefs³⁴ (1.662), anti-Semitism (1.205) and prejudice against Christians (531).

Leaving aside the hate crimes recorded by the police and focusing on the judicial process, the OSCE/ODIHR recorded 14,058 prosecuted hate crimes, 8,446 of which refer to England and Wales (60.08%) and the remaining 5,612 to Scotland (39.92%). Unlike what happened with the hate crimes recorded by the police, all reference to Northern Ireland has been omitted. At the sentencing stage, there were 9,340 sentences for hate crimes in England and Wales. In this stage, there are no data regarding Scotland and Northern Ireland.

We will now focus on each of the legal systems of the United Kingdom and will carry out a traceability search for hate incidents. This will be constrained by the data available on the date this report is prepared, knowing in advance that the Covid-19 pandemic has made it difficult –or impossible– to respect the times established to publish the corresponding data³⁵.

1.2. Update of other data: Scotland

So far, it seems that the data regarding the hate incidents recorded by the Scottish police have not been updated. Therefore, the data known to us are still those of the last report published by the Scottish government in February 2019, stating that the police recorded 6,736 hate incidents in 2017/18³⁶. However, according to the Scottish government, their commitment to working in a joint and coordinated manner with the Scottish police in this regard is still in effect and progressing very well. They will soon be able to provide a breakdown of key information and data regarding police hate crime records in 2018/19³⁷. That said, in January 2021, given any citizen's right to request information from the Scottish public authorities under the *Freedom of Information (Scotland) Act 2002*, the police provided the figure of 7,370 hate incidents recorded between 1 March 2019 and 31 March 2020³⁸.

³² This category includes any group that may be defined according to race, color, nationality or ethnic or national origin, including the countries that make up the United Kingdom as well as Irish or Romani nomads. It also includes the people selected due to their having the status of asylum-seekers or refugees.

³³ Of this figure, 15,835 hate crimes were motivated by prejudice based on sexual orientation and 2,540 by transphobic prejudice.

³⁴ This category includes the crimes in which more than one religion has been attacked. The category includes, amongst others, 432 crimes motivated by hatred of other religions, 70 crimes motivated by hatred of non-believers and 823 crimes motivated by anti-religious hatred, without specifying the religion they are aimed at.

³⁵ For a brief but complete summary of the three legal systems that will be dealt with below, dated 10 December 2020, see ALLEN, G./ZAYED, Y./LEES, R., "Hate crime statistics (Briefing Paper Num. 8537, 20 December 2020)", *House of Commons*, 2020.

³⁶ For a more detailed analysis, refer to UNESCO CHAIR IN HUMAN RIGHTS AND PUBLIC AUTHORITIES/ERTZAINZA, "2019 Report on Hate Incidents in the Basque Country", *Basque Government*, 2020, pp. 60-62. See also SCOTTISH GOVERNMENT, "Developing information on hate crime recorded by the police in Scotland", *Scottish Government*, 2019.

³⁷ According to the Government, a new report was expected to be published in June 2020 so as to close the year, but this process had to be stopped in March since it was not possible to reconcile field work and confinement due to the Covid-19 pandemic. The ongoing project will end whenever circumstances allow. See: SCOTTISH GOVERNMENT, "Response to the request under the Freedom of Information (Scotland) Act 2002 (FOI reference: 202000052883)", 2020; SCOTTISH GOVERNMENT, "Response to the request under the Freedom of Information (Scotland) Act 2002 (FOI reference: 202000043165)", 2020.

³⁸ SCOTTISH GOVERNMENT, "Response to the request under the Freedom of Information (Scotland) Act 2002 (FOI reference: IM-FOI-2020-2320)", 2021.

The total number of crimes recorded by the police in 2019/20 was 246,516 (increase of less than 1% with regard to 2018/19), whereas the number of offences was 250,662 (increase of 1% with regard to 2018/19)³⁹. As for racially aggravated harassment, included within the «offences» category, in 2019/20 there were 92 police records, as compared to 108 in 2018/19. With regard to racially aggravated conduct, also within the «offences» category, there were 1,645 police records, as compared to 1,636 in 2018/19. This makes a total of 1,737 police records for racially aggravated offences⁴⁰. As for the rest of the crimes (for example assault, breach of the peace, etc.), as it has not been expressly recorded whether they include a specific aggravator, it is not possible to know these data. More recently, some provisional data have been provided regarding the aggravators linked to some hate crimes. Altogether, for the time frame under examination, the figure amounts to 5,437 aggravators⁴¹ recorded between 1 March 2019 and 31 March 2020⁴², and 6,321 aggravators⁴³ recorded between 1 December 2019 and 30 November 2020⁴⁴.

The number of charges reported to the Scottish Crown Office and Procurator Fiscal Service (COPFS)⁴⁵, either by the Scottish police or by other agencies, has increased by 11% with regard to the previous year. In 2019/20 there were a total of 5,219 charges for hate crimes⁴⁶, as compared to 4,686 in 2018/19. By order of prevalence we find: race with 3,038 charges, as compared to 2,921⁴⁷ the previous year (increase by 4%); sexual orientation with 1,486 charges, as compared to 1,194 the previous year (increase by 24%); religion with 660 charges, as compared to 534 the previous year (increase by 24%); disability with 387 charges, as compared to 299 the previous year (increase by 29%); and transgender identity with 41 charges, as compared to 40 the previous year (increase by 2%). In proportion, it can be said that race accounts for –or is present in– more than half the charges, around 58.21%, whereas markers such as sexual orientation (28.47%), religion (12.65%), disability (7.41%) and transgender identity (0.78%) are at a distance in quantitative terms.

³⁹ It must be remembered that «crime» is used in this type of report to refer to different violations of the criminal law which are considered to be serious (for example, homicide or serious assault), whereas «offence» is used for other less serious violations (for example, breach of the peace or harassment). The seriousness is related to the maximum sentence that may be imposed. See: SCOTTISH GOVERNMENT, «Recorded Crime in Scotland 2019-20», *Scottish Government*, pp. 9 and 49-50; UNESCO CHAIR IN HUMAN RIGHTS AND PUBLIC AUTHORITIES/ERTZAINZA, «2019 Report on Hate Incidents in the Basque Country», op. cit., pp. 58-59.

⁴⁰ SCOTTISH GOVERNMENT, «Recorded... op. cit., p. 92.

⁴¹ The breakdown by categories, as recorded, is the following: race (3,346), sexual orientation (1,085), religion (448), disability (225), other multiple aggravators including race or religion (143), transgender (83), race and religion (71) and other multiple aggravators excluding race or religion (36).

⁴² SCOTTISH GOVERNMENT, «Response to the request under the Freedom of Information (Scotland) Act 2002 (FOI reference: IM-FOI-2020-2320)», 2021.

⁴³ The breakdown by categories, as recorded, is the following: race (3,936), sexual orientation (1,303), religion (400), disability (290), other multiple aggravators including race or religion (173), transgender (78), race and religion (76) and other multiple aggravators excluding race or religion (65).

⁴⁴ SCOTTISH GOVERNMENT, «Response to the request under the Freedom of Information (Scotland) Act 2002 (FOI reference: IM-FOI-2020-2226)», 2021.

⁴⁵ It must be remembered, as a Scottish peculiarity, that it is not the number of people charged or the number of incidents on which those charges are based, but the number of hate crime charges that are reported. Therefore, a single person can have one or more charges reported against them. Likewise, it must be noted that each charge may involve more than one prejudiced aggravator. Therefore, when breaking down the data in accordance with the protected category, a single charge will be computed as many times as categories are involved (for example, a black homosexual victim counts as a race charge and a sexual orientation charge).

⁴⁶ For this and other data that will be developed below, see CROWN OFFICE & PROCURATOR FISCAL SERVICE, «Hate crime in Scotland 2019-20», *COPFS*, 2020.

⁴⁷ Note that the figures, even though referring to 2018/19, may –and do– vary with respect to those provided in the previous report, since the databases that are used as the input for this type of reports keep being updated.

Racially aggravated harassment and behaviour⁴⁸ accounts for 1,208 charges out of the 3,038 charges corresponding to race, which means a slight increase with regard to the previous year (1,204 charges in 2018/19) and 39.76% of the total charges for race crimes in 2019/20. The charges for the rest of the crimes with a race aggravator, such as threatening or abusive behaviour or assault, have also increased, going from 1,717 charges (2018/19) to 1,830 (2019/20), representing 60.24 %.

Finally, it is advisable to see how many charges end up with the prosecutors deciding to start court proceedings. By categories, of the 3,038 charges regarding race, 2,480 (81.63%) ended up being prosecuted. Moreover, in some other 273 charges (8.99%) the original charge was dismissed but there was another charge against the same defendant and within the same case that may have used information contained in the first charge. In more relative terms, we could be talking about 2,753 charges (90.62%) that have somehow resulted in court proceedings. Besides, in some other 45 charges (1.48%) the final decision is not known yet, since they are being investigated and/or assessed so as to determine how to proceed. Out of the 1,486 charges regarding sexual orientation, 1,249 (84.05%) ended up being prosecuted. Moreover, in some other 114 charges (7.67%) the original charge was dismissed with the possible consequences mentioned above. Therefore, we could be talking about 1,363 charges (91.72%) that have resulted in court proceedings. Besides, in some other 9 charges (0.60%) the final decision is not known yet. Of the 660 charges regarding religion, 555 (84.09%) ended up being prosecuted. Moreover, in some other 60 charges (9.09%) the original charge was dismissed with the possible consequences mentioned above. Therefore, we could be talking about 615 charges (93.18%) that have resulted in court proceedings. Besides, in some other 3 charges (0.45%) the final decision is not known yet. Out of the 387 charges regarding disability, 339 (87.60%) ended up being prosecuted. Moreover, in other 23 charges (9.09%) the original charge was dismissed with the possible consequences mentioned above. Therefore, we could be talking about 615 charges (93.18%) that have resulted in court proceedings. Besides, in some other 2 charges (0.52%) the final decision is not known yet. Finally, out of the 41 charges regarding transgender identity, according to the data provided, 33 (80.49%) ended up being prosecuted.

In 2018/19 charges were brought against a total of 89,733 people in Scotland, which gave rise to 78,503 convictions⁴⁹. Amongst them, 629 sentences had a race aggravator/indicator⁵⁰, 356 a sexual orientation aggravator/indicator, 204 a religion aggravator/indicator, 89 a disability aggravator/indicator and 7 a transgender aggravator/indicator. Only in the case of the disability aggravator this figure has increased, with 51% aggravated sentences more as compared to 2017/18. In 505 sentences, the convicted person to whom the race aggravator/indicator applies is a man (80.29%), whereas in 124 sentences it is a woman (19.71%). With respect to the sexual orientation aggravator/indicator, in 301 sentences it is a man (84.55%) and in 55 it is a woman (15.45%). With respect to the religion aggravator/indicator, in 189 sentences it is a man (92.65%) and in 15 it is a woman (7.35%). With respect to the disability aggravator/indicator, in 67 sentences it is a man (75.28%) and in 22 it is a woman (24.72%). With respect to the transgender aggravator/indicator, in 7 sentences it is a man (100%).

⁴⁸ About this and the rest of the crimes linked to the regulatory framework of hate crimes in Scotland, with constant references to their regulatory equivalents in the Spanish case, see UNESCO CHAIR IN HUMAN RIGHTS AND PUBLIC AUTHORITIES/ERTZAINZA, "2019 Report on Hate Incidents in the Basque Country", op. cit., pp. 46-50.

⁴⁹ For further details, for this and other data that will be set out below, see SCOTTISH GOVERNMENT, "Criminal proceedings in Scotland 2018-19", *Justice Analytical Services (Scottish Government)*, 2020.

⁵⁰ Note that the recorded data not only represent the legally recorded aggravators that have been proved and assessed in court, but also include other indicators regarding disability, race, religion, sexual orientation or transgender identity that help to better understand the context of a charge and add information that can play a key role when determining the nature of the crime. In this database, known as *Criminal History System (CHS)*, both the police as well as the prosecution may add these indicators at any time. Therefore, the following data represent a homogeneous volume of aggravators and indicators. Likewise, it must be noted that a sentence for a crime/offence to which more than one aggravator/indicator is added (for example, race and religion) will have both aggravators/indicators computed. UNESCO CHAIR IN HUMAN RIGHTS AND PUBLIC AUTHORITIES/ERTZAINZA, "2019 Report on Hate Incidents in the Basque Country", op. cit., pp. 66-67.

With respect to the distribution by crime type in which some of the previous aggravators/indicators are involved, most of the sentences have to do with a group of crimes (miscellaneous offences) where it is not possible to be more precise in connection with the exact number of sentences that can be attributed to each of them. These offences include breach of the peace, threatening or abusive behaviour, stalking, offensive behaviour at football and threatening communications. This group of offences represent 454 of the total sentences with the race aggravator/indicator (72.18%), 317 of the total with sexual orientation aggravator/indicator (89.04%), 175 of the total with religion aggravator/indicator (85.78%), 73 of the total with disability aggravator/indicator (82.02%) and 7 of the total with transgender aggravator/indicator (100%).

1.3. Update of other data: Northern Ireland

The latest annual report published by the Police Service of Northern Ireland (PSNI) covers all those incidents or offences with a hate motivation recorded by the Northern Irish police from 1 October 2019 to 30 September 2020⁵¹. Thus, before expounding on these data, it must be pointed out that in 2019/20 2,278 hate incidents were recorded as well as a total of 1,555 offences linked to those incidents⁵².

With regard to the race motivation, 881 hate incidents were recorded as well as 583 offences linked to those incidents, which means a fall of 194 incidents and 112 offences with regard to 2018/19. In greater detail, among the 881 racist hate incidents, the police recorded 513 with one or more offences related to them (58.23%), whereas in 368 the circumstances surrounding the incident did not allow to conclude whether an offence had been committed (41.77%)⁵³. As for the 583 racist offences, they represent 0.6% of the total offences recorded by the police in 2019/20. They are broken down as follows: 346 offences lie within the category of Violence Against the Person, that is, 59.35%; 228 correspond to the category of Theft (including Burglary) and Criminal Damage, that is, 39.11%; and 9 offences correspond to the general category of All Other Offences, that is, 1.54%. Many of these incidents (381 of 881; 43.35%) and offences (250 of 583; 42.88%) were committed in the city of Belfast. According to the ethnicity of the victim of the racist hate crime, in 216 cases it was white, 38.64%; in 133 the ethnicity is missing or the person is unknown, 23.79%; in 80 it is Asian, 14.31%; in 70 Black, 12.52%; and in 60 it is Mixed or Other, 10.73%. By nationality of the victim, which, as we know, does not necessarily coincide with their ethnicity, the most outstanding are the United Kingdom and Ireland (109, 19.50%), Poland (52, 9.30%) and Syria (34, 6.08%).

⁵¹ Hereinafter, we will present a number of statistical data contained in PSNI, "Incidents and crimes with a hate motivation recorded by the Police in Northern Ireland", PSNI Statistics Branch, 2020. Note that this is a quarterly report that replaces the previous reports of the same kind. Moreover, there is an annual report— with a more detailed analysis (for example, age and sex of the victim)— which was also published in November 2020 but is based on data obtained during the last financial year, that is, from 1 April 2019 to 31 March 2020. For this latter report, which will be occasionally referred to as a footnote, see: PSNI, "Trends in hate motivated incidents and crimes recorded by the Police in Northern Ireland 2004/05 to 2019/20", PSNI, 2020. For all the above, the former report, from which the most updated data on hate incidents/crimes will be extracted, covers a period of time in which the mobility control measures applied in Northern Ireland as of 23 March 2020, such as the lockdown, may have had an impact on hate criminality, whereas the latter report has not been affected, at least to a great extent, by the measures imposed due to the Covid-19.

