



## **EUROPEAN MARCH OF THE LIVING NETWORK**

### **FIRST EUROPEAN AND NATIONAL ANNUAL MAPPING**

**Current Realities and Challenges  
in Identification, Mitigation and Countering of  
Anti-Semitism, Xenophobia and Racism**

**November 2018**

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## Introduction

The European March of the Living network (EMOTL) mapping project has been commissioned to present an overview of the current realities and challenges regarding anti-Semitism, xenophobia, racism and intolerance across seventeen EU member states, where the network has partners.

The EMOTL network partners contributed information regarding the realities and challenges in their respective countries.

Testimonies and clarifications by EMOTL partners have been further substantiated by secondary research from reputable organizations, including the Anti-Defamation League (ADL), Organization for Security and Cooperation in Europe (OSCE), the European Commission against Racism and Intolerance (ECRI), the Coordination Forum for Countering Antisemitism (CFCA), the European Agency for Fundamental Rights (FRA), and civil society organizations operating in individual countries.

Data on anti-Semitism, racism and xenophobia across EU countries are generally not comparable, as they are collected using different methodologies and from different sources in each state.

Although official data collection systems are generally based on police records and/or criminal justice data, authorities do not always categorise incidents motivated by anti-Semitism, racism or xenophobia under that heading.<sup>1</sup>

National mappings are divided into the following subsections:

- Realities
- Legislation
- Challenges

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## European Overview

Anti-Semitism, racism, xenophobia and intolerance pose significant challenges and concerns across Europe, taking the forms of ignorance and prejudice, acts of hate speech and violence, structural discrimination and national political campaigns.

**Most European countries have been found to be vastly unprepared to educate, document, and enforce legislation aimed at the deterrence and reduction of these phenomena.**

While law enforcement training programs, regulator bodies, master plans, volumes of legislation and the work of civil society groups aim to improve the general atmosphere for disadvantaged and at-risk groups, the successful implementation of good policies is severely lacking and there remains a general trend of political and sociological degradation which undermines efforts to positively impact the overall situation.

**In 2018 there is an increasing presence and influence of openly xenophobic politicians and officials in many governments and opposition parties.**

The ascent of the historically and institutionally anti-Semitic, racist and xenophobic far-right FPÖ into the Austrian government, alongside the left-wing British Labour Party's ongoing existential struggle with its leader's doublespeak on anti-Semitism and the structural failures of the party to expel anti-Semitic members illustrate the difficulty in identifying the root causes and best practises in combating these phenomena.

It is also important to also note that discriminatory attitudes also influence centrist politicians, as has been the case in recent proposals by French President Emmanuel Macron toward migrants.

**However, in general the far-right has become stronger through the experiences of the immigration waves from the Middle East and Africa. These forces significantly strengthened their positions in countries such as Croatia, Germany, Hungary, and Slovakia, and came to power in Italy and Poland as well as Austria.**

Hostile sentiments against Jews and other minorities in Europe are widely held and well recognized.

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<sup>1</sup> FRA (2018), *Antisemitism - Overview of data available in the European Union 2007–2017*

**40% of Europeans agree that Jewish people are threatened with violence in their country, while one in ten Europeans is a self-identifying anti-Semite.<sup>2</sup>**

**A rise in hatred is being coupled with a growing lack of Holocaust education in younger members of society.**

Politically, this is often matched by Holocaust denial, revisionism, and equivocation. Left-wing political movements routinely seek to use the Holocaust comparison as a political tool against Israel, while far-right groups in countries such as Poland and Hungary are actively involved in rewriting the historical accounts of their peoples' actions under Nazi rule.

**Around a third of Europeans subscribe to the view that Jewish people use the Holocaust to advance their position or to achieve certain goals.**

**Many peoples' contemporary worldviews are still built on the ideas of Jewish power in finance, business, and the media,** with many believing that Jews constitute a far greater share of the world's population. A quarter of Hungarians estimate that the world is more than 20% Jewish, while one in five Brits and Poles think the same.

**Discrimination and the spectre of violence does not begin or end with the often-small Jewish communities across the continent.**

**Over a third of surveyed Europeans self-identify as having negative perspectives of Muslims, while migrants, Roma and other minorities made the victims of systematic and societal racism and discrimination.**

**Diversity is considered a negative sociological attribute by a plurality in many European countries.<sup>3</sup>**

Almost all European countries have a positive attitude towards restrictions on religious clothing choices for Muslim women,<sup>4</sup> and a recent EU report summarizes that: "Being black in the EU often means racism, poor housing and poor jobs."<sup>5</sup>

Driving these trends is an increasing political volatility across much of the continent, with far-right and far-left political parties and organizations are expanding their influence, entering coalitions, and entrenching their power.

