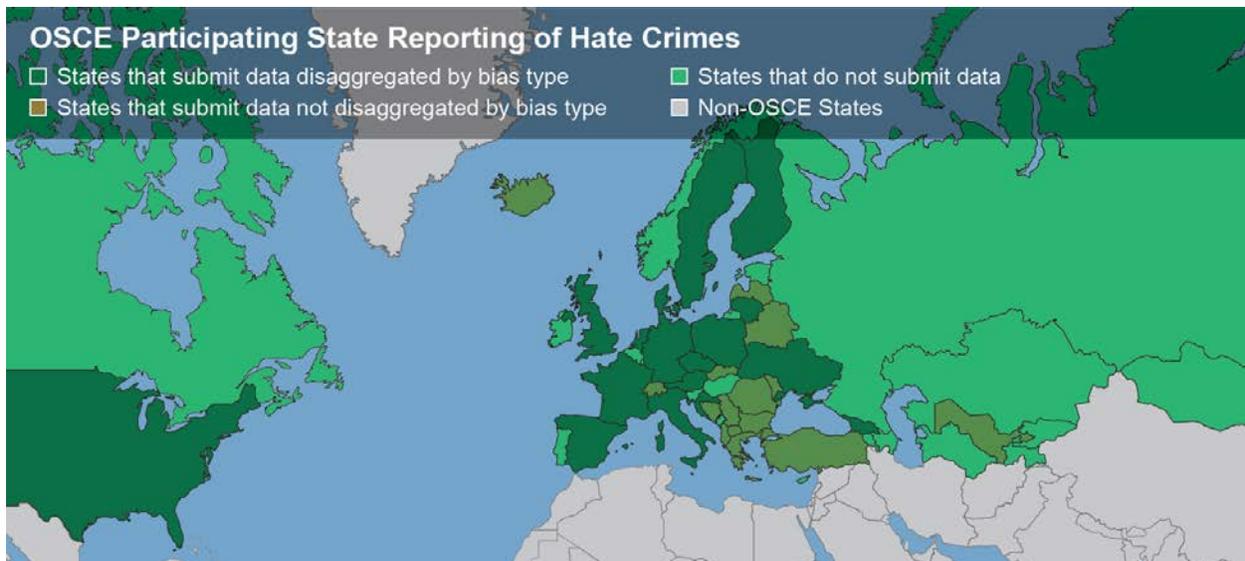


Scorecard on Hate Crime Response in the OSCE Region

Gaps in Data Collection and Responses

November 28, 2016



Overview

Against a backdrop of increasing hateful rhetoric in the public space, as well as acts of discrimination and hate crimes, the Organization for Security and Cooperation in Europe's (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) released its annual report on hate crimes in the OSCE region.¹ This report is essential to understanding hate crimes and crafting effective policy responses.

Every year since 2009, ODIHR releases this report on the International Day for Tolerance, and every year since 2010, Human Rights First and the Anti-Defamation League (ADL) analyze ODIHR's findings and rate countries' performances in keeping their commitment to track and report hate crimes.

This year in particular demonstrates why this work is critical. Xenophobic and hateful rhetoric dominated political discourse in several OSCE participating States, and this rhetoric was often matched with hate-inspired violence.

What leaders say matters, and often those committing hate crimes use the rhetoric of politicians to legitimize their violence. From the Brexit campaign in the United Kingdom, to the refugee referendum in Hungary, to the U.S. presidential election, toxic rhetoric has infected citizens of these countries and emboldened those who seek to spread hate and violence.

ODIHR's annual report is an important tool in understanding the nature and frequency of hate crimes across the OSCE region. However, its utility is minimized when participating States do not collect or report data, provide insufficient data, or fail to submit data by the ODIHR deadline. Data may be insufficient if it records an implausibly low level of hate crimes or when it is not disaggregated by bias motivation.