⁵² During the same period of 2018/19, there were 2,417 hate incidents and a total of 1,628 offences linked to those incidents. However, according to the *Annual Report* (April 2019-March 2020), there were 2,300 hate incidents and a total of 1,582 offences linked to those incidents.

⁵³ According to the *Annual Report* (April 2019-March 2020), 936 racist hate incidents were recorded as well as 626 offences linked to those incidents. Among the 936 racist hate incidents, the police recorded 552 with one or more offences linked to them (58.97%), whereas in 384 the circumstances surrounding the incident did not allow to conclude whether an offence had been committed (41.02%).

With regard to the sectarian motivation, 870 hate incidents were recorded as well as 627 offences linked to those incidents, which means a fall of 9 incidents and 10 offences as compared to 2018/19. In greater detail, among the 870 sectarian hate incidents, the police recorded 547 with one or more offences related to them (62.87%), whereas in 323 incidents the circumstances surrounding the incident did not allow to conclude whether an offence had been committed (37.13%)⁵⁴. As for the 627 sectarian offences, they represent 0.6% of the total offences recorded by the police in 2019/20. They are broken down as follows: 349 offences lie within the category of Violence Against the Person, that is, 55.66%; 260 offences correspond to the category of Theft (including Burglary) and Criminal Damage, that is, 41.47%; and 18 offences correspond to the general category of All other Offences, that is, 2.87%. Many of these incidents (340 of 870, 39.08%) and offences (240 of 627, 38.28%) were committed in the city of Belfast.

With regard to the homophobic motivation, 344 hate incidents were recorded as well as 244 offences linked to those incidents, which means an increase of 79 incidents and 63 offences as compared to 2018/19. In greater detail, among the 344 homophobic hate incidents, the police recorded 198 with one or more offences linked to them (57.56%), whereas in 146 the circumstances surrounding the incident did not allow to conclude whether an offence had been committed (42.44%)⁵⁵. As for the 244 homophobic offences, they represent 0.2% of the total offences recorded by the police in 2019/20. They are broken down as follows: 198 offences lie within the category of Violence against the Person, that is, 81.15%; 43 offences correspond to the category of Theft (including Burglary) and Criminal Damage, that is, 17.62%; and 3 offences correspond to the general category of All Other Offences, that is, 1.23%. Many of all these incidents (142 of 344, 41.28%) and offences (83 of 244, 34.02%) were committed in the city of Belfast.

With regard to disability, transphobia and faith/religion the data in this quarterly report are more modest. With regard to disability, 84 hate incidents were recorded as well as 55 offences linked to those incidents, which means a fall of 17 incidents and 10 offences as compared to 2018/19⁵⁶. With regard to transphobia, 68 hate incidents were recorded, and 34 offences linked to those incidents, which means an increase of 18 incidents and 10 offences as compared regard to 2018/19⁵⁷. With regard to faith/religion, 31 hate incidents were recorded as well as 12 offences linked to those incidents, which means a fall of 16 incidents and 14 offences as compared to 2018/19⁵⁸.

⁵⁴ According to the Annual Report (April 2019-March 2020), 888 sectarian hate incidents were recorded as well as 640 offences linked to those incidents. Among the 888 sectarian hate incidents, the police recorded 570 with one or more offences linked to them (64.19%), whereas in 318 the circumstances surrounding the incident did not allow to conclude whether an offence had been committed (35.81%).

⁵⁵ According to the Annual Report (April 2019 March 2020), 272 homophobic hate incidents were recorded as well as 195 offences linked to those incidents. Among the 272 homophobic hate incidents, the police recorded 161 with one or more offences linked to them (59.19%), whereas in 111 the circumstances surrounding the incident did not allow to conclude whether an offence had been committed (40.81%).

⁵⁶ According to the Annual Report (April 2019-March 2020), 99 disability-related hate incidents were recorded as well as 72 offences linked to those incidents. Among the 99 disability-related hate incidents, the police recorded 63 with one or more offences linked to them (63.64%), whereas in 36 the circumstances surrounding the incident did not allow to conclude whether an offence had been committed (36.36%).

⁵⁷ According to the Annual Report (April 2019-March 2020), 64 transphobic hate incidents were recorded as well as 34 offences linked to those incidents. Among the 64 transphobic hate incidents, the police recorded 31 with one or more offences linked to them (48.44%), whereas in 33 the circumstances surrounding the case did not allow to conclude whether an offence had been committed (51.56%).

⁵⁸ According to the Annual Report (April 2019-March 2020), 41 faith/religion-related hate incidents were recorded as well as 15 offences linked to those incidents. Among the 41 faith/religion-related hate incidents, the police recorded 14 with one or more offences linked to them (34.15%), whereas in 27 the circumstances surrounding the incident did not allow to conclude whether an offence had been committed (65.85%).

The Public Prosecution Service for Northern Ireland (PPS) provides two types of well differentiated data in the annual bulletin. On the one hand, statistical data related to all the cases that the PPS receives from the PSNI; that is, all those incidents motivated by hate that have been marked as such by the Northern-Irish police⁵⁹, without taking anything else into account. And on the other hand, statistical data related to cases in which a prosecutor considers that there has actually been a hate crime aggravated by hostility, in accordance with a legal provision⁶⁰. The latest report available⁶¹ with all the data that have just been mentioned covers the period between 1 April 2019 and 31 March 2020.

In 2019/20 the PPS received 334 cases that had been identified as hate crimes by the police and involved one or more persons each. This means a fall of 21 cases as compared to 2018/19. By protected category, following police classification criteria, 118 cases were linked to race (35.33%), 91 to sectarianism (27.24%), 54 to homophobia (16.17%), 36 to faith/religion (10.78%), 20 to a multiple motivation (5.99%), 8 to disability (2.39%) and 7 to transphobia (2.09%)⁶². According to the main crime category⁶³ involved, 201 cases (60.18%) are classified as Violence against the person, 49 (14.67%) as Criminal damage, 48 (14.37%) as All other offence groups and 36 (10.78%) as Public order offences.

Moreover, since there may be more than one person involved in each case, the decision to bring formal charges against someone may also be addressed to any of those people. Therefore, the following classification refers to the most serious decision made with regard to all those people involved in a case received by the PPS. Altogether, 448 decisions were recorded. From the most to the least serious, 16 decisions (3.57%) involved an indictable prosecution against people for them to be tried at the Crown Court⁶⁴, 206 (45.98%) involved a summary prosecution against people for them to be tried at a Magistrates' Court⁶⁵, 31 (6.92%) involved alternative measures (for example, a formal warning that further measures will be taken if another offence of this type is committed) so as not to go to court (diversion), and 195 (43.53%) involved a decision for no prosecution, either because there is no sufficient evidence or because prosecuting would go against the public interest⁶⁶.

⁵⁹ The PSNI adopts a pro-victim definition, thus managing to include a potentially high number of cases. The definition is as follows: "Any incident that is perceived as racist by the victim or by any other person". This definition is applied by the PSNI to six types of hate crimes (race, sectarianism, homophobia, transphobia, faith/religion and disability). PPS, "Statistical bulletin: cases involving hate crime 2019/20", Policy and Information Unit (PPS), 2020, pp. 24-25.

⁶⁰ More precisely, with regard to Art. 2 of the Criminal Justice (No. 2) (Northern Ireland) Order 2004, see: UNESCO CHAIR IN HUMAN RIGHTS AND PUBLIC AUTHORITIES/ERTZAINZA, "2019 Report on Hate Incidents in the Basque Country", op. cit., pp. 69-70. See also PPS, "Statistical... op. cit., pp. 25-26.

⁶¹ Hereinafter, all statistical references must be understood as references to PPS, "Statistical... op. cit., 31 pages.

⁶² Even though there were more cases linked to race (132), sectarianism (110) and disability (11) in 2018/19, the cases linked to homophobia (50), faith/religion (29), multiple motivations (20) and transphobia (5) increased in 2019/20.

⁶³ The primary offence will normally be that related to the most serious offence, to be determined according to the possible criminal penalties to be imposed by law.

⁶⁴ Although they can occasionally act as second instance, it is a superior or senior court that tries serious criminal cases at first instance.

⁶⁵ They are inferior courts to which less serious criminal issues are presented at first instance.

⁶⁶ For comparison purposes, 432 decisions were recorded in 2018/19. From the most serious to the least serious, 12 decisions (2.78%) involved an indictable prosecution against people for them to be tried at the Crown Court, 209 (48.38%) involved a summary prosecution against people for them to be tried at a Magistrates' Court, 21 (4.86%) involved the adoption of alternative measures and diversion, and 190 (43.98%) involved a decision for no prosecution.

If we focus on the summary prosecution, due to its being the decision that involves a highest number of people, 151 defendants were convicted of at least one offence⁶⁷ [race: 60; sectarianism: 39; homophobia: 17; faith/religion: 17; various motivations: 12; disability: 5; transphobia: 1], with a conviction rate of 69.91%. Moreover, 21 defendants (9.72%) were acquitted, whereas with regard to the remaining 44 defendants (20.37%) there were some other circumstances (for example, the defendant died, the charges were dropped, etc.)⁶⁸.

Finally, with regard to data related to cases in which a prosecutor considers that an offence aggravated by hostility has been committed, in accordance with a legal provision rather than a police definition, 246 decisions were recorded. Again, from the most to the least serious, 19 decisions (7.72%) involved an indictable prosecution against people for them to be tried at the Crown Court, 137 (55.69%) involved a summary prosecution against people for them to be tried at a Magistrates' Court, 17 (6.91%) involved the decision to adopt alternative measures and not to go to court (diversion), and 73 (29.67%) involved a decision for no prosecution⁶⁹. If we focus on the summary prosecution, 119 defendants were convicted of at least one offence [race: 61; religion: 35; sexual orientation: 11; various motivations: 8; disability: 4], with a conviction rate of 76.77%. Moreover, 12 defendants (7.74%) were acquitted, whereas with regard to the remaining 24 defendants (15.48%) there were some other circumstances (for example, the defendant died, the charges were dropped, etc.)⁷⁰.

1.4. Update of other data: England and Wales

A more comprehensive, although not problem-free, image of the statistical information on hate crimes in England and Wales will be obtained if we deal with two sources of official data that are quite different and have their own limitations.

To start with, the Crime Survey for England and Wales (CSEW)⁷¹. It is a face-to-face victimization survey that provides information about the personal experiences of those residing in England and Wales. To this end, data from the last three annual surveys are combined in order to obtain a larger sample and make more reliable estimates. For example, the latest set of data available is the combination of data corresponding to the 2017/18,

⁶⁷ When talking about people convicted of at least one offence, it must be taken into account that some defendants may have been charged with different offences, and that this category also comprises —where appropriate— those defendants that have been acquitted of the hate motivated offence but convicted of another offence.

⁶⁸ For comparison purposes, in 2018/19, 155 defendants were convicted of at least one offence [race: 62; sectarianism: 54; homophobia: 16; faith/religion: 6; various motivations: 15; disability: 1; transphobia: 1], with a conviction rate of 73.11%. Moreover, 20 defendants (9.43%) were acquitted, whereas with regard to the remaining 37 defendants (17.45%) there were other circumstances (for example, the defendant died, the charges were dropped, etc.).

⁶⁹ For comparison purposes, in 2018/19 265 decisions were recorded. From the most to the least serious, 13 decisions (4.90%) involved an indictable prosecution against people for them to be tried at the Crown Court, 166 (62.64%) involved a summary prosecution against people for them to be tried at a Magistrates' Court, 10 (3.77%) involved diversion, and 76 (28.68%) involved a decision for no prosecution.

⁷⁰ For comparison purposes, in 2018/19 128 defendants were convicted of at least one offence [race: 60; religion: 36; sexual orientation: 20; various motivations: 12; disability: 0], with a conviction rate of 80.50%. Moreover, 16 defendants (10.06%) were acquitted, whereas with regard to the remaining 15 defendants (9.43%) there were other circumstances (for example, the defendant died, the charges were dropped, etc.).

⁷¹ The data from the CSEW are part of the Home Office's reports on hate crimes. Therefore, any reference to the CSEW must hereinafter be understood as a reference to the latest report available in that respect: HOME OFFICE, "Hate crime, England and Wales, 2019/20. Home Office Statistical Bulletin 19/20", *Home Office*, 2020, pp. 19-29.

2018/19 and 2019/20 surveys⁷². The problem of this type of combined data is that they intend to reflect more general long-term trends. Moreover, even though in theory they cover data that may not have come to the attention of the police, the truth is that the CSEW does not cover crimes against businesses or institutions, crimes against people who do not reside in England and Wales (for example, tourists) or are under 16, or those crimes classified as victimless, to refer to those criminal offences in which, on many occasions, there is no identifiable individual, such as public order offences⁷³.

Even though it is just an estimate, the combined data recorded by the CSEW (2017/18 to 2019/20) point to 190,000 annual hate crime incidents⁷⁴. This represents 3% of all the crime-related incidents (6.1 million) on which the CSEW focuses. Likewise, 47% of all the hate crime incidents recorded in the CSEW were reported to the police. By categories, around 104,000 incidents per year were due to the perpetrator's attitude with regard to the victim's race, 50,000 incidents to the victim's disability, 42,000 to the victim's religion, 23,000 to the victim's sexual orientation and 7,000 to the victim's gender identity⁷⁵. By crime type, it is noteworthy that the victim of a hate crime incident is more likely to suffer a personal crime than a household crime⁷⁶. Thus, whereas personal crimes represent 59% (120,000 incidents)⁷⁷ of the total [violence without injury, 28%; violence with injury, 17%; theft from person, 7%; robbery, 5%; other theft of property, 2%], household crimes represent 41% (70,000 incidents)⁷⁸ of the total [criminal damage, 20%; burglary, 10%; vehicle-related theft, 5%; other household theft, 5%; bicycle theft, 1%]. In any case, 27% of the victims of household crimes suffered at least another revictimization for the same type of hate crime incident in the last year, as compared to 16% of the personal crimes.

⁷² Although the new hate crime figures of the CSEW were expected to take into account the data resulting from the 2020/21 victimization survey, the Covid-19 pandemic made it impossible to continue interviewing the population in March 2020. Due to this, the figures were advanced by combining the last three surveys available (2017/18, 2018/19 and 2019/20), leaving the unfinished 2020/21 survey outside. Therefore, as the CSEW is published every three years, the victimization survey regarding the year 2017/18 has been taken into account for both the combination of surveys published in 2018 as well as the latest combination of surveys that was published in 2020.

⁷³ In fact, these crimes represent more than half of all the hate crimes recorded by the police.

⁷⁴ Previous estimates –that is, combined data from 2015/16 to 2017/18– offered a slightly lower figure, with 184,000 annual incidents. Likewise, it is interesting to point out that the estimated number resulting from the combination of the victimization surveys between 2007/08 and 2008/09 was 307,000. Therefore, this means a significant fall, but not so sharp in recent years, the curve having flattened.