**The result is an increasingly threatening environment for Jews, Muslims, Roma, ethnic minorities and immigrants among other vulnerable groups.**

While most countries exhibit these issues in distinct manners, uniquely reflecting their country's population, culture, politics, economy and history, the polarization of societies in conjunction with external pressures such as mass immigration and geopolitical upheaval is exacerbating majority-minority and minority-minority relations across much of the continent.

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<sup>2</sup> CNN (2018), Anti-Semitism in Europe Poll 2018

<sup>3</sup> Pew (2016), In views of diversity, many Europeans are less positive than Americans

<sup>4</sup> Pew (2018), Most Western Europeans favor at least some restrictions on Muslim women's religious clothing

<sup>5</sup> FRA (2018), Being black in the EU often means racism, poor housing and poor jobs

**The under-reporting, under-recording and under-prosecuting of hate crimes only helps to isolate and endanger at risk populations, and must be an area of focus for all countries.**

**A growing trend of Holocaust revisionism, coupled with a common sentiment that there is too much focus on the Holocaust, is a dangerous development for Jews, Roma, and the future of human rights.**

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## **Austria**

### **Realities**

The annual report of the FGA (Forum Gegen Antisemitismus – Forum Against Antisemitism) states that in 2017, 503 anti-Semitic incidents were reported in Austria (compared to 477 reported in 2016). 62% of the incidents had an unspecified motive, 24% had a right-wing or extreme right-wing anti-Semitic motive, 10% were driven by Muslim anti-Semitism and 3% had a radical left-wing anti-Semitic motive.

**In 2017, almost 10% of the verbal and physical incidents against Jews occurred in schools.**

The number of anti-Semitic incidents in Austria has been rising over the past decade, according to studies compiled by Israel's Diaspora Affairs Ministry published in January 2018<sup>6</sup>.

Along with the FGA, Civil Courage and AntiRacism (ZARA) monitors anti-Semitism as a right-wing phenomenon, while the Documentation Center of Austrian Resistance (DÖW) reports sporadically on anti-Semitism in all its manifestations, including Islamized and left-wing Israel-related anti-Semitism. Stoppt die Rechten ("Stop the Right"), an online project which was funded by the Green Party had to close down directly after the election after the Green Party did not meet the 4% threshold and was cut off from funding.

The Austrian government's reporting on hate crimes to the Office for Democratic Institutions and Human Rights (ODIHR) of the OSCE indicates a fluctuating number of hate crimes in recent years, with the most recent police report in 2017 detailing 305 hate crimes concerning all populations.

**Serious incidents include violent racism carried out by the police, who in multiple incidence were documented as having insulted and physically assaulted African men and migrants of different backgrounds in the street.**

**Violent sentiments towards Muslims are also widespread, with death threats, physical assaults, and acts of intimidation against Mosques becoming a common occurrence.<sup>7</sup>**

**Austria has an overall anti-Semitism index score of 28% according to the ADL Global 100 survey<sup>8</sup>, a relatively high figure for Western Europe indicating that 28% of surveyed adults responded "probably true" to at least six out of 11 anti-Semitic statements.**

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<sup>6</sup> Ministry of Diaspora Affairs (2018), Anti-Semitism in 2017

<sup>7</sup> OSCE (2018) <http://hatecrime.osce.org/austria>

<sup>8</sup> ADL (2014), <http://global100.adl.org/#country/austria/2014>

Anti-Semitic views were found to be especially prevalent among Austria's older population (50+) compared to the youngest respondents (18-34).

The most agreed-with statement was that "Jews still talk too much about what happened to them in the Holocaust", with an average 52% agreement rating across demographics, including 41% of the younger generation.