The data from this year's report, covering 2015, demonstrates that participating **States continue to fail, or barely pass, in upholding their commitments to prevent and combat hate crime**. In the current environment, with the refugee crisis, the rise of far-right parties and movements espousing hatred, and a rise in bias-motivated incidents throughout the region, **there is an urgent need for prevention, data collection, and reporting to receive higher priority**.

The Impact of Hate Violence

Violent hate crimes have a uniquely serious impact on victims and their communities, and must be viewed as a serious human rights violation.² When a bias-motivated crime is committed, the victim's entire community feels victimized, vulnerable, fearful, isolated, and unprotected by the law.

These crimes merit special attention. Regrettably, the overwhelming majority of the OSCE's 57 participating States are not doing everything they can to ensure they receive it.

Hate crimes violate the right to equality and non-discrimination because of their bias-motivation. The fear and intimidation these crimes are meant to cause undermine the right to free expression and religion. They inhibit the right of the targeted groups to participate fully in political, social, and cultural life. The injustice is magnified if these crimes are not documented or prosecuted fully.

The OSCE is built on a vision that human rights are essential to security. Effectively monitoring, prosecuting, and preventing hate crimes is essential to that vision. 2015 data released from the OSCE's ODIHR shows that

OSCE countries continue to struggle significantly with bias-motivated crime.

Why Collect Data

Hate crime data collection mandates provide an essential baseline for understanding the nature and magnitude of the problem of hate violence.³ The *ODIHR Hate Crime Data Collection and Monitoring Mechanisms: A Practical Guide* rightly notes: “Well-designed mechanisms to record and compile data enable law-enforcement agencies to gather intelligence about local hate crime patterns, assist in the allocation of resources, and support more effective investigation of specific types of cases. Policymakers can then rely on this information to make sound decisions and to communicate with affected communities and the wider public about the scale of hate crimes and responses to them.”⁴

Victims are more likely to report a hate crime if they know a safe, special reporting system is in place. Data collection efforts have also increased public awareness of the problem and prompted improvements in the local response of police and the criminal justice system to these crimes.

A Snapshot of the Landscape in 2015

The current political and social landscape has exacerbated the problem. Far-right parties have gained steam and their xenophobic platform has seeped into mainstream politics. Politicians in Denmark, France, Greece, Hungary, Poland, Sweden, and Switzerland have gained traction—and even political office—by openly expressing antisemitic, anti-Muslim, anti-immigrant, racist, and homophobic views.

These politicians have capitalized on the refugee crisis and manipulated the fears and emotions of their constituents. Their rhetoric is influential; those who commit hate crimes use these statements to legitimize bias-motivated violence. The perhaps most disturbing such instance is the case of the neo-Nazi Golden Dawn party in Greece, which polled third in national elections in September 2015 even though its entire leadership is on trial for its role in dozens of violent attacks—including murders—targeting migrants and others.⁵

As the refugee crisis took center-stage in 2015, hate crimes against both migrants and other groups in the OSCE region persisted. Antisemitism continues to thrive in Europe. Russia has maintained its anti-LGBT “propaganda” law and fails to prosecute hate crimes against LGBT persons. Moreover, Russia seeks to spread this law to neighboring countries, increasing fears of state-sanctioned discrimination, which could legitimize violence. Roma and Sinti continue to face high levels of discrimination, exclusion, violence, and harassment throughout the OSCE region. Hate crimes against persons with disabilities continue to be overlooked and neglected.

Findings from the 2015 Report

- **Forty-one of the 57 participating States submitted official information** of some sort to the ODIHR for 2015 (i.e. includes countries which only update on laws, trainings, etc., but may not have submitted hate crime data).
- **Twenty-three participating States did not report any data.**
- **Of the 34 who submitted official state data on hate crimes, 21 participating States**

submitted data disaggregated either by bias type or type of crime.

- Of these 21 participating States, 13 reported disaggregated data on both bias type and type of crime.
- An additional 4 reported disaggregated data only for bias type and another 4 reported disaggregated data only for type of crime.