⁷⁵ Note that it adds up to more than 190,000 hate crime incidents, due to the fact that the victim may have indicated that the crime was motivated by more than one protected category.

⁷⁶ Personal crimes are crimes against the individual and only relate to this individual's own personal experience and not that of others in the same household. Household crimes involve damage or theft in a property and involve any other person who may be living in the same place.

⁷⁷ Bearing in mind that the victim may have been so for more than one protected category, which results in more incidents than the aforementioned 120,000, see the following breakdown of data according to protected category: race (66,000), religion (30,000), disability (27,000), sexual orientation (19,000) and gender identity (4,000).

⁷⁸ Bearing in mind that the victim may have been so for more than one protected category, which results in more incidents than the aforementioned 70,000, see the following breakdown of data according to protected category: race (39,000), disability (23,000), religion (12,000), sexual orientation (4,000) and gender identity (3,000).

Secondly, after analyzing some data from the CSEW, we can also refer to police recorded hate crime data. This information differs from the information provided by the CSEW, amongst other things, in the fact that it is published on a yearly basis and covers all those cases that were left outside the victimization survey⁷⁹. Therefore, focusing on the latest data available (2019/20)⁸⁰, the police from England and Wales recorded 105,090 hate crimes, which represents an increase by 8% when compared to 2018/19 (97,446). Knowing that the reasons for each of those crimes can be varied, the total amounts to 109,736 motivational factors involved in the aforementioned 105,090 crimes. By order of incidence we find the following categories: race (76,070 – 69.32%; 6% increase as compared to 2018/19), sexual orientation (15,835 – 14.43%; 19% increase as compared to 2018/19), disability (8,469 – 7.72%; 9 % increase as compared to 2018/19), religion (6,822 – 6.22%; 5% fall compared to 2018/19)⁸¹ and transgender (2,540 – 2.31%; 16% increase compared to 2018/19).

Furthermore, it is now important to highlight the fact that more than half (56%) of all racial or religious hate crimes are recorded as aggravated criminal offences, and this category is totally differentiated from their non-aggravated counterparts; that is, in general, we talk about assault, criminal mischief, public order offences and harassment/bullying, aggravated on the grounds of race or religion under arts. 28 to 32 of the *Crime and Disorder Act 1998*⁸². Moreover, it is also possible to know the result of the police inquiries regarding all these aggravated criminal offences that were recorded as such by the police forces. Thus, 11% of the public order offences resulted in charges/summons, as well as 10% of the personal offences (that is, assault, with or without injury, as well as harassment and bullying) and 9% of the criminal damages.

Knowing the above, the distribution by crime type of the 109,736 motivational factors associated to the 105,090 hate crimes recorded by the police is the following: public order offences (58,477 – 53%)⁸³, violence against the person (41,838 – 38%)⁸⁴, criminal damage and arson (5,591 – 5%)⁸⁵ and other crimes (3,830 – 4%)⁸⁶.

⁷⁹ However, it involves twice the risk. To start with, unlike the CSEW, these data do not have the National Statistics status awarded by the UK Statistics Authority –through bodies for which they are accountable– when the statistics concerned are in compliance with the Code of Practice for Statistics. This is the only way to meet the highest reliability, quality and value standard of the statistical information that is provided. Secondly, it is necessary to remember that a large number of hate incidents are not known to the police, with the considerable loss this involves when trying to find out the actual incidence of hate criminality. See OFFICE FOR STATISTICS REGULATION (OSR), “Code of Practice for Statistics. Ensuring official statistics serve the public”, UK Statistics Authority, 2018.

⁸⁰ Data from different territorial police forces, with the exception of the Greater Manchester Police, which was not able to provide data for 2019/20.

⁸¹ To be precise, of the 6,822 hate crimes on religious grounds, further information has been provided with regard to 6,203 (91%). This information, except in those cases where the specific details are not known (13%), indicates that half of all those crimes were against Muslims (3,089 – 50%), whereas the Jewish community is the next group with the highest incidence (1,205 – 19%).

⁸² For further detail, we refer to the UNESCO CHAIR IN HUMAN RIGHTS AND PUBLIC AUTHORITIES/ERTZAINITZA, “2018 Report on Hate Incidents in the Basque Country”, op. cit., pp. 51-52.

⁸³ A more detailed distribution, by motivational factor, is the following: race (43,691), sexual orientation (7,526), religion (3,286), disability (2,999) and transgender (975).

⁸⁴ A more detailed distribution, by motivational factor, is the following: race (26,439), sexual orientation (7,169), disability (4,404), religion (2,477), and transgender (1,349).

⁸⁵ A more detailed distribution, by motivational factor, is the following: race (3,669), religion (851), sexual orientation (536), disability (441), and transgender (94).

⁸⁶ A more detailed distribution, by motivational factor, is the following: race (2,271), disability (625), sexual orientation (604), religion (208), and transgender (122).

After the police inquiry, 93% of the crimes classified as hate crimes by the police have been assigned a final result⁸⁷ (the remaining 7% is awaiting for the inquiry to be completed in order to have a result assigned). 10% of the public order offences classified as hate-motivated crimes resulted in charges/summons, as well as 7% of the offences involving violence against the person and 7% of the offences involving criminal damage and arson.

The Crown Prosecution Service (CPS) is in charge of providing the figure of formal charges brought for hate crimes in England and Wales. To be precise, 10,950 charges for hate crimes were filed in 2019/20⁸⁸, which represents a 15% fall as compared to 2018/19 (12,828). The result of the 10,950 charges filed was a conviction in 9,340, which means a conviction rate of 85.3%. Of the 8,532 charges filed in connection with race (77.92% of the total charges filed), 7,268 resulted in a conviction, which means a conviction rate of 85.2%. Of the 1,514 charges brought in connection with homophobia (13.83% of the total charges filed), 1,327 resulted in a conviction, which means a conviction rate of 87.6%. Of the 453 charges filed in connection with religion (4.14% of the total charges filed), 384 resulted in a conviction, which means a conviction rate of 84.8%. Of the 360 charges filed in connection with disability (3.29% of the total charges filed), 292 resulted in a conviction, which means a conviction rate of 81.1%. And, finally, of the 91 charges filed in connection with transphobia (0.83% of the total charges filed), 69 resulted in a conviction, which means a conviction rate of 75.8%.

The report comprising the data for the year 2019/20, which enables to know the specific crime types behind those charges presented by the CPS on hate crime matters, has not been published yet⁸⁹.

■ 2. FRANCE

2.1. Empirical reality according to OSCE data

The most recent statistical information on hate crimes in France handled by the OSCE/ODIHR, according to the data dumped by the national authorities of this country, is the information for the year 2019⁹⁰. The total figure amounts to 2,640 hate crimes recorded by the police. In addition to this, some other 3,409 crimes involving incitement to hatred or to violence, defamation or public slandering have been referred to the OSCE/ODIHR, but «most of them» fall outside the definition provided by this organization about what must be understood as hate crime, and therefore, they have not been added to the rest of the hate crimes.

⁸⁷ It should be noted that, in this case, only 31 police forces –out of the 44 possible ones– in England and Wales provided appropriate data.

⁸⁸ Any reference made hereinafter must be understood as a reference to: CPS, “CPS data summary Quarter 4 2019-2020”, CPS, 2020. Link: <https://www.cps.gov.uk/publication/cps-data-summary-quarter-4-2019-2020>.

⁸⁹ See the file with all the reports published so far at the following link:
<https://www.cps.gov.uk/publication/hate-crime-reports>

⁹⁰ Online access: <https://hatecrime.osce.org/france>. Although from now on we will try to update the data, for other comments that may be of interest, refer to UNESCO CHAIR IN HUMAN RIGHTS AND PUBLIC AUTHORITIES, “2018 Report on Hate Crimes in the Basque Country”, op. cit., pp. 58-62.

With regard to the motive or motives of the offender, there are disaggregated data, but it is stated that there may be some duplicities between categories⁹¹. Bearing this in mind, the following classification ranks the number of prejudiced motives present in the hate crimes recorded by the police from the highest to the lowest incidence: prejudice against Christians (2,038), racism and xenophobia (1,336), sex⁹² (1,221), anti-Semitism (741), prejudice against Muslims (204) and prejudice against members of other religions or beliefs (11). By crime type, the following prevalence has been recorded: bodily harm⁹³ (2,080), threats and threatening behaviour (1,956), attacks on places of worship (891), unspecified⁹⁴ (262), grave desecration (228), incitement to violence (127) and homicide/murder⁹⁵ (7).

Finally, if crime types and perpetrator's motives are cross-referenced, the following data are obtained:

- Amongst the 2,080 offences involving bodily harm: 934 were due to prejudice against Christians; 569 to sex; 301 to racism and xenophobia; 151 to anti-Semitism; and 63 to prejudice against Muslims.
- Amongst the 1,956 offences involving threats and threatening behaviour: 845 are due to racism and xenophobia; 536 to anti-Semitism; 428 to sex; 91 to prejudice against Muslims; and 56 to prejudice against Christians.
- Amongst the 891 attacks on places of worship: 791 are due to prejudice against Christians; 46 to anti-Semitism; 43 to prejudice against Muslims; and 11 to prejudice against members of other religions or beliefs⁹⁶.
- Amongst the unspecified 262 offences: 165 are due to racism and xenophobia; and 97 to sex.
- Amongst the 228 offences involving grave desecration: 195 are due to prejudice against Christians; 18 to racism and xenophobia; 8 to anti-Semitism; and 7 to prejudice against Muslims.
- All the 127 offences involving incitement to hatred are due to sex.

Finally, the OSCE/ODIHR does not provide any data regarding the number of hate crimes prosecuted or the convictions in France.

⁹¹ More precisely, the data regarding «racism and xenophobia» also include other data regarding crimes committed on the grounds of actual or alleged affiliation to a religious group. Therefore, in spite of the fact that anti-Semitic, anti-Muslim and anti-Christian incidents are recorded separately, they have also been added to the racism and xenophobia category. However, when the total figures regarding anti-Semitic, anti-Muslim and anti-Christian incidents are provided, it is stated that they have also been notified under racism and xenophobia and, therefore, «they may appear» twice, but not much else is said in this regard. In any event, in the absence of an explanatory note, it does not seem that they are reflecting multiple motivations in the data provided.

⁹² The data in this category include those crimes motivated by prejudice based on sex and gender, as well as prejudice based on sexual orientation and gender identity.

⁹³ This category, amongst other aspects, includes data regarding «sexual violence».

⁹⁴ This category must be understood as regarding crimes against property, and includes the combined categories of «robbery with violence or intimidation», «theft», «robbery with forced entry and burglary», «damage to property» and «arson».

⁹⁵ These are preliminary data and include attempted homicide/murder.

⁹⁶ The attacks on places of worship include nine attacks on places associated to Witnesses of Jehovah and two attacks associated to Buddhists.

2.2. Approximation to the empirical reality: other data

The latest edition of the report of the National Consultative Commission on Human Rights (CNCDH), the thirtieth, comprises data for the year 2019 with regard to racism and xenophobia. To this end, every year, the Ministry of National Education, the Ministry of the Interior and the Ministry of Justice inform the CNCDH about the statistical balance of their activity within the sphere of the fight against racism. Likewise, this report also focuses on the implementation of the recommendations made by the CNCDH in previous years and the analysis and proposals of the CNCDH reported to the Inter-ministerial Delegate to combat Racism, Anti-Semitism and Anti-LGTB Hatred in December 2019.

The progress reports of the Ministry of the Interior and the Ministry of Justice serve to show the part of racism involved in an offence. Likewise, it must be pointed out that the Ministry of the Interior presents two complementary reports: on the one hand, the report of the Ministerial Statistical Service for Internal Security (SSMSI), which shows the actual activity of the police and the gendarmerie; on the other hand, the report of the Central Service of Territorial Intelligence (SCRT), which allows to monitor the facts reported by their local counterparts. To this we have to add the data recorded by the Platform for Harmonisation, Analysis, Cross-referencing and Referral of Reports (PHAROS), under the Central Office for Combating Information and Communication Technology Crime (OCLCTIC/SDLC), which provide a more comprehensive view of the anti-discrimination situation in France, as they include hate crimes and discriminatory behaviours committed online.

The statistical report of the SSMSI for the year 2019 includes data regarding the proceedings recorded by the police and the gendarmerie with regard to a set of offences (4th and 5th class crimes, offences and violations) defined in the Criminal Code as committed «on the grounds of race, origin, ethnicity or religion». That year, the police and the gendarmerie recorded around 10,830 violations explicitly related to race, origin, ethnicity and religion over the French territory. Out of the aforementioned 10,830 violations, 5,730 were considered crimes and offences (52.9%) and 5,100 were considered 4th and 5th class violations (47.1%).

After three consecutive years with falls (4% between 2017 and 2018 and 11% between 2016 and 2017), this year there has been an increase by 11% as compared to the previous year. Although it is true that the number of proceedings recorded has experienced a considerable increase as compared to the previous two years, it is necessary to view this increase in connection with the evolution of a context that is somehow conducive to the development of racist actions. The years 2015 and 2016 were marked by two particularly deadly attacks in France, which reverberated in the following months by bringing about the commission of violations based on the (actual or alleged) origin, ethnicity, nationality, race and religion of the victim, especially after the Charlie Hebdo and Hyper Cacher attacks in January 2015. However, some crime types (slandering, bodily harm, etc.) experienced a considerable decrease, which contributed to the global fall recorded in the previous years. To a lesser extent, the same can be said with regard to 2018, where the slight decrease in the events recorded that year is due to the fall in the offences involving provocation, slander and defamation.

By contrast, in 2019 there was a remarkable increase in certain crime types (50% in threats and blackmail, 26% in discrimination offences, and 60% in attacks on property). This can be due to the atmosphere of social tension that France was going through during that period of time, particularly against people of Jewish faith and Romani ethnicity early that year. Having said that, there are other not mutually exclusive causes that may have contributed to the increase in the recording of those crime types: the actual increase in hate crimes, an increase in victim reporting and an improvement in the way the victims are treated by the law enforcement forces.

With regard to contraventions, they also experienced a considerable increase by 26% in 2019, after a 6% increase in 2018 and a 2% increase in 2017.

The structure of the racist disputes remains stable: most of the criminal violations involve provocation, slandering or defamation (70.9%). To a lesser extent, we have threats and blackmail (15.2%), attacks on people (5.24%), discrimination and attacks on property (4.2% each).

With regard to the profile, approximately 74% of the offenders and 58% of the victims were men. With regard to the age, the victims were usually middle-aged people; in fact, 70% of the victims were between 25 and 54 years of age. The apparent low representation of people under 25 (around 16%, when they represent 30% of the population) and people over 55 (around 13%, when they represent 33% of the population) may be due to a low tendency to report, especially in the case of young people, rather than to a lower exposure to racist statements. However, in the case of the offenders, even though young people were also underrepresented (35% were under 35, when they represent 66% of the population), people over 55 were overrepresented (25% of the offenders, when they represent 6% of the population).