In politics, the Kurz government, which was formed after the 2017 elections, includes the Austrian Freedom Party (FPÖ). The FPÖ is an historically and institutionally anti-Semitic and racist political party, as is the Alliance for the Future of Austria (BZO) which formed as a splinter of the FPÖ. The focus of Austrian politics on issues of immigration had already developed prior to the so-called "refugee crisis" of 2015, which intensified racism within Austrian political discourse and served as further legitimization of the social and political exclusion of migrants. Since discussions about Islam and Islamism had become an important issue within European politics, the FPÖ under the leadership of Strache started to modernize their xenophobe agenda by focusing on Muslims.<sup>9</sup>

In the first six months since the current government was formed there were "not less than 30 anti-Semitic incidents" involving FPÖ lawmakers according to Oskar Deutsch, president of the Jewish communities of Austria.<sup>10</sup>

**One such incident was a candidate of the FPÖ glorifying the Holocaust and Nazi war crimes.**<sup>11</sup>

Since the national election 2017, 18 of the party's 51 MPs are members of right-wing fraternities, including five of its six chairmen. This includes openly pan-German fraternities like the Olympia as well as FPÖ members with entanglements to the neo-Nazi movement.<sup>12</sup>

According to the Kantor Center's review of anti-Semitism, the FPÖ was "not the only political party linked to anti-Semitic incidents during the election campaign and that the articulated anti-Semitism either showed a new and worryingly blatant level of open anti-Jewish hate speech, or referenced to classical conspiracy-theoretical anti-Semitic tropes such as bringing forward a hidden and disintegrating political agenda, and being given too much power and political influence."<sup>13</sup>

This follows the 2015 national report by the European Commission against Racism and Intolerance, which affirmed that there is no reliable recourse for racist or xenophobic statements made by politicians and called for an increase in vigilance, especially surrounding election campaigns.<sup>14</sup>

Chancellor Sebastian Kurz has made overtures towards both the Jewish community and Israel, receiving support from Deutsch<sup>15</sup> and Prime Minister Benjamin Netanyahu.<sup>16</sup> A

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<sup>9</sup> Kantor Centre for the Study of Contemporary European Jewry at Tel Aviv University (2018), Antisemitism Worldwide 2017 Report

<sup>10</sup> I24 (2018), Kurz 'understands' boycott of far-right ministers: Austria Jewish community head

<sup>11</sup> CFCA (2018), Austrian politician Landbauer glorifies the Nazi massacre on Crete and the Holocaust

<sup>12</sup> Kantor Centre

<sup>13</sup> Kantor Centre

<sup>14</sup> ECRI (2015), Report on Austria

<sup>15</sup> ECRI

<sup>16</sup> Haaretz (2018), Netanyahu Lauds Austrian Chancellor's Speech on anti-Semitism; Austria Hopes Israel Will End Boycott Soon

memorial to the 66,000 Austrian Jews who perished in the Holocaust is set to be consecrated in Vienna, and a conference to combat anti-Semitism and anti-Zionism was held in November with Prime Minister Netanyahu set to be in attendance<sup>17</sup> before an unrelated domestic coalition crisis required him to stay in Jerusalem. Additionally, “An End to Antisemitism!” – a conference organized by the European Jewish Congress (EJC), Vienna University, Tel Aviv University and New York University, was held in Vienna in February 2018.

Chancellor Kurz’s social media accounts were especially active around the 80<sup>th</sup> anniversary of the November pogroms, and in an interview with the Jewish Chronicle of London on this subject, he stated that “Austria has looked away far too long and fulfilled its historical responsibility too late.”<sup>18</sup>

Nevertheless, the Kurz government has pursued anti-migration and “political Islam” policies, introducing migrant caps and moving to reduce the influence of foreign Muslim clerics. Anti-Semitic policies have also appeared in this time. A local politician in Wien sought to create a “permit list” of Jews who wish to purchase kosher meat and similar measures targeting Muslims observing Halal, in what was compared by the Jewish community and the American Jewish Coalition to acts by the Nazis.<sup>19</sup>

**Further anti-Semitism in Austrian society comes from Muslim youth - with an estimated 50% of this population holding anti-Semitic views.**<sup>20</sup>

According to the FRA’s Second EU Minorities Discrimination Survey (EU-MIDIS II), 45% of the Sub Saharan (SSAFR) minority population have experienced discrimination based on their skin colour in the preceding five years, particularly affecting men, and stands as the second highest rate reported in the countries studied in the survey and well above the average of 27%.

Comparatively, 29% of Turkish responders reported racial discrimination over the previous year, with discrimination based on religious preference affecting women in greater rates than men.

Alongside government efforts to oppose racism, the organization Zivilcourage und Anti-Rassismus-Arbeit (ZARA) is an example of a civil society group<sup>21</sup> providing anti-racism support, counselling, legal advice and training courses.