■ **Three participating States only reported prosecution data**, which they did not disaggregate by bias motivation or type of crime.

■ **Two participating States reported zero hate crimes.**

Detailed disaggregation of data is crucial to assess the problem and develop sensible policy responses. **While more participating States submitted information and disaggregated data than in 2014, a significant number of OSCE States still do not provide sufficient information and data to the OSCE.**

The primary responsibility for data collection lies with the participating States, who have signed on to the OSCE data collection commitments.⁶ However, civil society organizations (CSO) and intergovernmental organizations (IGO) play an important role in holding governments accountable to their hate crime data commitments. This is why ODIHR collects data annually from both participating States and civil society.

CSO data is important because it highlights discrepancies with state data and fills gaps when participating States do not report. ODIHR has highlighted the contribution of civil society and has made this information widely accessible. **By comparing CSO, IGO, and participating State data, ODIHR and all participating States get a**

better picture of the reality facing vulnerable minorities.

For 2015, 113 CSOs submitted data to ODIHR, covering 41 States. This included covering data for:

- 27 States on racist and xenophobic hate crimes.
- 9 States on hate crimes against Roma and Sinti.
- 20 States on antisemitic hate crimes.
- 23 States on anti-Muslim hate crimes.
- 22 States on hate crimes against Christians and followers of other religions.
- 24 States on hate crimes against LGBT persons.
- 8 States on hate crimes against people with disabilities and other groups.

Submitting Just Any Data Isn't Enough **Improving Data Collection**

While the ODIHR Hate Crime Reporting system has made great strides in data collection, it would be inaccurate to say that the data today presents a more complete picture. A variety of factors contribute to this, including:

The ODIHR report gives the impression all countries are doing something, even if it's almost nothing. Participating states are not mandated to fill out ODIHR's entire hate crime data questionnaire, which then becomes a major part of the final annual hate crime report. Because of this, the 41 countries that are submitting information on hate crime must be read with a degree of skepticism.

Table 1: State and CSO Monitoring by Bias Type

Bias Type	States Provided Data on Bias Type	CSOs Reported on Bias Type Covering the following States
Racism and Xenophobia	16 States: Austria, Croatia, Czech Republic, Denmark, Finland, France, Germany, Italy, Lithuania, Netherlands, Poland, Spain, Sweden, Ukraine, United Kingdom, and United States	27 States: Austria, Belgium, Bosnia and Herzegovina, Canada, Croatia, Czech Republic, France, Germany, Greece, Hungary, Ireland, Italy, Kyrgyzstan, Lithuania, Netherlands, Norway, Poland, Russian Federation, Serbia, Spain, Sweden, Switzerland, The Former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom, and United States
Antisemitism	13 States: Austria, Croatia, Czech Republic, Denmark, France, Germany, Netherlands, Poland, Spain, Sweden, Ukraine, United Kingdom, and United States	20 States: Austria, Belgium, Canada, Czech Republic, Denmark, France, Germany, Greece, Hungary, Italy, Moldova, Netherlands, Poland, Russian Federation, Spain, Sweden, Switzerland, Ukraine, United Kingdom, and United States
Bias Against Muslims	10 States: Austria, Croatia, Czech Republic, Denmark, France, Netherlands, Poland, Sweden, United Kingdom, and United States	23 States: Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Czech Republic, France, Georgia, Germany, Greece, Italy, Latvia, Netherlands, Poland, Russian Federation, Serbia, Slovakia, Spain, Sweden, The Former Republic of Macedonia, Ukraine, United Kingdom, and United States
Bias Against Christians & Members of other Religions	12 States: Czech Republic, Denmark, Finland, Georgia, Germany, Netherlands, Poland, Spain, Sweden, Ukraine, United Kingdom, and United States	22 States: Austria, Belgium, Bosnia and Herzegovina, Bulgaria, France, Georgia, Germany, Greece, Italy, Kazakhstan, Kyrgyzstan, Poland, Russian Federation, Serbia, Spain, Switzerland, Tajikistan, Turkmenistan, Ukraine, United Kingdom, United States, and Uzbekistan
Anti-LGBT	12 States: Croatia, Denmark, Finland, Germany, Italy, Lithuania, Netherlands, Spain, Sweden, Ukraine, United Kingdom, and United States	24 States: Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Czech Republic, Georgia, Germany, Greece, Hungary, Ireland, Italy, Kyrgyzstan, Lithuania, Moldova, Netherlands, Poland, Portugal, Russian Federation, Serbia, Spain, Sweden, Turkey, Ukraine, and United Kingdom
Bias Against Roma and Sinti	5 States: Croatia, Czech Republic, Poland, Sweden, and Ukraine	9 States: Bulgaria, Czech Republic, Germany, Greece, Hungary, Italy, Poland, Serbia, and Ukraine
People with Disabilities & Other Groups	8 States: Finland, Germany, Italy, Netherlands, Spain, Ukraine, United Kingdom, and United States	7 States: Germany, Greece, Norway, Poland, The Former Yugoslav Republic of Macedonia, Romania, and United Kingdom