Also, foreign people are overrepresented in the victim count. In fact, 19%⁹⁷ of the victims of crimes and offences were foreigners. Basically, the most affected group were the people from the African continent (15% are part of this group, in spite of their representing approximately less than 3% of the population). As it is logical, this overrepresentation does not reflect the case of the offenders, since only 9% of the offenders had been born outside the French territory. It must be noted that, from the point of view of the setting, as mentioned in previous reports, large agglomerations seem to encourage racism: almost two thirds of the aforementioned offences and crimes took place in Paris (32%) or in urban areas with more than 200,000 inhabitants (31%). By contrast, rural municipalities are the least affected by this type of racist incidents, (6% of the victims).

Focusing on the prosecution and the courts, 6,603 issues reached the prosecution service in 2018, for which 6,107 were prosecuted. Out of all the charged persons, 48.1% (2,940 cases) were charged with slandering and defamation; 38.9% (2,376 cases) with attacks on people; 10.4% (1,263 cases) with discrimination; and the remaining 2.5% with attacks on property. Likewise, 393 racist or racially aggravated offences were punished in 2018, a relatively low figure as compared to the preceding years. Out of those punished offences, more than half (52%) correspond to convictions for slandering and defamation.

In addition to all the above, it is also possible to find some data beyond racism/xenophobia. These figures are quite different from those reported by the SCRT, which also show an upward trend in the last year, after experiencing a continuous downward trend between 2015 and 2017. To be precise, during the year 2019, there was a 54% increase in Islamophobic cases (154 cases in 2019 as compared to 100 cases in 2018), 27% in anti-Semitic cases (687 cases in 2019 as compared to 541 cases in 2018), and 131% in the rest of the racist cases (154 cases in 2019 as compared to 100 cases in 2018). Altogether, 1,604 threats and 379 actions were recorded⁹⁸.

The Inter-ministerial Delegation to Combat Racism, Anti-Semitism and Anti-LGTBI Hatred (DILCRAH), with the help of the Ministerial Statistical Service for Internal Security (SSMI) of the Ministry of the Interior, also compiles data and prepares an annual inventory regarding the victims of crimes and offences recorded by the law enforcement forces (police and gendarmerie) that are committed on the grounds of the actual or alleged sexual orientation or gender identity of the victim(s). In this regard, the police and the gendarmerie recorded 1,870 homophobic or transphobic offences in 2019, 36% more than the previous year. Slandering represents 33% of

⁹⁷ In this respect, the CNCDH report itself states that it would be interesting to be able to tell how many of those victims of French nationality descend from immigrants or are second-generation immigrants. The victimization survey "Cadre de vie et sécurité" has found that migrant people and their descendants are more likely to suffer an offence of this type than French nationals.

⁹⁸ COMMISSION NATIONALE CONSULTATIVE DES DROITS DE L'HOMME (CNCDH), "La lutte contre le racisme, l'antisémitisme et la xénophobie", CNCDH, Paris, 2020.

the offences recorded, followed by offences involving physical or sexual abuse (28% of the cases). The victims of these offences were mostly men (75%) and young (62% of the victims were under 35). As for the place where the offence was committed, 36% of the events took place in urban areas with more than 200,000 inhabitants⁹⁹.

If we focus exclusively on the hate crimes committed on the Internet according to the PHAROS platform, there were 17,555 reports regarding crimes of this type in 2019 (7.68% of all the reports for offences committed on the Internet, which amount to 228,545). Most of the reports involve xenophobic or discriminatory slandering (55.9%), followed, to a lesser extent, by public incitement to hatred and racial, ethnic or religious discrimination (32.5%) as well as public incitement to hatred and discrimination on the grounds of the sexual orientation of the victim (6.5%). The most common media to commit these offences year after year are the social media, particularly, Twitter.

Finally, the CNCDH, aware of the insufficiency of the administrative statistics to outline a comprehensive state of the question in France, suggests taking into account the “dark figure” that affects their representativeness, since the number of known incidents is much lower than the number of those actually committed. In order to complete this approximation and limit the impact of the understatement, they use other sources of sociological character, such as the series of surveys «Framework of Life and Security». These surveys, comprising a face-to-face and an online survey, were created in 2007 by the INSEE, in collaboration with the National Observatory of Crime and Criminal Justice (ONDRP), in order to find out the criminal offences that citizens may have been victims of in the previous two years and identify their perception of subjective insecurity. This survey is conducted in the first quarter of each year in approximately 25,500 households of the metropolitan France¹⁰⁰.

With respect to hate crimes, the only information provided by the latest edition of the survey is that 9.3% of the interviewees declared that they had been victims of slandering. Among the discriminatory slandering suffered, 25% was sexist, followed by racist, anti-Semitic or xenophobic slandering (11%) and, to a lesser extent, homophobic slandering (3%)¹⁰¹.

⁹⁹ MINISTÈRE DE L'INTERIEUR, “Crimes et délits anti-LGBT enregistrés par les forces de police et de gendarmerie en 2019”, *Ministère de l'intérieur*, Paris, 2020, Online access:

<https://www.interieur.gouv.fr/Actualites/Communiqués/Crimes-et-délits-anti-LGBT-enregistres-par-les-forces-de-police-et-de-gendarmerie-en-2019>

¹⁰⁰ COMMISSION NATIONALE CONSULTATIVE DES DROITS DE L'HOMME (CNCDH), “La lutte contre... *op. cit.*”

¹⁰¹ SERVICE STATISTIQUE MINISTÉRIEL DE LA SÉCURITÉ INTÉRIEURE, Résultats de l'enquête «Cadre de vie et sécurité» 2019: Victimation, délinquance et sentiment d'insécurité, Ministère de l'intérieur, Paris, 2019 Online access: <https://www.interieur.gouv.fr/Interstats/Actualites/Rapport-d-enquete-Cadre-de-vie-et-securite-2019>

■ 3. GERMANY

3.1. Empirical reality according to OSCE data

The most recent statistical information handled by the OSCE/ODIHR on hate crimes in Germany, according to the data dumped to the organization by the national authorities of this country, is the information regarding 2019¹⁰². The total number amounts to 8,585 hate crimes recorded by the police. As specified, this includes «some» hate speech offences that will not be taken into account for a subsequent breakdown by category, as they fall outside the definition provided by this organization with regard to what must be understood as hate crime.

With regard to the motive or motives of the offender, there are disaggregated data. Moreover, it is pointed out that multiple motives are computed in each and every category involved in the specific incident. Considering the above, the following classification ranks the 2,469 prejudiced motives present in the hate crimes recorded by the police from the highest to the lowest incidence¹⁰³: racism and xenophobia (1.651), anti-Semitism¹⁰⁴ (273), sexual orientation or gender identity (248), prejudice against Muslims (207), prejudice against Christians (57), prejudice against members of other religions or beliefs (14), prejudice against Romani and Sinti people (13) and disability (6). By crime type, the following prevalence has been recorded: bodily harm (997), damage to property¹⁰⁵ (940), threats and threatening behaviour (397), theft/robbery (83), grave desecration (19), arson (17) and homicide/murder (16).

Finally, when cross-referencing the crime types and the motives of the perpetrator, the following data are obtained:

- Out of the 997 crimes involving bodily harm: 736 are due to racism and xenophobia; 140 to sexual orientation or gender identity; 49 to prejudice against Muslims; 44 to anti-Semitism; 11 to prejudice against Christians; 7 to prejudice against members of other religions or beliefs; 6 to prejudice against Romani and Sinti people; and 4 to disability.
- Out of the 940 crimes involving damage to property: 554 are due to racism and xenophobia; 165 to anti-Semitism; 116 to prejudice against Muslims; 67 to sexual orientation or gender identity; 31 to prejudice against Christians; 4 to prejudice against Romani and Sinti peoples; and 3 to prejudice against members of other religions or beliefs.
- Out of the 397 crimes involving threats and threatening behaviour: 280 are due to racism and xenophobia; 40 to anti-Semitism; 33 to prejudice against Muslims; 29 to sexual orientation or gender identity; 11 to prejudice against Christians; 2 to prejudice against members of other religions or beliefs; 1 to prejudice against Romani and Sinti people; and 1 to disability.

¹⁰² Online access: <https://hatecrime.osce.org/germany>. Although from now on we will try to update the data, for other comments that may be of interest we refer to UNESCO CHAIR IN HUMAN RIGHTS AND PUBLIC AUTHORITIES/ERTZAINZA, "2018 Report on Hate Incidents in the Basque Country", *Basque Government*, op. cit., pp. 58-60 and 62-65. Moreover, it should be remembered that the year 2019 is an important year. In January 2018 the first German *Land* or federal state started the statistical recording of prosecuted hate crimes in order to send that information to the Federal Office of Justice, in charge of aggregating those figures. Since 1 January 2019, data have been compiled at the national level. In any case, organizations such as the ECRI have recently stated that they still have not received any information from the German authorities with regard to whether the new data could be used to conduct a traceability exercise to monitor hate incidents from the initial inquiry stage to the sentencing stage for a hate-motivated crime. They recommend more clarity as well as studies in this regard. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI), "ECRI report on Germany (sixth monitoring cycle)", *Council of Europe*, Strasbourg, 2020, paragraphs 35 and 63.

¹⁰³ They state that a single hate crime can be recorded with more than one prejudiced motive behind. Nevertheless, it must be remembered that hate-speech crimes which used to be computed within the 8,585 hate crimes recorded by the police, are not computed now to disaggregate data by categories.

¹⁰⁴ The OSCE/ODIHR points out that they also monitor the separate category «Attacks on Jewish Cemeteries». To be precise, in 2019 there were 34 incidents of this type, but they are not included in this statistics.

¹⁰⁵ This category includes cases of «vandalism».

- Out of the 83 crimes involving theft/robbery: 49 are due to racism and xenophobia; 13 to anti-Semitism; 11 to sexual orientation or gender identity; 7 to prejudice against Muslims; 1 to prejudice against Christians; 1 to prejudice against members of other religions or beliefs; and 1 to disability.
- Out of the 19 crimes involving grave desecration: 10 are due to racism and xenophobia; and 9 to anti-Semitism.
- Out of the 17 crimes involving arson: 12 are due to racism and xenophobia; 2 to prejudice against Christians; 1 to anti-Semitism; 1 to prejudice against Muslims; and 1 to prejudice against members of other religions or beliefs.
- Out of the 16 crimes involving homicide/murder: 10 are due to racism and xenophobia; 2 to prejudice against Romani and Sinti people; 1 to anti-Semitism; 1 to prejudice against Muslims; 1 to prejudice against Christians; and 1 to sexual orientation or gender identity.

Finally, the OSCE/ODIHR does not provide data about the number of hate crimes prosecuted or the convictions issued in Germany.

3.2. Approximation to the empirical reality: other data

In Germany, the official central benchmark for statistical data is the German Ministry of the Interior (*«Bundesministerium des Innern, für Bau und Heimat»*), which, within the general category Politically-Motivated Violence (*«Politisch Motivierte Kriminalität»* – PMK) specifies a sub-category that is known as hate criminality (*«Hasskriminalität»*).

As regards the broadest category of politically-motivated crimes, according to the latest *Verfassungsschutzbericht 2019*¹⁰⁶ report, they are defined as all those criminal precepts within the conventional block of crimes against the State¹⁰⁷, even if the political motivation cannot be determined in individual cases. This general category helps to understand a global figure in 2019 of 41,177 politically-motivated crime incidents in this sphere which include 16,182 propaganda crimes (39.3%) and 2,832 violent crimes¹⁰⁸ (6.9%)¹⁰⁹. Thus, the number of politically-motivated crimes in Germany in 2019 increased by approximately 14% as compared to the previous year.

¹⁰⁶ BUNDESMINISTERIUM DES INNERN, FÜR BAU UND HEIMAT, *Verfassungsschutzbericht 2019*, Bundesminister des Innern, für Bau und Heimat, Berlin, 2020.

¹⁰⁷ It must be remembered that the following crime types are considered conventional crimes against the State: §§ 80 - 83, 84 - 91, 94 - 100a, 102 - 104a, 105 - 108e, 109 - 109h, 129a, 129b, 130, 234a or 241a StGB. The category "politically-motivated criminality" may also include crimes that may be committed within the sphere of everyday crime (such as, for example, homicide, bodily harm, arson, resistance or damage), when a global assessment of the circumstances or the attitude of the offender provide a base to infer that they have a political motivation, due to the fact that they are aimed at influencing the process to shape democratic will, achieve or prevent political purposes, or they are aimed at preventing the implementation of political decisions, are against the free democratic order or any of its essential characteristics, against the permanence or the security of the Federation or one of its States, or result in members of constitutional bodies or any body of a federal state being unlawfully prevented from carrying out their duties, through the use of violence or actions to prepare for violence, which involve a danger for the Federal Republic of Germany, are directed against a person on the grounds of their political ideology, nationality, ethnicity, race, color, religion, view of the world, origin or external appearance, disability, sexual orientation or social status (the so-called hate crimes); it also includes events that are not directly aimed against a person, but rather against an institution or object within the framework of the aforementioned context. BUNDESMINISTERIUM DES INNERN, FÜR BAU UND HEIMAT, *Verfassungsschutzbericht 2019*... op. cit., pp. 22-23.

¹⁰⁸ Out of these 2,832 violent crimes, 1,688 correspond to bodily harm and 13 to crimes against life (10 attempted and 3 accomplished). BUNDESMINISTERIUM DES INNERN, FÜR BAU UND HEIMAT, *Politisch motivierte Kriminalität im Jahr 2019. Bundesweite Fallzahlen*, Bundesminister des Innern, für Bau und Heimat, Berlin, 2020, pp. 4-5.

¹⁰⁹ For these and other data that will appear below, see a summary in BUNDESMINISTERIUM DES INNERN, FÜR BAU UND HEIMAT, *Verfassungsschutzbericht 2019*... op. cit., p. 23.

There were 22,342 criminal incidents within politically motivated right-wing criminality (54.25%; an increase by almost 10% as compared to the previous year), 14,247 of which were propaganda crimes. As for the rest, 9,849 incidents fall within politically-motivated left-wing criminality (23.92%), 425 within religious ideology (1.03%) and 1,897 within foreign ideology (4.61%). Finally, 6,664 criminal incidents (16.18%) cannot be allocated to any of the previous categories.

Altogether 31,472 criminal offences with an extremist background were recorded. That is, events in which there is some evidence to consider that they were aimed at violating certain constitutional principles that are essential for democracy; that is, fundamental democratic principles. Out of these 31,472 extremism-motivated crimes, 21,290 fall within politically-motivated right-wing criminality, 6,649 within politically-motivated left-wing criminality, 372 within politically-motivated criminality based on religious ideology, and 1,354 within politically-motivated criminality based on foreign ideology. Finally, 2,017 offences with an extremist background could not be allocated to any of the previous categories.

The most restricted and specific view of hate crimes («*Hasskriminalität*») in the strictest sense reduces the aforementioned figures to a global total of 8,585 incidents in 2019. According to the target groups, but including possible multiple motives, 7,909 were xenophobic, 2,032 anti-Semitic, 950 Islamophobic, 3,703 against foreigners (*Ausländerfeindlich*; this is a category that was added on 1 January 2019, which includes 506 violent crimes within the previous figure), 132 anti-German (*Deutschfeindlich*; this is a category added on 1 January 2019, which includes 22 violent crimes within the previous figure), and 1,524 hate publications (*Hassposting*; this is a category added on 1 January 2019)¹¹⁰, three fourths of which included political motivations linked to rightwing extremism.