**Since 1997, Austria has marked May 5<sup>th</sup> as National Day against Violence and Racism in Memoriam of the Victims of National Socialism, commemorating Jewish, Roma and Sinti victims.**

On 27 January and 10 November each year, commemorative activities are organized to mark International Holocaust Remembrance Day and the Day of Remembrance of the Victims of the November Pogroms, respectively. Commemorative initiatives take place in Parliament, at government offices and memorial sites, as well as at universities, schools, theatres, concert halls and public spaces.

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<sup>17</sup> Times of Israel (2018), Netanyahu to visit Vienna, a first for an Israeli premier in 20 years

<sup>18</sup> The Jewish Chronicle (2018), Chancellor Sebastian Kurz on Kristallnacht: 'For too long, we looked away from the horrors'

<sup>19</sup> CFCA (2018), Austrian state may require Jews to register to buy kosher meat

<sup>20</sup> CFCA (2017), Half of Muslim youth in Austria hold antisemitic views

<sup>21</sup> ZARA

**The Holocaust, the extermination and persecution of Roma and Sinti and crimes committed against other victim groups are taught at all levels of the education system in Austria, from primary school to university.**

These subjects are a mandatory part of the curricula for grades 7 to 8 and 11 to 12, and are covered in textbooks.<sup>22</sup>

### Legislation

The government pledges that the principle of equal-treatment is established in the Austrian Constitution and **is strengthened by a comprehensive anti-discrimination legislation consisting of 35 laws.**<sup>23</sup>

**A national telephone hotline for victims has been in use since 2014, and yearly meetings are held by anti-discrimination bodies at all levels.**

Section 33 paragraph 1 subparagraph 5 of the Austrian Criminal Code (CC) sets out an aggravating circumstance that applies when the perpetrator acts out of racist, xenophobic or other motives considered especially condemnable. This is particularly the case if acting against one of the groups or members thereof defined by race, colour, language, religion or belief, nationality, descent or national or ethnic origin, explicitly on account of the belonging to such a group. Section 283 of the CC criminalises incitement to violence or hatred against a church or religious denomination or any other group of persons defined by criteria of race, colour of skin, language, religion or ideology, nationality, descent or national or ethnic origin, explicitly on account of belonging to such a group.

The so-called Prohibition Act bans any activity linked to the Nazi Party or reengagement in national-socialist activities and provides for aggravated penalties when murder, arson, robbery or bodily harm are instrumental within the context of these activities. It further makes it a criminal offence to deny, belittle, condone or try to justify the Nazi genocide or other Nazi crimes against humanity.<sup>24</sup>

Austria has yet to ratify the Additional Protocol to the Convention on Cybercrime, concerning online abuse, however progress is expected on this matter.

A major and persisting criticism by the ECRI is the non-ratified state of Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms – the General Prohibition of Discrimination. The ECRI contests that Austrian laws are ineffective due to their complexity and under-implementation, and that the core anti-discrimination laws do not proscribe all forms of discrimination purported for out of all motives.

**Austria is one of the six countries which has ratified the IHRA working definition of anti-Semitism. This definition will help educate societies and law enforcement on the multifaceted character of anti-Semitism.**

### Challenges

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<sup>22</sup> OSCE (2018), Holocaust Memorial Days: An overview of remembrance and education in the OSCE region

<sup>23</sup> Federal Ministry, Republic of Austria: Fight Against Racism

<sup>24</sup> FRA (2018), Hate crime recording and data collection practice across the EU

**The 2018 ECRI report notes that the Austrian local (Länder) and federal levels have not progressed towards implementing the recommendation that anti-discrimination acts and institutions merge to improve protection for minorities, among a situation of general overcomplexity in the legal and civil systems in place to combat diverse forms of discrimination.**

**There were improvements in other areas, such as the Federal Ombud for Equal Treatment covers ethnic and religious discrimination among other kinds of intolerance as of 2018.<sup>25</sup> However, the Ombud does not have the mandate to represent victims in court.**

The EU's FRA online "Clarity" tool to streamline services to victims is supposed to include Austria, however options relating to religious freedom did not provide actionable results when accessed on October 24<sup>th</sup>, 2018.<sup>26</sup>

**There is also a lack of detailed digital archiving and processing of hate crimes and other forms of discrimination.**

On anti-Semitism statistics, there is wide discrepancies between official and unofficial data. While FGA figures quoted above portray a significant quantitative anti-Semitism problem, official data collected represented approximately 10% of these figures.