■ **Recommendation:** For participating States that did not indicate whether they currently collect hate crime data or do not make data available to the public [Estonia, Holy See, Ireland, Italy, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Russia, San Marino, Turkey, and Turkmenistan]:

- These states should establish a system of collection and make this information available to the public.

■ **Recommendation:** For the 23 participating States that do not submit data to ODIHR [Armenia, Azerbaijan, Belgium, Canada, Cyprus, Estonia, Holy See, Hungary, Ireland, Kazakhstan, Kyrgyzstan, Luxembourg, Malta, Monaco, Mongolia, Montenegro, Norway,

Portugal, Russia, San Marino, Slovenia, Tajikistan, and Turkmenistan]:

- These states should conduct an inquiry into the potential shortcomings in existing reporting and data collection systems. After identifying shortcomings that prevent them from fulfilling their data collection commitments, these states should train police on hate crimes.
- These states should reach out to CSOs as partners in developing strategies to enhance hate crime reporting.

Countries Continue to Report Zero Hate Crimes

The report reveals that two countries—Andorra and Moldova—affirmatively reported zero (0) hate crimes to ODIHR. While it is theoretically possible that an entire country would not experience a hate crime in a calendar year, serial zero reporting raises doubts about a country's training to identify these crimes and a readiness to address them.

For instance, Andorra has reported zero hate crimes every year since ODIHR started collecting data in 2009. ODIHR works with governments, civil society, and law enforcement organizations to increase participation in ODIHR data collection, but it is clear that much more needs to be done.

- *Recommendation:* For the two participating States that report zero hate crimes to ODIHR [Andorra and Moldova]:
 - These states should conduct an inquiry into the potential shortcomings in existing reporting and data collection systems. After identifying shortcomings that prevent them from fulfilling their data collection commitments, these states should train police on hate crimes.
 - These states should reach out to CSOs as partners in developing strategies to increase and enhance hate crime reporting.

Countries Don't Disaggregate Data

Only 13 participating States submitted data disaggregated by both bias and crime type. These states include: Croatia, Czech Republic, Finland, France, Georgia, Germany, Italy, Lithuania, Poland, Spain, Sweden, Ukraine, and the United States. An additional four participating States (Austria, Denmark, the Netherlands, and the United Kingdom) submitted data disaggregated only by bias type. Another four participating States submitted data only disaggregated by crime type (Belarus, Bulgaria, Greece, and Slovakia).

The remaining 13 participating States submitted data, but did not disaggregate based on bias or crime type. These states include: Albania, Andorra, Bosnia and Herzegovina, Iceland, Latvia, Liechtenstein, Macedonia, Moldova, Romania, Serbia, Switzerland, Turkey, and Uzbekistan.