Finally, a figure regarding a specific crime type should be highlighted: incitement crimes («*Volksverhetzung*»), the equivalent to the Spanish article 510 CP, amounting to a total of 4,179 incidents in 2019¹¹¹.

■ 4. SUMMARY AND COMPARATIVE REFLECTIONS

Hate incidents (police) and hate crimes (prosecutors and judges/courts). Below is a brief summary of the updated data corresponding to the comparative frame of reference (United Kingdom, France and Germany), including those data provided by the OSCE.

1. UNITED KINGDOM

1.1. OSCE

1.1.1. Police. 106,672 hate crimes were recorded in 2019. 105,090 of them relate to England Wales (98.52%) and 1,582 to Northern Ireland (1.48%). No data have been provided about Scotland. Within the 105,090 hate crimes related to England and Wales, there are 109,401 prejudiced motives involved, which can be broken down in the following way: racism and

¹¹⁰ BUNDESMINISTERIUM DES INNERN, FÜR BAU UND HEIMAT, *Politisch...* op. cit., pp. 4-5.

¹¹¹ See: <https://de.statista.com/statistik/daten/studie/157434/umfrage/polizeilich-erfasste-faelle-von-volksverhetzung-seit-1996/>

xenophobia (76,070), sexual orientation or gender identity (18,375), disability (8,469), prejudice against Muslims (3,089), prejudice against members of other religions or beliefs (1,662), anti-Semitism (1,205) and prejudice against Christians (531).

1.1.2. Prosecution. A total of **14,058 hate crimes were prosecuted** in 2019. 8,446 relate to England and Wales (60.08%) and 5,612 to Scotland (39.92%). No data have been provided about Northern Ireland.

1.1.3. Judges/Courts. **9,340 convictions for hate crimes were recorded in 2019** in England and Wales. No data have been provided about Scotland and Northern Ireland.

1.2. OTHER DATA

1.2.1. Scotland

1.2.1.1. Police. **6,736 hate incidents were recorded** in 2017/18¹¹². However, the police have recently issued a total figure of **7,370 hate incidents** recorded between 1 March 2019 and 31 March 2020. With regard to the 6,736 hate incidents related to 2017/18, 6,413 (95.20%) fall within a single protected category and 323 (4.76%) within a combination of them. Within the first group of incidents, with regard to the total figure, the prevailing category is race (4,491 – 66.67%), followed by sexual orientation (1,085 – 16.10%), religion (504 – 7.48%), disability (274 – 4.06%) and transgender identity (59 – 0.87%).

1.2.1.2. Prosecution. In 2019/20 the **total number of charges** reported to the prosecution service by the police and other agencies is **5,219** (without splitting for multiple victimization). If we count each category involved in each charge (splitting for multiple victimization), the prevailing category is race with 3,038 charges, followed by sexual orientation with 1,486, religion with 660, disability with 387 and transgender identity with 41. Therefore, race is present in more than half of all the charges (58.21%).

Within the charges regarding race, it is certain that at least 2,480 (81.63%) ended up being prosecuted. Within the charges regarding sexual orientation, 1,249 (84.05%) ended up being prosecuted. Within the 660 charges regarding religion, 555 (84.09%) ended up being prosecuted. Within the charges regarding disability, 339 (87.60%) ended up being prosecuted. Within the 41 charges regarding transgender identity, 33 (80.49%) ended up being prosecuted.

1.2.1.3. Judges/Courts. In 2018/19 there were **629 convictions with a racial aggravator/indicator¹¹³, 356 with a sexual orientation aggravator/indicator, 204 with a religion aggravator/indicator, 89 with a disability aggravator/indicator and 7 with a transgender aggravator/indicator.**

¹¹² On the closing date before this report is issued, no updated data have been published in official reports.

¹¹³ Note that if there are several aggravators/indicators in a single case resulting in conviction, they are all taken into account and recorded in the data. Moreover, their having an indicator does not mean that we are dealing with a conviction for some statutory aggravator. It means that those aggravators that simply provide additional information of interest in the proceedings have also been taken into account. This information can be dumped by the police and by the prosecution service. In short, a conviction for a crime to which more than one aggravator/indicator is added (for example, race and religion) will imply that both aggravators/indicators are computed.

1.2.2. Northern Ireland

1.2.2.1. Police. **2,278 hate incidents were recorded** in 2018/19. The prevailing category was race (881), followed by sectarianism (870), homophobia (344), disability (84), transphobia (68) and faith/religion (31). Moreover, there were **1,555 crimes linked to those incidents** (race: 583; sectarianism: 627; homophobia: 244; disability: 55; transphobia: 34; and faith/religion: 12).

1.2.2.2. Prosecution. In 2019/20 the prosecution service received **334 cases related to hate crimes** from the police. Each case may have involved one or more people. By protected category the most prevailing is race (118 – 35.33%), followed by sectarianism (91 – 27.24%), homophobia (54 – 16.17%), faith/religion (36 – 10.78%), disability (8 – 2.39%) and transphobia (7 – 2.09%). Moreover, 20 cases (5.99%) were linked to a multiple motivation.

According to the final decision adopted by the prosecution service, we find two different types of data.

Firstly, those data related to the decision to bring charges having as a reference all those hate-motivated incidents that had been classified as such by the Northern-Irish police. Out of a total of 448¹¹⁴, **16 decisions (3.57%) involved bringing charges against people for them to be tried before the Crown Court (indictable prosecution). However, 206 decisions (45.98%) involved bringing charges against people for them to be tried before a Magistrates' Court (summary prosecution).**

Secondly, we find those data related to the decision to bring charges having as a reference all those incidents in which a prosecutor understood that a hate crime aggravated by hostility in accordance to a legal provision (rather than a police definition) had been committed. Out of a total of 246, **19 decisions (7.72%) involved bringing charges against people for them to be tried before the Crown Court (indictable prosecution). However, 137 decisions (55.69%) involved bringing charges against people for them to be tried before a Magistrates' Court (summary prosecution).**

1.2.2.3. Judges/Courts. If we focus on the summary prosecutions, due to its being the decision that involves the most people, the following differentiated data were recorded for 2019/20.

With respect to the data related to the decision to bring charges having as a reference all the hate-motivated incidents that were classified as such by the Northern-Irish police, **151 defendants were convicted** [race: 60; sectarianism: 39; homophobia: 17; faith/religion: 17; various motivations: 12; disability: 5; transphobia: 1] for at least one crime.

As for the data related to the decision to bring charges having as a reference all those incidents in which a prosecutor understood that a crime aggravated by hostility, in

¹¹⁴ Note that there may be more than one decision due to, for example, different individuals within the same case.

accordance with a legal provision (rather than a police definition) had been committed, **119 defendants were convicted** [race: 61; religion: 35; sexual orientation: 11; various motivations: 8; disability: 4] for at least one crime.

1.2.3. England and Wales

1.2.3.1. Police. 105,090 hate crimes were recorded in 2019/20, as well as 109,736 motivational factors involved in the aforementioned crimes. By category and by order of incidence, the most outstanding are: race (76,070 – 69.32%), sexual orientation (15,835 – 14.43%), disability (8,469 – 7.72%), religion (6,822 – 6.22%) and transgender (2,540 – 2.31%).

1.2.3.2. Prosecution. 10,950 charges for hate crimes were filed in 2019/20. By category and by order of incidence, the most outstanding are: race (8,532 – 77.92%), homophobia (1,514 – 13.83%), religion (453 – 4.14%), disability (360 – 3.29%) and transphobia (91 – 0.83%).

1.2.3.3. Judges/Courts. In 2019/20, out of the 10,950 charges filed, **9,340 resulted in a conviction**. To be precise: 7,268 resulted in a conviction in connection with race; 1,327 resulted in a conviction in connection with homophobia; 384 resulted in a conviction in connection with religion; 292 resulted in a conviction in connection with disability; and 69 resulted in a conviction in connection with transphobia.

2. FRANCE

2.1. OSCE

2.1.1. Police: In 2019, the OSCE/ODIHR reported the commission of **2,640 hate crimes in France**¹¹⁵. Among them, considering that there may be some duplicity between categories, the most predominant are anti-Christian prejudice (2,038), racism and xenophobia (1,336), sex¹¹⁶ (1,221), anti-Semitism (741), prejudice against Muslims (204) and prejudice against members of other religions or beliefs (11). As for the rest, the most prevailing, with a similar figure, are bodily harm (2,080) and threats and threatening behaviour (1,956).

2.1.2. Prosecution: In 2018 the **total number of charges** reported by the police and other agencies to the Prosecution Service was 6,107. Out of all the people who were prosecuted, most of them were prosecuted for slandering and defamation (48.1%, 2,940 cases) or for attacks on people (38.9%, 2,376 cases).

2.1.3. Judges/Courts: No data have been provided.

¹¹⁵ **3,409 crimes involving incitement to hatred or to violence, defamation and public slandering** are added to these crimes but, even though they were reported to the OSCE/ODIHR, they must not be taken into account since they do not fit the definition provided by this organization on what hate crime is.

¹¹⁶ The data within this category include those crimes motivated by prejudice based on sex and gender, as well as prejudice based on sexual orientation and gender identity.

2.2. OTHER DATA

2.2.1. Police. In 2019 there were 10,830 violations explicitly related to race, origin, ethnicity and religion in the French territory. Amongst them, 5,730 were considered crimes and offences (52.9%) and 5,100 were considered 4th and 5th class violations (47.1%). Moreover, 154 Islamophobic cases, 687 anti-Semitic cases and 1,870 homophobic or transphobic violations were recorded.

2.2.2. Other entities. If we focus exclusively on the **hate crimes committed on the Internet** according to the **PHAROS** platform, **17,555 reports** for crimes of this type were recorded in 2019.

2.2.3. Prosecution: In 2018 the total number of **cases related to race, ethnicity, origin and religion that reached the Prosecution Service was 6,603**. Among them, 6,107 were eventually prosecuted. There are no data with regard to the rest of the groups.

2.2.4. Judges/Courts: In 2018, there were **393 convictions based on the race aggravator**. There are no data with regard to the rest of the groups.

3. GERMANY

3.1. OSCE

3.1.1. Police. 8,585 hate crimes were recorded in 2019. In part of all those hate crimes¹¹⁷ there were 2,469 prejudiced motives involved, which can be broken down in the following way: racism and xenophobia (1,651), anti-Semitism (273), sexual orientation or gender identity (248), prejudice against Muslims (207), prejudice against Christians (57), prejudice against members of other religions or beliefs (14), prejudice against Romani and Sinti people (13) and disability (6).

3.1.2. Prosecution. No data have been provided.

3.1.3. Judges/Courts. No data have been provided.

3.2. OTHER DATA

41,177 politically-motivated criminal incidents were recorded in 2019 in this sphere, including 16,182 crimes involving propaganda (39.3%) and 2,832 violent crimes (6.9%). Moreover, 22,342 criminal incidents fall within right-wing politically motivated criminality (54.25%), 9,849 within left-wing politically motivated criminality (23.92%), 425 within religious ideology (1.03%) and 1,897 within foreign ideology (4.61%). Furthermore, 6,664 criminal incidents (16.18%) cannot be allocated to any of the previous categories.

¹¹⁷ The 8,585 hate crimes recorded include «some» hate speech crimes that will not be computed for a breakdown by category. Also, a single crime may be recorded with more than one prejudiced motive.

The more restricted and specific view of hate crimes («*Hasskriminalität*»), as a sub-category of politically-motivated violence («*Politisch Motivierte Kriminalität*» – PMK), reduces the previous figures to 8,585 incidents in 2019. According to the target groups, but counting possible multiple motivations, 7,909 were xenophobic hate incidents, 2,032 anti-Semitic, 950 Islamophobic, 3,703 against foreigners («*Ausländerfeindlich*»), 132 anti-German («*Deutschfeindlich*») and 1,524 involved hate publications («*Hassposting*»).

The crimes involving incitement («*Volksverhetzung*») represented 4,179 incidents in 2019.



3. REPORTS FROM THE ERABEREAN NETWORK

3. REPORTS FROM THE ERABEREAN NETWORK

This section seeks to make an analytical diagnosis of the Reports published by the Eraberean network. The aim is to identify to what extent the incidents in these reports contain information that can be used to make a comparison with police incidents. Especially, it is important to highlight the terminology as well as elements such as the target groups that are reported. And this should not be done in order to assess data that respond to a different logic from the police logic but rather to lead the police “antennas” that pick up police as well as other incidents towards a scenario of greater cooperation aimed at the necessary unveiling of the dark figure.

The Eraberean network was established in 2015 in order to achieve equal treatment and non-discrimination in the sphere of public policies and in the Basque civil society. It comprises representatives from the Basque Government and associations working on three areas of focus: migrant people, Romani people and the LGBTI community. To be precise, these associations are: Aldarte, CEAR Euskadi, Cruz Roja, Gao Lacho Drom, CITE-CC.OO Bizkaia, Errespetuz, Kale Dor Kayiko, Nevipen, AGIFUGI, Gehitu and SOS Racismo Gipuzkoa.

These entities cover the three provinces of the Basque Autonomous Community and act as antennas in order to detect discrimination situations and hate crimes on the grounds of membership of the aforementioned three groups and assist people and groups that have experienced these situations.

The data obtained are then entered in the computer application of the Eraberean network and included in their annual Internet activity report. In accordance with this report, 255 people have been assisted in the last 4 years: 49 people in 2016, 76 people in 2017, 65 people in 2018 and 65 people in 2019. Most of the cases were dealt with as possible discrimination cases based on the ethnicity, nationality or origin of the victim (69.4%), 69.5% of which involved discrimination against migrant people, whereas the remaining 30.5% involved discrimination against Romani people. Moreover, 30.6% of the cases dealt with correspond to cases of discrimination against a person due to their belonging to the LGBTI community.

In addition to the aforementioned information, the various reports also contain other data of interest, such as the historical territory where the cases took place, information regarding how they found out about the incident, the number of cases in which there is evidence of discrimination, the socio-demographic characteristics of the victim (national origin and sex), the type of discrimination (direct, indirect or by association) and the discrimination sphere (whether public or private and, within each category, the specific area). Also, as from 2017, they have added a section dealing with the rights violated in each incident and, in 2019, they included information about the age of the victim and they started to break down their socio-demographic characteristics according to the group involved¹¹⁸.

¹¹⁸ ERABEREAN, NETWORK FOR EQUAL TREATMENT AND NON-DISCRIMINATION, “2016 Report on network activity”, Basque Government, Department of Employment and Social Policies, Vitoria-Gasteiz, 2017, p. 45 and ff; ERABEREAN, NETWORK FOR EQUAL TREATMENT AND NON-DISCRIMINATION, “2017 Report on network activity”, Basque Government, Department of Employment and Social Policies, Vitoria-Gasteiz, 2018, p. 11 and ff; ERABEREAN, RED NETWORK FOR EQUAL TREATMENT AND NON-DISCRIMINATION, “2018 Report on network activity”, Basque Government, Department of Employment and Social Policies, Vitoria-Gasteiz, 2019, p. 60 and ff; ERABEREAN, NETWORK FOR EQUAL TREATMENT AND NON-DISCRIMINATION, “2019 Report on network activity”, Basque Government, Department of Employment and Social Policies, Vitoria-Gasteiz, 2020, p. 44 and ff.