In 2017 the Austrian government reported 39 anti-Semitic crimes,<sup>27</sup> compared to the FGA's 503.

Whether anti-Semitism is being whitewashed at the official level or simply not reported are both significant issues in combating hate crimes against the Jewish community.

**Regarding the Roma community, the 2015 ECRI report notes that problems with goals and funding have limited the impact of advancing the equality and protection of Roma peoples in Austria.<sup>28</sup>**

## Belgium

### Realities

**The ADL 2015 study for Belgium found that 21% of the adult population had consistently anti-Semitic views.<sup>29</sup>**

As with Austria, most anti-Semitic statements were thought to be true by a higher proportion of older responders compared to their youngest compatriots.

An FRA report titled *Discrimination and hate crime against Jews in EU Member States: experiences and perceptions of anti-Semitism*, published in 2013, focused on the experiences of Jews in Belgium among other member countries.

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<sup>25</sup> ECRI (2018), Conclusions on the implementation of the recommendations in respect of Austria

<sup>26</sup> FRA Clarity interactive tool

<sup>27</sup> FRA, *Antisemitism - Overview of data available in the European Union 2007–2017*

<sup>28</sup> ECRI

<sup>29</sup> ADL

**OSCE reporting on hate crimes in Belgium however does not delineate between anti-Semitic, anti-Muslim or any other types of racist or xenophobia, or the source of the crime.**

**In 2017, Muslims were targeted with acts of extreme violence, such as a stabbing attack, arson against a cultural centre, and an attempted car ramming.<sup>30</sup>**

**The Belgian Federal Police records and publishes data on Holocaust denial and revisionism, while also keeping records of other anti-Semitic crimes.**

In 2017, 56 crimes were reported, roughly half the number of the previous year. There is however an overall slight rise in the trendline of anti-Semitic hate crimes in Belgium.

Unofficial data collected by Antisemitisme.be also shows a roughly 50% decline in anti-Semitic crimes from 2016 to 2017. This decrease is due in particular to the Government's zero tolerance policy<sup>31</sup>, as announced by Prime Minister Michel, in addition to visible protection of Jewish sites by the police and the army.

**However, the Belgian League Against Antisemitism has documented multiple incidents that it said were rapidly making Belgian public schools "Jew-free," where schools are actively covering up anti-Semitic abuse.<sup>32</sup>**

More recently, a major youth movement has been revealed to be a disturbing source of anti-Semitism and racism in the Flemish community.<sup>33</sup>

Islamist anti-Semitism is also a significant issue, with Jewish community leaders warning of growing anti-Semitism and to claim that most of the attackers are young people of Muslim origins.<sup>34</sup>

Additionally, a number of Muslim institutions in Belgium using extreme manuals containing anti-Semitic passages to train imams.

**The country's threat assessment body (OCAM) has warned of jihadist elements in Belgium's Muslim community, and the Saudi-funded materials available in places such as the Grand Mosque are both anti-Semitic and homophobic.<sup>35</sup>**

In addition to International Holocaust Memorial Day, Belgium marks 8 May as Commemoration of the day of victory for democracy and remembrance of the Nazi-German genocide. Official commemorative activities are organized in parliament and at memorial sites, where speeches are given. These events are attended by members of the government, parliament and the judiciary. Victims' and survivors' associations, the Jewish community, religious groups, civil society and academic and research institutions are involved in developing commemorative activities and actively participate in them.

Beyond these official activities, other commemorative activities take place on International Holocaust Memorial Day.

These include the following:

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<sup>30</sup> OSCE (2018)

<sup>31</sup> Jewish Telegraphic Agency (2015), Zero-tolerance policy on anti-Semitism, Belgian PM vows

<sup>32</sup> Jewish Telegraphic Agency (2016), How Paris public schools became no-go zones for Jews

<sup>33</sup> CFCA (2018), Student movement in Belgium revealed as racist and antisemitic

<sup>34</sup> Israeli Ministry of Diaspora Affairs

<sup>35</sup> CFCA (2018), Antisemitic material used to train imams in Belgium: report

- Visits to the former camp at Auschwitz-Birkenau for young students, with the support of the Defence Ministry and the War Heritage Institute;
- Special commemorative events organized by the Wallonia-Brussels Federation, which in 2017 included a study day on genocide;
- An essay competition organized by the Auschwitz Foundation, followed by a visit to Auschwitz-Birkenau;
- A commemorative event organized by the German-speaking community;
- A memorial event at the Kazerne Dossin: Memorial, Museum and Documentation Center on Holocaust and Human Rights.