Data disaggregated by both bias motivation and type of crime enables states to craft effective policy responses. When this information is not available, it becomes difficult to assess the nature of the problem, identify the victims, and identify countermeasures to combat intolerance and violence.

- *Recommendation:* For the twenty-one participating States that do not sufficiently disaggregate their data [Albania, Andorra, Austria, Belarus, Bulgaria, Bosnia and Herzegovina, Denmark, Greece, Iceland, Latvia, Liechtenstein, Macedonia, Moldova, the Netherlands, Romania, Serbia, Slovakia, Switzerland, Turkey, the United Kingdom, and Uzbekistan]:
 - These states should develop monitoring systems that provide disaggregated data on the bias motivations and the victims' characteristics.
 - These states should classify data on the basis of all types of bias-motivated crime

and disaggregate between violent and non-violent crimes.

Changes in Data Across Years May Be Due to Different Reporting Methodologies Rather than Actual Hate Crime Rates⁷

A participating State reporting an increase in hate crimes may not be a bad signal in all cases. It can be the result of a different reporting methodology that encourages reporting.⁸ An increase in recorded hate crimes may instead reflect that the country is taking its commitment to data collection more seriously.

- *Recommendation:* Countries should continue to review and improve their reporting methodology, even if it means an increase in the number of incidents they submit to ODIHR.

Moving Beyond Data Collection Commitments

Priority on Prevention and Response Efforts

Governments in the OSCE region have increasingly recognized that violent hate crimes can be a threat to international security and, to this end, **the 57 OSCE participating States have made numerous commitments to prevent and combat intolerance and discrimination.** In addition to important commitments on data collection and reporting,⁹ these OSCE Ministerial Council decisions include commitments for governments to¹⁰:

- Take appropriate measures to encourage victims to report hate crimes.
- Explore methods for facilitating the contribution of civil society to combat hate crimes.
- Introduce or further develop professional training on responding to and preventing hate crimes, and capacity-building activities for law-enforcement, prosecution, and judicial officials dealing with hate crimes.

- Conduct awareness-raising and education efforts, particularly with law enforcement authorities, directed towards communities and civil society.
- Consistently and unequivocally condemn publicly bigoted rhetoric and violent acts motivated by discrimination and intolerance.

These commitments underscore several critical points from Human Rights First and ADL's perspective.

Underreporting Continues to Be a Widespread Problem and Prevents Participating States from Devising Efficient Policies to Prevent and Combat Hate Crime

Participating States only report hate crimes that have been reported to the police. Underreporting is a significant challenge.

In 2015, concern about violence directed against Jews, Jewish symbols, and Jewish institutions increased dramatically in France, Germany, and Belgium.¹¹ And, yet, reasons that victims cited for not reporting antisemitic harassment included: feeling that nothing would happen or change, or that it wasn't worth reporting because it happens all the time; lack of trust in police; concern over not being believed or taken seriously; being too emotionally upset; and fear of or intimidation from perpetrators.¹²

Based on their experience with victims of hate crimes, professionals (including police officers, public prosecutors and judges, and experts working for victim support services or civil society organizations) often pointed to similar factors, including: fear, guilt, or shame of victims; lack of awareness of rights, in part due to lack of victim support services; victim doubt that they would benefit or view that proceedings would be costly and time consuming; and lack of trust that police would treat them appropriately.¹³

Reluctance to report indicates that participating States are lagging on implementing the law. Vulnerable groups must be effectively protected; otherwise the law on the books is of little relevance to the daily life of minority groups.

Reporting is also important because it can trigger a process for the victim to receive necessary support services. Even if a participating State has an effective response plan in place to assist victims of hate crimes, this plan does little good if there are barriers to reporting and accessing these services.

- *Recommendation:* All participating States should work with NGOs, community groups, and experts to understand root causes of underreporting in their country. They should develop strategies to encourage reporting and monitor progress on reporting.