As the network itself mentions in their Report corresponding to the year 2016, it cannot be said that the data provided represent the reality of the discrimination existing in the Basque Autonomous Community on the grounds of the victim's nationality, origin, ethnicity, sexual identity and orientation and gender¹¹⁹. Likewise, they do not provide a close insight of the reality of hate crimes in this territory, since there are probably many discrimination cases that do not meet the requirements to be considered hate crimes. Nevertheless, their data have an important feature, as they help to show this reality from the point of view of the associations that work closely with these groups, even if it would be great to have the information expanded on several fronts.

Firstly, from the point of view of the terminology, the word migrations is used to refer to the most discriminated-against group, even though in 2019 almost 40% of the people assisted for discrimination based on this characteristic were of Spanish origin¹²⁰. Thus, even though in part of the cases the actual or alleged foreign nationality of the victim may be the exclusive motive of the perpetrator, it is more likely that the actual reason has to do with the race/ethnicity of the victim, or that both motives intersect. That is why it may be more advisable to use a marker that encompasses all those motives, such as the term "racism", which, as Recommendation No.7 of the General Policy of the ECRI, of 13 December 2002 points out, comprises discrimination "on the grounds of race, sex, colour, language, (...) nationality or national or ethnic origin" amongst others. Although it is true that this term may lead to confusion, since it is liable to include the Romani group, there is no reason why this group cannot be considered in an independent manner, due to its prevalence.

Secondly, in connection with what was stated in the previous paragraph, it would be interesting that, when incidents are recorded, the victim's belonging to a religious minority should be mentioned, since there are cases of women who have been attacked due to their wearing an Islamic veil¹²¹, in addition to the fact that there are also non-migrant people who profess Islam. In spite of the difficulties to distinguish those discriminatory incidents based on the race /ethnicity of a person from those based on their religious beliefs, which can also be said about national origin¹²², they are different categories whose attacks should be differentiated.

Thirdly, along the same lines, it is important to point out that, in spite of the fact that it is undeniable that the organizations that make up the Eraberean network deal with people belonging to ethnic/religious minorities and to the LGBTI community on a more regular basis, the sources of information might have to be expanded in the next years so as to include data from associations that deal with other groups in the same situation of vulnerability, such as people with functional diversity. In this respect, it must be pointed out that it would be positive, in order not to reinforce identity hierarchies, to record the incidents suffered by minority groups, so that the report clearly conveys the message that all forms of discrimination are equally unacceptable from the social and legal point of view¹²³, even for the associations themselves, not contributing to further marginalising their members¹²⁴.

¹¹⁹ ERABEREAN, NETWORK FOR EQUAL TREATMENT AND NON-DISCRIMINATION, "2016 Report ... op. cit. p. 45.

¹²⁰ ERABEREAN, NETWORK FOR EQUAL TREATMENT AND NON-DISCRIMINATION, "2019 Report ... op. cit. p. 56.

¹²¹ For example, ERABEREAN, NETWORK FOR EQUAL TREATMENT AND NON-DISCRIMINATION, "2019 Report ... op. cit. p. 89.

¹²² See, in this regard, LANDA GOROSTIZA, J.M., *Los delitos de odio*, Tirant lo Blanch, Valencia, 2018, p. 15 and TURPIN-PETROSINO, C. *Understanding hate crimes: Acts, motives, offenders, victims, and justice*, Routledge, New York, 2015, *passim*.

¹²³ CHAKRABORTI, N., "Framing the boundaries of hate crime", in HALL, N./ CORB, A./ GIANNASI, P./ GRIEVE, J. G. D. (Eds.), *The Routledge International Handbook on Hate Crime*. Routledge, London, 2015, p. 16; FUENTES, J. L., "Concepto de «odio» y sus consecuencias penales", *Cometer delitos en 140 caracteres. El Derecho penal ante el odio y la radicalización en Internet*, Marcial Pons, Madrid, 2017, *passim*.

¹²⁴ SCHWEPPE, J. "Politicising victims: A legal perspective", *Journal of hate studies*, vol. 10. 2012, p. 179.

Fourthly, considering that both potential discrimination incidents as well as hate incidents are being recorded, it would be advisable for the Eraberean network to start distinguishing in their next reports how many incidents are considered to have criminal overtones and how many are mere discriminations that, while objectionable, are not serious enough to be considered crimes. Once this first differentiation has been made, it would also be advisable for them to go further in the distinction between the different concurrent crime types. While it is true that they provide descriptions about some of the incidents recorded, it would be advisable to have this information recorded in a more detailed and quantitative manner.

Fifthly, it is worth noting that the reports leave out any information on the offender (sex, age, national origin, whether the victim and the offender knew each other, etc.). It must be mentioned that the research on the characteristics of this type of offenders has not been very extensive so far¹²⁵, and that most of it has been carried out using police data or data regarding convicted offenders exclusively, which enables a limited approach to the profile of the perpetrators of this types of incidents, since most of them are never investigated¹²⁶. This is why it should be advisable for the next reports to include data regarding the offenders so as to go further into the empirical knowledge of their profile, beyond the official data.

Finally, it would be important not to ignore the data on the spatial and temporal characteristics of the incident (such as the municipality or the month in which the events took place) other than the sphere, public or private, where the discrimination occurred. Although it is true that the question of where and when this type of incidents take place has received, in general, less attention in the academic world¹²⁷, it is important to address it; the reaction before a discriminatory incident (both from the behavioural and the emotional point of view) may vary according to its spatial-temporal characteristics¹²⁸.

In short, it should be borne in mind that most of the research done on hate incidents in our context has been based on official data, which, as we all know, are very limited as a consequence of the high dark figure this type of incidents suffer¹²⁹. This is why it is essential to produce reports from a different approach, such as the associational approach, in order to expand the scope of the information to those incidents that do not reach the police.

Nevertheless, this does not undermine the high value of the annual reports of the Eraberean network. On the contrary, the clarity with which they are drafted, together with the positive evolution they have undergone since their first edition, to achieve greater accuracy in the presentation of data, as well as the obvious commitment of the associations in order to bring attention to the situation of discrimination suffered by certain groups in our geographical and cultural context, even nowadays, make the reports a very valuable tool to confront the aforementioned dark figure. In fact, these reports have sufficient potential to expand the number of data recorded in

¹²⁵ BOWLING, B., "Racial harassment and the process of victimization: Conceptual and methodological implications for the local crime survey", *The British Journal of Criminology*, vol. 33, no. 2, 1993, p. 239; MASON, G./MAHER, J./MCCULLOCH, J./PICKERING, S./WICKERS, R./MCKAY, C., *Policing hate crime: Understanding communities and prejudice*, Routledge, Oxon, 2017, p. 11.

¹²⁶ IGANSKI, P., *Hate crime and the City*, Policy Press, Bristol, 2008, p. 130.

¹²⁷ ROBERTS, C., INNES, M., WILLIAMS, M., TREGIDGA, J., GADD, D., *Understanding who commits hate crimes and why they do it*, Merthyr Tydfil, Welsh Government Social Research, 2013, pp. 30-31.

¹²⁸ WALTERS, M. A., PATERSON, J. L., MCDONNELL, L., BROWN, R., "Group identity, empathy and shared suffering: Understanding the 'community' impacts of anti-LGBT and Islamophobic hate crimes", *International Review of Victimology*, vol. 26, no. 2, 2020, p.17.

¹²⁹ In this respect, the European Union Agency for Fundamental Rights -hereinafter FRA-, places the dark figure of hate crime at around 80% on average, although the figure changes depending on the group of reference. In the case of racist and xenophobic hate crimes, it rises to 82%, whereas in the case of those committed for homophobic reasons it drops to 70% approximately. ACHUTEGUI OTALAURRUCHI, P., "Victimización de los delitos de odio. Aproximación a sus consecuencias y a las respuestas institucional y social", *Journal of Victimology*, No. 5, 2017, pages 33 and 62.

their future editions, in such a way that they can have an even closer look at the actual situation of discrimination faced by the minority groups of the Basque Autonomous Community.

We must not forget that a more comprehensive view of the anti-discrimination situation with information from associations that, as mentioned above, have a more direct and regular contact with minority groups, can also help to guide the public policy in this respect, so as to combat and prevent this phenomenon that directly undermines the plural coexistence on which the social and democratic rule of law is based¹³⁰.

¹³⁰ AGUILAR GARCÍA, M. Á. (dir.), "Manual práctico para la investigación y enjuiciamiento de delitos de odio y discriminación", *Centre d'Estudis Jurídics i Formació Especialitzada*, 2015, p. 17 and 79. Online access: http://cejfe.gencat.cat/web/.content/home/publicacions/manual_investigacion_delitos_odio.pdf



4. SYNTHESIS AND FINAL CONCLUSIONS

4. SYNTHESIS AND FINAL CONCLUSIONS

If we take a global look at the data in the police statistics covering the incidents occurred between 2016-2020, this last report on hate incidents in the Basque Country displays, as far as the essential results are concerned, a very similar map to that of the previous years (basically, with regard to the map of target groups) but there are also some differences that cannot be considered consolidated trends yet, but just a reflection of an empirical recording with high levels of fluctuation in spite of the considerable improvement this year (particularly with regard to the global number of incidents, with a remarkable upwards trend; and with regard to the relative representativeness of the crime types).

This map, in keeping with the trends in the Spanish state and the comparative European trends, displays a number of common structural elements that can be summarized in seven points:

- 1. Like in previous years, the prevailing incidents recorded are those against ethnic groups (race, ethnicity, national origin and even religion, beliefs and ideology).
- 2. The incidents against sexual groups strengthen their position as the second level of attacked groups.
- 3. Non-ethnic and non-sexual groups maintain a residual level of recording (with the exception of functional diversity, which has experienced a considerable increase in the last year).
- 4. Bodily harm, as the most significant and serious category, represents between one fifth and one third of the total (in the 2016-2020 bracket), establishing the emerging visibility of hate crimes, of aggravated events, as the focus of attention.
- 5. "Expressive" hate incidents, propaganda, in line with the so-called -criminalized- hate speech, have lost the remarkable statistical presence they used to have (the ratio of hate crimes "with words" and hate crimes "with facts" has varied from a 7 to 3 ratio to 6 to 4 in recent times).
- 6. From the comparative point of view, considering those countries (Germany, United Kingdom, France) with a historical tradition and greater consolidation as far as the recording of hate incidents is concerned, the conclusions reached can be summed up in three points:
 - 6.1. Data recording by groups. The comparative European data recording experience basically maintains the same image offered in recent years¹³¹. Once again, the recording of hate incidents aimed against the different groups that make up the ethnic-racial/xenophobic category stands out from the rest. To be precise, the group defined according to the race of the victim is the most noteworthy. This category is way ahead of the others throughout the different stages after the incident is detected and recorded by the different formal social control authorities (police, prosecution and judges/courts). That is, the number of incidents, number of charges and number of convictions maintain some symmetry with respect to the prevalence of race. In general, again, the "sexual" group (homophobia, transphobia...) strengthens its second position as far as the victimized

¹³¹ UNESCO CHAIR IN HUMAN RIGHTS AND PUBLIC AUTHORITIES/ERTZAINZA, "2018 Report on Hate Crimes in the Basque Country", op. cit., p. 67; UNESCO CHAIR IN HUMAN RIGHTS AND PUBLIC AUTHORITIES/ERTZAINZA, "2019 Report on Hate Crimes in the Basque Country", op. cit., p. 114.

groups are concerned. Sexual orientation also seems to consolidate its position as the benchmark within this group. In comparison, the information regarding the rest of the groups seems to continue being residual.

6.2. Traceability. Even though it is hardly comparable, we must say that the information provided by the countries within the Anglo-Saxon cultural sphere (England and Wales, Scotland and Northern Ireland) is much more transparent and refined than the information from the countries in continental Europe (France and Germany). An example of this could be Germany, which has only recently –that is, as of 1 January 2019– generalized and centralized the recording of data at the national level on the prosecution of hate crimes in the Länder. And, still, in 2020, a human rights body of the Council of Europe such as the ECRI questioned their not having received any clarification from the German authorities on whether, in addition to the substantial improvement in the internal recording of data, it could be possible to carry out a traceability exercise in order to closely monitor each hate crime. Mention is made of a lack of clarity and of redoubling the efforts in this direction. In any event, even in common law jurisdictions, we would be talking about stages (for example police and courts) that return data (for example, number of hate incidents recorded and number of prosecutions or convictions resulting from those incidents) that are not necessarily coordinated or traceable.

6.3. OSCE. The data absorbed by the OSCE from the national authorities are largely affected by all the internal traceability problems. The information dumped by this organization seems to lack homogeneity and coherence in terms of empirical comparability between countries. All this undoubtedly weakens considerably any attempt to throw a general reflection, or even to reflect trends that can be somehow confronted. The lack of data is quite remarkable, but even the different global figures that are returned are an obvious indication of the state of internal development and refinement of each country as far as the recording and monitoring of incidents are concerned.

- 7. The reports prepared by associations such as the Eraberean network, which work with vulnerable groups, are an emerging but valuable field for information purposes. This is due to the fact that most of the research carried out in connection with hate incidents draws on police data, which, as we mentioned above, are rather limited by the dark figure. Although it is true that the reports of the Eraberean network do not represent the reality of hate crimes in the Basque Autonomous Community, and that they have various “limitations” inherent to their own dynamics (the terminology used, the need to expand to other groups, the distinction between hate incidents and hate crimes, and the provision of information about the offender as well as the spatial-temporal characteristics of the incident), they provide a view that supplements this report and brings us closer to the situation of discrimination suffered by minority groups in this territory.



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APPENDIX I

MAJOR CASES IN THE PRESS IN 2020

Appendix I.

MAJOR CASES IN THE PRESS IN 2020

In this section there is a selection of how hate incidents have been reflected on the pages of the newspapers published in the Autonomous Community of the Basque Country, BERRIA, DEIA, DIARIO de NOTICIAS de ÁLAVA, EL CORREO, EL DIARIO VASCO, GARA, NOTICIAS DE GIPUZKOA, as well as in the national newspapers which have or used to have an edition for the Basque country: EL MUNDO, EL PAÍS, EL DIARIO.ES, in the year 2020. The search was carried out in their online formats and it must be noted that there was no information regarding these incidents in the newspapers El País, Eldiario.es and Deia. There has been a considerable decrease in the media coverage of these types of incidents, which is probably due to the prevalence of the information regarding the pandemic.

The journalistic review intends to show what reaches society under the term hate crime/incident or hate speech through these printed media, beyond the legal precepts which determine the nature of these incidents.

These interpretations in the press are not necessarily validated by the team that has prepared this report, but must be understood as opinions expressed on that matter in leading articles or as a result of the information on events which are likened to alleged hate crimes carried out by third parties.

On many occasions, the different headings show non-standard events as alleged hate crimes or incidents; this happens, above all, with those of an ideological or political character. In this edition we can see even more clearly than in other previous reports that there is a high number of cases that, in spite of being grouped as such, do not represent the constellation of hate crimes but respond, most of them, to the extensive coverage of certain events of political character.

Below, in the annex, we have summarized the cases grouped by those protected categories used throughout this report.