**The Holocaust, the extermination and persecution of Roma and Sinti and crimes against other victim groups are taught at the secondary and upper secondary levels and covered in school textbooks.**

**In the EU-MIDIS II survey, Turkish and North African minorities reported ethnicity-based discrimination rates of 24% and 32% respectively over the previous five years, which was around the average of countries included in the survey.<sup>36</sup>**

### **Legislative**

The Belgian Criminal Code (CC) establishes enhanced penalties for a number of substantive criminal offences when motivated by hatred, contempt or hostility towards a person based on her or his presumed race; skin colour; ascendance; national or ethnic origin; nationality; sex; sexual orientation; civil status; birth; age; wealth; religious or philosophical convictions or beliefs; actual or future state of health; disability; language; political convictions; trade union convictions; physical or genetic characteristics; or social origin.

These substantive offences are: voyeurism, indecent assault and rape (Article 377 bis of the CC), reclusion (Article 438 bis of the CC), harassment (Article 442 ter of the CC), offences against the honour of a person (Article 453 bis of the CC), arson (Article 514 bis of the CC), destruction of constructions, machinery and telegraphic posts (Articles 521 to 525 of the CC) and destruction or deterioration of goods, merchandise and property (Articles 528 to 532 of the CC).

Article 405 quater of the CC sets out a second group of offences leading to enhanced penalties when motivated by the grounds listed in the first paragraph, and adds a new protected ground to the list: a person's change of sex.

The offences that fall under the enhanced penalties of Article 405 quater of the CC are homicide (Article 393 of the CC), assault (Articles 398 to 401 of the CC) and poisoning (Articles 402 to 405 of the CC).

**Article 20 of the Law on combating certain acts motivated by racism and xenophobia criminalises public incitement to hatred or violence on the grounds of nationality, presumed race, skin colour, ascendance, or national or ethnic origin.**

Article 22 of the Law on combating certain types of discrimination criminalises public incitement to hatred or violence on any of the protected grounds included in the anti-discrimination law: age, sexual orientation, civil status, birth, wealth, religious or

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<sup>36</sup> FRA (2017), EU-MIDIS II

philosophical beliefs, political conviction, trade union conviction, language, current or future state of health, disability, physical or genetic characteristics, or social origin.

Article 27 of the Law on combating discrimination between women and men criminalises public incitement to hatred or violence on the ground of sex.

In addition, Article 2 of the Law on combating sexism in the public sphere criminalises the public expression of sexism.<sup>37</sup>

**Legislation at the federal and federated entities' level is now mostly in line with ECRI's recommendations on national legislation to combat racism and racial discrimination.**

The ECRI reports other encouraging trends, such as media self-regulatory combating the dissemination of hate speech through the media.<sup>38</sup>

**Protocols of co-operation signed between the inter-federal, independent organization Centre for Equal Opportunities and Opposition to Racism (UNIA) and federated entities allow UNIA to participate in the combating of racism and xenophobia.**

UNIA is responsible for fighting racism, among other priorities at an inter-federal level.

The centre is active in prevention through training and advice to lawmakers, as well as in combating discrimination through legal advice and the mandate to go to court. It has been involved with the civil lawsuit against three suspects regarding the fatal attack at the Jewish Museum on 24<sup>th</sup> May, 2014.

Legislative weaknesses in Belgium's work against racism and xenophobia include the fact that the country has yet to ratify Protocol No. 12 of the European Convention on Human Rights regarding online abuse.

## Challenges

**Data collected on xenophobia and racism is too generalized to give a clear picture of the situation in the country as regards particular phenomena.**

Additionally, the ODIHR has observed that Belgium has not periodically reported reliable information and statistics on hate crimes to ODIHR.<sup>39</sup>

Anti-Semitism statistics are particularly affected by the fact that incidents against the ultra-Orthodox community in Antwerp go under-reported as a result of members of the community not filing complaints to the authorities.<sup>40</sup>

The government's anti-racism, xenophobia and ethnic discrimination plan only encompasses the French speaking population.