The Data Submitted to ODIHR Relies on Classification by Law Enforcement Officials at the First Point of Contact

In most OSCE participating States, law enforcement agencies make the initial determination whether or not to classify a crime as a hate crime. If those responsible for the first contact with a victim are insufficiently trained and do not record a bias motivation, the incident will not be included in the data submitted to ODIHR. This undermines higher-level attempts to address hate crimes.

- *Recommendation:* Governments should prioritize law enforcement training to respond to and prevent hate crimes.

Hate Crime Data Is Often Linked to a Country's Hate Crime Law

What is recognized as a hate crime will vary based on the home country legislation. For instance, participating States that sanction discrimination against LGBT persons are unlikely

to provide protection for LGBT persons in their hate crime legislation.

Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, and Ukraine all have some level of state-sanctioned discrimination against LGBT persons. None of their hate crime laws include sexual orientation or gender identity as a bias motivation. Of these countries, only Ukraine provided disaggregated data in 2014 and 2015. In 2014, Ukraine did not report any hate crimes against LGBT persons. In 2015, there was slight progress as Ukraine reported 9 hate crimes against LGBT persons. However, this is a stark contrast to the 64 hate incidents reported by civil society.

- *Recommendation:* States should enact hate crime laws that establish substantive offenses or provide enhanced penalties for violent crimes committed because of the victim's race, religion, ethnicity, sexual orientation, gender, gender identity, mental and physical disabilities, or other similar status. Concrete steps to begin this process could involve utilizing the ODIHR publication *Hate Crime Laws: A Practical Guide* as a basis for a training or consultation among experts and officials across relevant ministries.¹⁴

Partnering with ODIHR

ODIHR offers a range of reporting, institutional knowledge, tools, and training resources. All of the recommendations in our report have been directed at participating States. However, ODIHR is meant to serve as a resource to OSCE States to assist them in meeting their commitments.

- *Recommendation:* ODIHR should continue to reach out to participating States to assist them in designing and developing monitoring mechanisms and data collection and drafting comprehensive hate crime legislation.

- *Recommendation:* ODIHR should expand its work to support states in understanding root causes of underreporting and developing strategies to encourage greater reporting of hate crimes.
- *Recommendation:* ODIHR has been working with civil society organizations throughout the OSCE region and could help identify where civil society capacity could strengthen states' ability to report. ODIHR should maintain and strengthen its outreach to civil society.

Numbers Don't Speak for Themselves

Examples of Hate Crimes and Incidents in 2016

Each year, as ODIHR releases hate crime data collected from the previous year, it's important to remember the hate incidents that take place every day throughout the OSCE Region. Below is a list of diverse types of incidents and crimes that have taken place during the past year, which impact diverse communities.

- In January 2015 three Jewish shoppers in London, **United Kingdom**, were pelted with gas canisters. The three male attackers threw metal objects at the shoppers from a pickup, while shouting, "Hitler is on the way to you," and "Heil Hitler." A volunteer with a Jewish neighborhood watch patrol providing support to the victims later said he was appalled by this apparent attack based on the assumption that the target was Jewish.¹⁵ This attack followed a rise in antisemitism in the United Kingdom during 2015, according to police figures.
- In January a Jewish teacher was on his way to synagogue in Marseille, **France**, when he was attacked by a teen wielding a machete. The teen was a fifteen-year-old Turkish Kurd, who claimed he was acting in the name of ISIS, and reportedly claimed he was ashamed he did not kill his victim. The teacher sustained only light injuries to his hand, but the attack sparked a debate in Marseille's Jewish community about whether or not Jewish men and boys should stop wearing Yarmulkes. The leader of the local Jewish community urged male Jews to stop wearing Yarmulkes "until better days."¹⁶
- In February in Yerevan, **Armenia** five LGBT activists were attacked and beaten by three assailants. When one of the victim's friends attempted to help, they were also attacked. The attackers used homophobic hate slurs. When the victims went to the hospital for treatment, they were discriminated against. A medical professional providing treatment said, "Come, let's do a blood test on you. Let's see if you have a deviance. [We'll] cure the deviance."¹⁷
- There have been several high-profile incidents of Islamophobic violence in the **United States**. In St. Louis, a man was arrested in February after the police said he pointed a gun at a Muslim family shopping on his block and told them they "all should die." In May, an imam in Queens and his assistant were shot and killed execution-style on the sidewalk. In June, a man "shouting obscenities about Islam" shot two men in traditional Muslim garb in Minneapolis.¹⁸
- In April, Laval, a city in the province of Quebec, **Canada**, was vandalized with swastikas. The graffiti was drawn on benches, cars, and houses, and included other antisemitic symbols such as an "X" through the Star of David. It also largely incorporated the slogan, "No Jews." The city of Montreal, of which Laval is a suburb, has a large Jewish population. Swastikas are not an uncommon form of vandalism in the area, and one company removed over a hundred in 2015. As of April 6, 2016 it was not classified as a hate crime, and the police believed the perpetrators to be teenagers who were "merely