MAJOR CASES IN THE PRESS IN 2020

Summary of cases by protected category

■ RACISM-XENOPHOBIA

- A municipal police officer of Getxo whose father is of Moroccan origin reports two Ertzaintza officers for racist hate crime.
- A man who was holding a girl in his arms was insulting a black man and shouting 'fucking nigger' or 'you came on a dinghy'.
- SOS Racism of Bizkaia has informed that Municipal Police officers of Bilbao attacked and insulted a young man "with other racial characteristics" in the neighbourhood of San Francisco in Bilbao.

■ SEXUAL IDENTITY/ORIENTATION

- The institutions of Alava condemn the homophobic verbal attack that took place in the town of Hereña.

■ BELIEFS/RELIGIOUS PRACTICES

No remarkable news has been found in connection with this category.

■ IDEOLOGY/POLITICAL ORIENTATION

- Covite denounces that the minor attack suffered by a civil guard in Alsasua when identifying four people who were pushing a trash container across the road evinces a hate ecosystem.
- The Constitutional Court annuls the sentence of the Supreme Court against Strawberry and considers his tweets to be within his freedom of expression.
- Police trade unionists tried for threatening EH Bildu MP, Julen Arzuaga, during the plenary session of the Basque Parliament that passed the Law for the Recognition of Police Victims.
- Graffiti attack at the headquarters of the PSOE-EE in Alza Donostia.
- Case of attack on young man in the Campus of Araba during a unity of Spain event dismissed.
- Vox's complaint against the Regional Minister of Security and Sare Anti Faxista for electoral meeting in Sestao dismissed.
- The National High Court gives permission to hold the Ospa Eguna.
- The "Ospa eguna" of Altsasu takes place without any incidents.
- Three people arrested for attack on the car of Vox candidate in Alegría. The National Police charges them with hate crime.
- Iturgaiz denounces in his twitter that the statements by the priest of Lemoa in a documentary about Iñaki Arteta's Basque case are a hate crime.

■ PEOPLE WITH DISABILITY/FUNCTIONAL DIVERSITY

No remarkable news has been found in connection with this category.

■ APOROPHOBIA

No remarkable news has been found in connection with this category.



Appendix I

MAJOR CASES IN THE PRESS IN 2020

RACISM / XENOPHOBIA

1.1 A local police officer of Getxo reports two Ertzaintza officers for «racist hate» crime.
EL CORREO May 8, 2020.

Bizkaia

Margen Izquierda Margen derecha Duranguesado Costa Nervión Ibaizabal

Un policía local de Getxo denuncia a dos ertzainas por un delito de «odio por racismo»

El agente acusa a la patrulla de llamarles «moros de mierda» a él y a su padre, de origen marroquí, tras sufrir un accidente con su coche



P. URRESTI

TXEMA IZAGIRRE

Viernes, 8 mayo 2020, 00:49

68 f t ...

A traffic accident that took place on 11 February ended up with a local police officer of Getxo, whose father is of Moroccan origin, filing a complaint for «hate crime», in view of the «racist» attitude of the two Ertzaintza officers who went to deal with the car accident they suffered in Plentzia. **In his complaint he states that the Ertzaintza officers told them things such as: «This fucking moor can't be a police officer anywhere» or «these, with this car» -a high-end off-road vehicle- «they are probably drug-dealers or something of the sort».** When the victims were about to leave in another car, one of the Ertzaintza officers said: «These moors are not going to leave just like that, I'm going to report them for the tyres». **And gave them a ticket. Then, he was accused of being «drunk»**, but the breath test was negative. «Later on, from the Ertzaintxa (police station) of Getxo they phoned the Local Police to ask: «Do you have a Moor working there?» says the officer, who accuses the Ertzaintza officers of «manipulating their report». He also accuses them of «abuse of authority». At the Department of Security they refused to assess the case. «The complaint will follow its normal course and the judge will decide», they said.

1.2 Arrested in Eibar for attacking another man and an Ertzaintza officer while holding a little girl in his arms. EL DIARIO VASCO June 3, 2020.



The facts took place at around 8 p.m. on Saturday in Eibar. At that time an Ertzaintza patrol was informed by an individual that one man was attacking another in Plaza Untzaga. The officers went there and saw a man holding a little girl in his arms and insulting and threatening another man, a black man, while shouting things such as 'fucking nigger' or 'you came on a dinghy'.

Moreover, according to some witnesses, the victim had been hit on the face and had a bruise on his cheek. The officers tried to calm this person down and when they asked him for his ID, he got really upset and refused to show them his ID on three occasions.

After being warned that he could be arrested, he attacked one of the officers, hitting him on the chest and grabbing him by the neck. The officers took the man down and arrested him on the grounds of alleged bodily harm, alleged hate crime and alleged attack on law enforcement officers.

1.3 Salatu dute Bilboko udaltzainek eraso bat egin dutela «arraza ezaugarriak tarteko». **BERRIA November 3, 2020.**

Bizkaiko SOS Arrazakeriak egin du salaketa: «Funtzionario publiko batek bestelako arraza ezaugarriak dituen gazte bati egindako gorroto delitua da».



San Frantzisko auzoko Ertzaintzaren jarrera arrazista salatzeke elkarretaratzea Bilboko Justizia jauregian, uztailan, SOS Arrazakeria plataformak antolatuta. / 2020ko azaroak 3

Bizkaiko SOS Arrazakeriak adierazi du Bilboko udaltzainek eraso egin ziotela «bestelako arraza ezaugarriak» dituen gazte bati urriaren 10ean, Bilboko San Frantzisko auzoko Maiatzak 2 kalean, eta gazteak irainak ere pairatu behar izan zituela.

Gaztearen testigantza berri eman dute: «SOS Arrazakeriaren bulegoan salatu duenez, egun horretan lanetik irten zen, eta, ia egunero egin ohi duen bezala, Maiatzak 2 kaleko harategira jo zuen. Kale horretatik behera zebilenean, Udaltzaingoaren patruila bat heldu zen, norabide berean, autoz. Gazteak autoa beregandik oso gertu sumatu zuen. Norbaiti zerbait esateko edo zerbait begiratzeko asmoz hurbilduko zirela pentsatu zuen. Bat-batean, autoak harrapatuak zituen orpoak. Mutilak ukitu bat eman zion autoari, bera bertan zegoela eta oinak harrapatuak zituela adierazteko. Berehala, udaltzain bat autotik atera zen, eta ukabilkada bi eman zizkion gazteari bularrean, arnasa hartu ezinik utzita. Udaltzainak hormaren kontra jarri zuen gaztea. Horren ostean, mutilari dokumentazioa eskatu zion, haren nortasun agiria Espainiakoa dela jakin barik».

Bien bitartean Ertzaintza heldu zela esan dute, baina ez zuela esku hartu. Eta eraso ez zutela eten: «Gaztea udaltzain erasotzailearekin hitz egitera hurbiltzen saiatu zen bakoitzean, beste udaltzainak ukabilkada bat ematen zion bularrean».



Appendix I

MAJOR CASES IN THE PRESS IN 2020

SEXUAL IDENTITY/ORIENTATION

2.1 "Institutional condemnation of homophobic attack". DIARIO DE NOTICIAS DE ALAVA June 8, 2020.



It happened **last Saturday, 23 May, in Hereña**, a small town in the municipality of Ribera Alta, in Araba. An argument between two residents derived into a **serious homophobic verbal attack** by one of the persons involved on the other's son, who is openly homosexual and had tried to mediate the dispute in order to "calm things down".

According to an eyewitness, the alleged attacker started by telling his neighbour **"fucking faggot, shut up"**, which was followed by "all types of insults related to his sexual condition".

After a few moments of enormous tension which was also experienced and felt by other relatives and neighbours of the victim, he decided to call the **Ertzaintza**. A **patrol headed for the town** and, after being informed of what had happened, the officers encouraged the person who had been attacked to report a hate crime, which he did that evening.



Appendix I

MAJOR CASES IN THE PRESS IN 2020

IDEOLOGY /
POLITICAL ORIENTATION

3.1 "Covite denounces that the new attack on a civil guard in Alsasua «evinces a hate ecosystem.»" **EL DIARIO VASCO** February 7, 2020.

Política | Elecciones autonómicas 12J | Elecciones municipales y forales | Elecciones

Covite denuncia que la nueva agresión a un guardia civil en Alsasua «evidencia un ecosistema de odio»

Un guardia civil sufrió una agresión «leve» en Alsasua al identificar a cuatro personas por cruzar contenedores



AGENCIAS

Viernes, 7 febrero 2020, 13:55

🇪🇸 📱 🐦 ... 📌

The association Víctimas del Terrorismo Covite has denounced that the new **attack on a civil guard occurred** in Alsasua «evinces a hate ecosystem». Besides, **they have demanded «an express condemnation» from all political parties** and have criticized «the lack of a strategy to curb Basque nationalist radicalization in the Basque Country and Navarre».

In a statement by the Chair of Covite, Consuelo Ordóñez, she said that this attack «further evinces that the **hate culture remains intact** in the streets of Navarre and the Basque Country».

3.2 "The Constitutional Court annuls the Supreme Court's sentence against Strawberry." NOTICIAS DE GIPUZKOA February 26, 2020.

El TC anula la condena del Supremo a 'Strawberry'

ENCUADRA LOS TUI'S DEL LÍDER DE DEF CON DOS EN LA LIBERTAD DE EXPRESIÓN Y REPROCHA QUE SE OBLIVIA EL "CONTEXTO"

E. P. | 26.02.2020 | 09:05

MADRID – El Tribunal Constitucional (TC) ha anulado la condena a un año de cárcel que el Supremo impuso en 2017 a César Augusto Montaña Lehmann, *César Strawberry*, cantante del grupo Def con Dos, como autor de un delito de enaltecimiento del terrorismo por varios comentarios que publicó en la red social Twitter. Considera que el alto tribunal no valoró el contenido y circunstancias que rodeaban los mensajes. En los comentarios subidos entre noviembre de 2013 y enero de 2014, el artista mencionaba, entre otras personas, al funcionario de prisiones secuestrado por ETA José Antonio Ortega Lara, así como a los GRAPO.

La condena del Supremo supuso revocar la absolución del cantante que había sido dictaminada anteriormente por la Audiencia Nacional, al entender que Strawberry merecía sanción penal al hacer públicos mensajes de humillación y burla que "alimentan el discurso del odio, legitiman el terrorismo como fórmula de solución de los conflictos sociales". El TC reconoce una vulneración del derecho a la libertad de expresión del recurrente al entender que el Supremo, al condenar, no cumplió de modo suficiente con la valoración previa acerca de si la conducta enjuiciada era una mera manifestación del citado derecho. El Supremo rechazó la necesidad de valorar, entre otros aspectos, "la intención comunicativa en relación con la autoría, contexto y circunstancias de los mensajes emitidos", añade.



César 'Strawberry'.

The Constitutional Court has suspended the one-year prison sentence imposed in 2017 by the Supreme Court on Augusto Montaña Lehmann, Cesar Strawberry, singer of Def con Dos, on charges of exaltation of terrorism on the social network Twitter. He considers that the Supreme Court did not take into account the content and circumstances of the messages. Between November 2013 and January 2014, the artist referred, among others, to José Antonio Ortega Lara, the prison officer kidnapped by ETA, and to GRAPO.

3.3 Police trade unionists tried for threatening EH Bildu's MP Julen Arzuaga. EL DIARIO VASCO March 10, 2020.

Política Elecciones autonómicas 12J Elecciones municipales y forales Elecciones en

Juzgan a sindicalistas policiales acusados de amenazar al parlamentario de EH Bildu Julen Arzuaga

Vitoria acoge este miércoles la vista por el cruce de acusaciones ocurrido durante el pleno del Parlamento Vasco que aprobó la ley de reconocimiento de víctimas policiales



Arzuaga y su abogada, Jone Goirizelaia, cuando presentaron la denuncia.

MIGUEL ÁNGEL MATA
Martes, 10 marzo 2020, 16:23

🇪🇸 f 🐦 ... 📌

Magistrate's Court Number 4 of Vitoria will resume next Wednesday the trial of several members of the police trade unions Jusapol, Jucil and Sipe, accused of the alleged crimes of attack, slandering and threats against **EH Bildu's MP Julen Arzuaga** for some incidents that took place on 4 April last year at the Basque Parliament. On that date, the accused and **Julen Arzuaga** had a verbal dispute in which the politician called them «**Nazis**» and «**Franco supporters**» and they answered that «even if a snake sheds its skin, it is still a snake». The pro-independence MP reported the police representatives, stating in the accusation that they also threatened him by pointing «his finger at him as a gun» while uttering «derogatory sentences and making contemptuous gestures». Moreover, **Julen Arzuaga** denounced that he has been subject to a «campaign of threats and insults» in the social media. During that session in the Basque Chamber they were discussing the law to recognise the victims of police abuse committed in the Basque Country between 1978 and 1999, which was eventually passed.

3.4 "Graffiti attack on the headquarters of PSE-EE in Altza, Donostia". NOTICIAS DE GIPUZKOA June 2, 2020.

Noticias de Gipuzkoa » Actualidad » Política



Atacan con pintadas la sede del PSE-EE de Altza en Donostia

LA SEDE SOCIALISTA HA AMANECIDO CON MENSAJES A FAVOR DE PATXI RUIZ

EP | 02.06.2020 | 11:06



La sede socialista de Altza ha amanecido con pintadas a favor de Patxi Ruiz. EP

DONOSTIA - Desconocidos han atacado esta pasada madrugada la sede del PSE-EE del barrio de Altza, en Donostia, con pintadas a favor del preso de ETA en huelga de hambre Patxi

Unidentified people attacked at dawn the headquarters of the PSE-EE in the neighbourhood of Altza, in Donostia, drawing graffiti **in favour of the ETA prisoner on hunger strike Patxi Ruiz**. It is the second sabotage against the socialist group Luis Arbella, after the attack suffered last 23 May.

The PSE-EE headquarters in Altza had graffiti reading 'Patxi gudari. Amnistia. Hiltzaileak (murderers)' drawn on one of its walls, as well as the PSOE acronym underneath a gun sight target.

In a statement by the secretary general of the PSE-EE of Gipuzkoa, Eneko Andueza, he described this "harassment and coercion" campaign as "unacceptable" and demanded that it stop "immediately". After showing his support for his colleagues in Altza, he insisted that these attacks are "out of time, place and understanding" and, therefore, "they have no sense".

3.5 "Case of attack on young man in the campus of Vitoria dismissed". DIARIO DE NOTICIAS DE ÁLAVA June 12, 2020.

Diario de Noticias de Álava > Araba



Tras un acto por la unidad de España

Archivada la causa por la agresión a un joven en el campus de Vitoria

LA AGRESIÓN SE PRODUJO EL 30 DE NOVIEMBRE DE 2018 Y LA ERTZAINTZA DETUVO EL 11 DE DICIEMBRE A TRES PERSONAS ACUSADAS DE PARTICIPAR EN LA PALIZA

EFE | 12.06.2020 | 16:11



Estudiante universitaria entrando a la Facultad de Farmacia del campus de la UPV. J.R.GÓMEZ

Vitoria, 12 jun (EFE).- El Juzgado de Instrucción 1 de Vitoria ha archivado de manera provisional la causa abierta por la agresión que sufrió un joven por un grupo de

Magistrate's Court number 1 of Vitoria has provisionally dismissed the case filed for the **attack suffered by a young man by a group of hooded men** in the Public Basque University campus of Araba **when he was leaving a meeting of an organization in defence of the unity of Spain.**

The attack took place on **30 November 2018** and on **11 December the Ertzaintza arrested** three people accused of participating in the beating suffered by this young man. The three of them were released, two of them after testifying before the judge, under the accusation of bodily harm and hate.