**According to the ECRI, ethnic and religious groups, in particular Muslims, continue to face in general many disadvantages, including discrimination in key fields of life.<sup>41</sup>**

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<sup>37</sup> FRA (2018)

<sup>38</sup> ECRI (2014), Final report on Belgium

<sup>39</sup> OSCE (2017)

<sup>40</sup> Israeli Ministry of Diaspora Affairs

## Bulgaria

### Realities

**Bulgaria's population was measured as 44% holding anti-Semitic views in the ADL's 2014 survey.<sup>42</sup>**

Statements with agreement rates of over 50% of respondents included questions regarding Jewish power in the business and financial worlds, as well as the question of whether respondents thought Jews talk too much about the Holocaust.

It is also notable that the younger segment of respondents was often as predisposed to anti-Semitic attitudes as their parents' and grandparents' generations.

The Bulgarian government informed FRA that between 2009 and 2011 three persons were convicted on charges that concerned spreading anti-Semitism and National Socialism.

No data were available for the period 2012–2014, there have been no documented cases of anti-Semitism for the years 2015 and 2016, and no civil society organizations collect data about anti-Semitism.

### **Bulgaria regularly reports hate crime data to ODIHR.**

The data reported to ODIHR do not present separately cases of hate crime, incitement to hatred and discrimination, and in 2017 22 hate crimes were reported.<sup>43</sup> These include numerous acts of extreme violence by law enforcement officers and armed gangs assaulting and murdering asylum seekers especially around reception centres set up for these groups.

French lawyers have filed a complaint against Bulgaria and asked the European Commission to start an infringement procedure for inhumane treatment of asylum seekers by the country's authorities.

Bulgaria's Holocaust Memorial Day is held on March 10. Commemorative activities are held in parliament and at memorial sites, religious and academic institutions and schools. Commemorations involve a wreath-laying ceremony with speeches, prayers and a minute's silence.

On 8 April – International Roma Day – activities are organized to celebrate Romani culture, discuss the challenges faced by the Roma and Sinti community and commemorate the Roma and Sinti genocide. Activities take place at government offices, memorial sites, academic and religious institutions and schools.<sup>44</sup>

**Anti-Roma violence increased in Bulgaria in 2017, however out of all surveyed communities as part of the EU-MIDIS II study, Roma communities feel least discriminated against in Bulgaria (14%).<sup>45</sup>**

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<sup>41</sup> ECRI (2014), Report on Belgium

<sup>42</sup> ADL

<sup>43</sup> OSCE (2017)

<sup>44</sup> OSCE (2018)

<sup>45</sup> FRA, *EU-MIDIS II*

**The Holocaust, the extermination and persecution of Roma and Sinti and crimes against other victim groups are all subjects of education in Bulgaria and are also covered in education textbooks.**

These topics are taught at secondary, upper secondary, college and university levels. Holocaust education is part of the mandatory national education curriculum.<sup>46</sup>

### **Legislative**

In the Bulgarian Criminal Code (CC), racist or xenophobic motivation is considered a specific aggravating circumstance in connection with two criminal offences: homicide (Article 116.1.11 of the CC) and infliction of bodily harm (Art. 131.1.12 of the CC).

The CC further establishes a number of substantive offences that include bias motivation as a constitutive element, referred to as crimes against the equality of all citizens and crimes against religious denominations.

Crimes against the equality of all citizens are: incitement to hatred, violence and discrimination on grounds of race, ethnicity or nationality through speech, press or other means of mass information, electronic information systems or in any other way (Article 162.1. of the CC); use of violence against people or against property on grounds of race, ethnicity, nationality, religion or political convictions (Article 162.2 of the CC); leading or participation in a group, with the aim of committing any of these two offences (Article 162.3 of the CC); and taking part in a crowd rallied to attack groups of the population, individual citizens or their property in connection with their national, ethnic or racial affiliation (Article 163 of the CC).

Crimes against religious denominations are: incitement to discrimination, violence or hatred on grounds of religion (Article 164.1 of the CC); desecration, destruction or damage to places of worship (Article 164.2 of the CC); and use of force or threats to hinder the right to freely practice one's faith or to compel another to take part in religious rituals and services (Article 165 of the CC).<sup>47</sup>

**Bulgaria is one of the nations that has ratified the IHRA working definition on anti-Semitism.**

Improvements have been made in some areas in line with ECRI recommendations.

**Amendments to the Criminal Code have been introduced enhancing penalties for murder and causing bodily harm committed with racist or xenophobic motives.**

However, this has not been extended as a criminal motive for all crimes.