- out to cause some trouble without realizing just how offensive their actions were.” This demonstrates the importance of the first contact with law enforcement and training police to identify hate incidents.¹⁹
- In June a halal butcher shop was destroyed in Walsall, **United Kingdom** when someone threw a petrol bomb inside. The bomb hit one of the workers, who only suffered bruises, and the shop was gutted by flames. The incident occurred four days after Britain’s vote to leave the European Union.²⁰
 - In June a Tajik guest worker was shot repeatedly with rubber bullets in broad daylight in Moscow, **Russia**, causing him to lose one eye. It is believed the random act of violence was motivated by xenophobia.²¹
 - In July a Black transgender woman was killed in Mississippi. She was stabbed 119 times. She was among the 20 transgender people shot, stabbed, or killed by violent means in the **United States** in 2016.²²
 - In July in the **United Kingdom**, a disabled man was assaulted on a train. The disabled man was using the bathroom on a train when another man attempted to push the door open. When he left the cubicle, the attacker spewed verbal abuse, pushed him to the ground, and slapped him across the face.²³
 - In August a Roma home was torched in a village in southern **Ukraine** after a Roma man was accused of killing a nine-year-old. After the attack, all but two Roma families fled the village. Other residents demanded that the authorities evict all Roma families in the area.²⁴
 - In September the mayor of a village in **Germany** was hospitalized after he was attacked and severely beaten for his support for asylum seekers. He was beaten with a club and was left unconscious. He received a threatening letter before the attack.²⁵ Germany has seen a massive increase in attacks against refugees, including a spike in arson attacks against buildings housing refugees.
 - In September a gay man in Belfast, **Northern Ireland** was attacked and beaten after being called an offensive homophobic slur.²⁶
 - In September a Holocaust memorial was vandalized in Budapest, **Hungary**. Known as the “Living Memorial,” it contained items donated by survivors and their families, which were destroyed or thrown away by the vandals. This attack occurred shortly after the neo-Nazi Kuruc.info website posted an article with a threat to destroy the memorial. The vandalism sparked a demonstration against antisemitism by hundreds of people.²⁷
 - Members of the **Slovakian** far-right People's Party “Our Slovakia” began patrolling trains after a 21-year-old woman was assaulted and robbed earlier this year. The patrols specifically targeted members of the Roma community, and were banned in October by parliament on the grounds that such patrols cannot replace the police.²⁸
 - In late October a 25-year-old transgender woman's mutilated body was found in the North Caucasus region of **Russia**, days after her wedding. She had received severe backlash from her family and had also received multiple death threats.²⁹
 - In November 20 neo-Nazis were arrested in **Portugal** for committing hate crimes against immigrants and ethnic minorities. The attacks, which occurred between 2013 and 2015, include at least one attempted murder, robbery, and religious and sexual discrimination.³⁰ ■

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