The court investigating these facts, which were condemned by the Prime Minister, Iñigo Urkullu, and the Vice-chancellor of the University of the Basque Country, Nekane Balluerka, amongst others, has now decided, in an order dated 5 June, to provisionally dismiss the case as no **"sufficient rational evidence"** has been found with regard to the participation of the two young men who were investigated for this attack during the proceedings carried out.

3.6 Vox's complaint against Beltrán de Heredia and Sare Anti Faxista for the meeting in Sestao dismissed. **GARA July 25, 2020.**

Archivada la denuncia de Vox contra Beltrán de Heredia y Sare ...

<https://www.naiz.eus/eu/info/noticia/20200725/archivada-la-den...>

2020 UZT. 25

Archivada la denuncia de Vox contra Beltrán de Heredia y Sare Antifaxista por el acto de Sestao

El Juzgado de Instrucción en Barakaldo ha archivado la denuncia presentada por Vox contra la consejera de Seguridad de Lakua, Estefanía Beltrán de Heredia, y Sare Antifaxista, a raíz del mitin celebrado el pasado 26 de junio en Sestao, que se desarrolló entre las protestas de antifascistas.

NAIZ



Abascal se mostró desafiante ante los antifascistas que protestaron contra el acto de campaña de Vox en Sestao. (Luis JAUREGALTZO/FCKU)

El partido de Santiago Abascal presentó denuncia, en el Juzgado de Barakaldo,

Santiago Abascal's party filed a complaint at the Court of Barakaldo, against the acting Regional Minister of Security, Estefanía Beltrán de Heredia, and Sare Antifaxista, for some protests in Sestao during which Vox's MP Rocío de Meer said she had "been hit with a stone" and which ended up with police charges. Vox alleged that the facts could constitute an electoral offence provided for in the Organic Law of the General Electoral System, in connection with death threats and insults, together with hate crimes.

3.7 “The Court allows an event against the Civil Guard in Alsasua”.
DIARIO VASCO August 29, 2020.

Política

Elecciones autonómicas 12J | Elecciones municipales y forales | Elecciones eu

La Audiencia permite un acto en Alsasua contra la Guardia Civil

El PP insta al Gobierno a disolver el Ayuntamiento si su regidor se niega a cancelar la convocatoria, en la que se compara a los agentes con el virus



Carteles contras las fuerzas de seguridad en una plaza de Alsasua. / DAVID S. OLABARRI

M. E. A.

Madrid

Sábado, 29 agosto 2020, 00:16



On Friday, the National Court refused to prohibit the ‘Ospa Eguna’ (‘Good-bye Day’ in Basque language), an event against the presence of the Civil Guard in the Basque Country and Navarre, to be held next Saturday in Alsasua. The court decision mentioned the prosecution’s position against the suspension, since it is considered that «the exaltation which would give rise to the adoption of the precautionary measure requested by the Union of Civil Guard officers in their complaint has not been proven».

3.8 The 'Ospa Eguna' in Alsasua held without incidents, but the political storm shall not cease. DIARIO VASCO August 30, 2020.

Política | Elecciones autonómicas 12J | Elecciones municipales y forales | Elecciones europeas

El 'Ospa Eguna' de Alsasua discurre sin incidentes pero la tormenta política no baja

Varios cientos de personas participaron en la jornada



DV Y AGENCIAS

Domingo, 30 agosto 2020, 09:02

2 f t ...

Several hundred people participated yesterday in Alsasua in the 'Ospa Eguna', the day organized by different Basque pro-independence groups to request that the Civil Guard leave the town. The event took place without any incidents. Throughout the day there was a display of images and posters caricaturising the armed force and the regional police.

In spite of the court decision, the PP party had requested the Mayor of Alsasua, Javier Ollo (Geroa Bai) to prohibit the event. Only yesterday, the Chair of the Committee of Rights and Guarantees of the party, Andrea Levy, extended that request to the Minister of the Interior, Fernando Grande-Marlaska, and the Government Representative in Navarre, José Luis Arasti, as this «harassment» against the armed force is considered to be «unacceptable»

**3.9 “Three people arrested for attacking the car of Vox candidate in Alegría”.
EL CORREO September 14, 2020.**

Álava/Araba

Ayala Memorias de Álava Miranda Bizkaia Gipuzkoa Haro En

Tres detenidos por atacar el coche del candidato de Vox en Alegría

La Policía Nacional les imputa por un delito de odio. Los presuntos autores tienen entre 18 y 21 años. «Es un buen vecino, su pecado es su filiación política», dice su formación



Unidentified people destroyed the private vehicle of a Vox candidate to Mayor residing in that town. National Police officers have now identified and arrested three of the alleged perpetrators. They have been charged with ideologically-motivated damages.

After being arrested, they were taken to the Provincial Police Station of Vitoria, where, after testifying, they were **released with the obligation to appear before the court.** The damage in the vehicle amounts to «around 1,400 Euros», according to a spokesperson of Vox Álava.

3.10 "Iturgaiz says that the "mean words" of the priest of Lemoa involve a "hate crime" and "whitewash terrorists". **EL CORREO** October 30, 2020.

Política
Elecciones vascas
Elecciones Generales
Elecciones Forales y Municipales

Iturgaiz dice que las «mezquinas palabras» del párroco de Lemoa son «delito de odio» y «blanquean a los terroristas»

EL CORREO

Viernes, 30 octubre 2020, 17:56

2 f t ...

El líder del PP vasco y presidente del grupo de PP+Cs en el Parlamento vasco, Carlos Iturgaiz, ha afirmado que las «mezquinas palabras» del párroco de Lemoa son «delito de odio» y «blanquean a los terroristas». En un mensaje en su cuenta personal de Twitter, Carlos Iturgaiz se ha referido, de esta forma, a las declaraciones del cura de Lemoa en las que relativiza los atentados de ETA, en una entrevista que aparece en el documental de Iñaki Arteta titulado 'Bajo el silencio'.

Iturgaiz ha aplaudido y mostrado su agradecimiento a Mario Iceta, que, como administrador apostólico de Bilbao, ha desautorizado estas declaraciones y ha pedido perdón por ellas a las víctimas del terrorismo. «Mi aplauso y agradecimiento a Mario Iceta por desautorizar al cura de Lemoa, cuyas mezquinas palabras son delito de odio y blanquean a los terroristas, demostrando que en esta tierra, desgraciadamente, algunos pastores todavía siguen poniéndose del lado del lobo», ha añadido.



Carlos Iturgaiz ✓
@carlositurgaiz



Carlos Iturgaiz, head of the Basque PP and president of the PP+ Cs group, has pointed out that the "mean words of the priest of Lemoa" involve a hate crime and "whitewash terrorists". In his personal Twitter account, Carlos Iturgaiz refers to the statements of the priest of Lemoa who relativises ETA attacks in an interview that appears in the documentary "Bajo el silencio" by Iñaki Arteta.

Iturgaiz has applauded Mario Iceta, as apostolic administrator of Bilbao, for rejecting these words and apologising to the victims of terrorism.



APPENDIX II
EXTRACTS FROM THE 2020
REPORTS OF THE CHIEF
PROSECUTOR OF THE BASQUE
AUTONOMOUS COMMUNITY
AND THE GENERAL PROSECU-
TOR OF THE STATE (YEAR 2019)

Appendix II

EXTRACTS FROM THE 2020 REPORTS OF THE CHIEF PROSECUTOR OF THE BASQUE AUTONOMOUS COMMUNITY AND THE GENERAL PROSECUTOR OF THE STATE (YEAR 2019).

The 2020 Report of the General Prosecutor of the State contains, as in previous years, a section devoted to analysing the problem of hate crime and discrimination¹³². On the subject of the recording of statistical data on hate crime, it reports the establishment of an inter-institutional Working Group to improve the recording, statistical and monitoring system of court proceedings. In spite of this, the report recognizes that the data recorded "still have many defects and provide little information"¹³³.

Below is the table of statistical data recorded by the General Prosecutor of the State in his Report, listing the court proceedings regarding hate crime and discrimination in the Spanish Courts in the year 2019¹³⁴:

1. Court proceedings monitored by the Public Prosecution:	
Threats to certain groups. Art. 170.1	37
Torture by public official for discrimination reasons. Art. 174	18
Discrimination in employment. Art. 314	2
Incitement to hatred/violence/discrimination. Art. 510.1	140
Acts of humiliation or justification of crime. Art. 510.2	292
Refusal of benefits. Arts. 511-512	26
Unlawful association for discrimination. Art. 515.4	-
Against religious feelings. Arts. 522-525	15
Against moral integrity. Art. 173.1	59
Crimes with aggravation. Art. 22.4	423
Others	155
Total.....	1167
2. Investigation proceedings opened at the Prosecutor's Office:	
Threats to certain groups. Art. 170.1	4
Torture by public official for discrimination reasons. Art. 174	-
Discrimination in employment. Art. 314	1
Incitement to hatred/violence/discrimination. Art. 510.1	86
Acts of humiliation or justification of crime. Art. 510.2	103
Refusal of benefits. Arts. 511-512	7
Unlawful association for discrimination. Art. 515.4	-
Against religious feelings. Arts. 522-525	7
Against moral integrity. Art. 173.1	6
Crimes with aggravation. Art. 22.4	10
Others	-
Total.....	275

¹³² 2020 Report of the Public Prosecutor of the State (Year 2019), pp. 1087-1107. Available online: <https://www.fiscal.es/documents/20142/ebc7f294-b4d8-6ca4-c7c0-3a95c371e94f> [last access: January 2021].

¹³³ Ibid., p. 1099.

¹³⁴ Ibid., pp. 1100-1101.

3. Charges brought by the Public Prosecution Office:	
Threats to certain groups. Art. 170.1	1
Torture by public official for discrimination reasons. Art. 174	–
Discrimination in employment. Art. 314	–
Incitement to hatred/violence/discrimination. Art. 510.1	19
Acts of humiliation or justification of crime. Art. 510.2	57
Refusal of benefits. Arts. 511-512	4
Unlawful association for discrimination. Art. 515.4	–
Against religious feelings. Arts. 522-525	1
Against moral integrity. Art. 173.1	11
Crimes with aggravation. Art. 22.4	50
Others	2
Total.....	145
4. Judgments:	
Threats to certain groups. Art. 170.1	–
Torture by public official for discrimination reasons. Art. 174	–
Discrimination in employment. Art. 314	–
Incitement to hatred/violence/discrimination. Art. 510.1	10
Acts of humiliation or justification of crime. Art. 510.2	41
Refusal of benefits. Arts. 511-512	3
Unlawful association for discrimination. Art. 515.4	–
Against religious feelings. Arts. 522-525	2
Against moral integrity. Art. 173.1	18
Crimes with aggravation. Art. 22.4	48
Others	44
Total.....	166

The structure of the statistical section is identical to that of the previous year (2018) and now includes the crime of torture by public official for discrimination reasons (art. 174 CP). To start with, the considerable increase in crimes with discrimination aggravator of art. 22.4 CP is noteworthy, as they have gone from 101 cases in 2018 to 531 in 2019. This multiplication of crimes with discrimination aggravator mainly appears in the section “court proceedings monitored by the public prosecution”, where they go from 31 to 423 cases; there is also an increase in the number of convictions in which the aggravator has been applied, from 29 to 48 cases. However, beyond this last piece of information on convictions, it is impossible to establish whether the increase in cases shows the reality or is the result of greater sensitivity in their recording¹³⁵.

There has also been a remarkable increase in all the sections of the proceedings regarding hate speech, both in incitement to hatred, discrimination or violence (510.1 CP), as well as in the collective hate slandering subtype (510.2 CP). Thus, the investigation proceedings initiated pursuant to art. 510 amounted to 189 in 2019, which meant a considerable increase as compared to the 110 proceedings initiated in 2018. The same happens with the convictions known to the Prosecution, which go from 32 in 2018 to 51 in 2019.

¹³⁵ According to the Report, when a Prosecutor verifies that some proceedings are not related to hate crime, “it will usually not be recorded in that category”; however, the discrimination motivation “may arise at any time of the proceedings, for example, in the classification stage or at the hearing, in reference to proceedings that are not controlled by the Hate Crime Unit” (p. 1099).

The other criminal types still have low figures, showing the low application in court of the criminal types Collective threats (art. 170.4 CP), Discrimination in employment (art. 314 CP), Discriminatory refusal of benefits (arts. 511 and 512 CP) and Crime against religious feelings (arts. 522-525 CP). The exception is Crime against moral integrity of art. 173.1 CP, with basically twice as many court proceedings monitored by the Prosecution (from 33 to 59).

As for the Public Prosecution Office of the Basque Autonomous Community, their 2020 report also contains a section dealing with the criminal protection of equality and against discrimination¹³⁶. Like in previous years, there is no system for the recording and monitoring of hate crimes in the administration of Justice. Therefore, the statistical data provided in the Report of the Public Prosecutor of the Basque Autonomous Community are not totally comprehensive. As stated in the Report, the monitoring and recording of statistical data is done manually, with the data provided by the Ertzaintza and the other prosecutors. Thus, the number of cases included in the 2020 report is still small as compared to the year 2019. They are summarised in the following Table:

	Investigation proceedings	Court proceedings commenced	Charges brought	Cases pending trial	Judgments
Incitation to hatred, discrimination or violence (art. 510.1 CP)	3	6	-	2	1
Harm to a person's dignity by humiliation, disregard or discredit (510.2 CP)	-	7	-	1	-
Refusal of public or private benefits (arts. 511-512 CP)	-	1	-	-	-
Crime against moral integrity (art. 173.1)	-	1	-	-	3
Crime against religious feelings (arts. 522-525 CP)	1	-	-	-	-
Threats to certain groups (art. 170.1 CP)	-	2	-	-	-
Torture on the grounds of some type of discrimination (art. 174.1)	-	18 ¹³⁷	-	-	-
Discrimination in public or private employment (art. 314 CP)	-	-	-	-	-
Hate or discrimination aggravator (art. 22.4 CP)	-	11 ¹³⁸	1	-	1

Prepared by the authors using the data recorded in the 2020 General Report of the Basque Autonomous Community (year 2019)

¹³⁶ 2020 Report of the Public Prosecutor of the Basque Autonomous Community (Year 2019), pp. 220-230. Available online: https://www.fiscal.es/memorias/memoria2020/FISCALIA_SITE/recursos/fiscalias/superiores/paisvasco.pdf [last access: January 2021].

¹³⁷ This figure corresponds to the 18 proceedings initiated in Gipuzkoa in 2019, which, according to the Report of the Public Prosecutor of the Basque Autonomous Community, were initiated "for complaints filed by councils of certain cities, by the Provincial Council of Gipuzkoa or by individuals at different courts of the province, for facts in which the victims are a plurality of persons and, in other cases, specific persons, for events that allegedly took place from 1936 to 1980, as a consequence of the military uprising on 18 July 1936 against the government of the 2nd Spanish Republic and the subsequent establishment of a dictatorial regime, which have now been dismissed".

¹³⁸ This figure corresponds to proceedings for minor crimes in which the hate or discrimination aggravator appeared, without any other details being provided.