**Hate speech is also not recognized as a criminal offense.**<sup>48</sup>

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<sup>46</sup> OSCE (2018)

<sup>47</sup> FRA (2018)

<sup>48</sup> ECRI (2014), Report on Bulgaria

## Challenges

Bulgarian Roma have a low trust in the authorities, ranking at 4.6 out of 10.<sup>49</sup> However, a national plan to promote Roma integration was passed in 2012 to significantly improve conditions for Roma by 2020. One such measure retroactively legalized homes built illegally by the Roma.<sup>50</sup> Similar programs have been adopted for migrants.

**The United Nations Committee on the Elimination of Racial Discrimination (CERD) stated in a 2017 report that it was deeply concerned at the increase in incidents of hate speech and hate crime targeting minority groups such as Turks, Roma, Muslims, Jews, people of African descent, migrants, refugees and asylum seekers.**

In particular, the Committee wrote that it was concerned that racist discourse is evident during election campaigns and that political parties and candidates frequently use slurs against minority groups and individuals. Moreover, the Committee noted with concern that the Council for Electronic Media has not successfully minimized racism online.<sup>51</sup>

In its "Concluding observations on the combined twentieth to twenty-second periodic reports of Bulgaria," the United Nations Committee on the Elimination of Racial Discrimination (CERD) recommended the appointment of specialized hate crime prosecutors.<sup>52</sup>

Additionally, there is a dearth of reporting on anti-Semitism conducted by the state and submitted to the FRA, leading to difficulties diagnosing and combating anti-Semitism in the country.

This is added to by the lack of legislation against hate speech and recognition of racism and anti-Semitism as motivations in most crimes, and very often hooliganism is invoked by the authorities in place of racism, xenophobia or anti-Semitism.

Racial discrimination in the exercise of a public office is also not currently criminalised<sup>53</sup>

Weaknesses in anti-Semitism reporting are highlighted by media reports of neo-Nazi marches in Sofia, and the open display of Nazi symbols in soccer matches.<sup>54</sup>

Bulgaria's decision not to charge Hezbollah with involvement in the 2012 Burgas bombing indicates a lack of commitment in combating international agents of anti-Semitism.

**However, following the adoption of the IHRA definition, the Bulgarian authorities appointed a national coordinator on combatting anti-Semitism.<sup>55</sup>**

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<sup>49</sup> FRA, EU-MIDIS II

<sup>50</sup> ECRI

<sup>51</sup> CERD (2017)

<sup>52</sup> OSCE (2017)

<sup>53</sup> ECRI

<sup>54</sup> VICE News (2018), Bulgarian kids painted with swastikas are giving the Nazi salute at soccer matches

<sup>55</sup> Kantor Centre

## Croatia

### Realities

**A third of Croatia's population was rated as holding consistently anti-Semitic views by the ADL survey in 2014.**

While younger populations were slightly less likely to have firm anti-Semitic views, there was a significant difference in the percentage scores of male and female respondents, with males almost twice as likely to be scored as anti-Semitic.<sup>56</sup>

According to the FRA, the Ministry of the Interior of the Republic of Croatia recorded two criminal offences motivated by anti-Semitism in 2016, and none in 2017.

Both anti-Semitic motivated criminal offences registered by the Ministry of the Interior in 2016 were committed by the same offender and the incidents involved the writing of anti-Semitic graffiti.

In total, 25 racist or xenophobic crimes were recorded by the authorities in 2017.<sup>57</sup>

**Common among the reports of incidents were acts of violence against Serbs and migrants, as well as far-right activity.**

**As with Bulgaria, the Croatian government and civil society are not proficient in collecting data on anti-Semitism or other forms of racism and xenophobia.**

This is highlighted by the work of the FARE network, which records racism in soccer stadiums around the world. Over two seasons covering 2015-2017, FARE recorded 29 instances of discrimination and ultra-nationalism in Croatia, the fourth highest total in the countries observed.<sup>58</sup>

**The ODIHR also observes that Croatia has not reported hate crime data disaggregated by bias motivation.<sup>59</sup>**

**In the EU-MIDIS II survey, Croatian Roma reported an ethnic-based discrimination rate of 42% in the preceding five years, the second-highest figure in the EU for Roma peoples.**

### Legislative

**Croatian authorities have improved protection against hate crime, introducing a provision criminalizing violent conduct in public places and punishing the creation of or leading a group which promotes racism.**

**However, Croatia's legal system has not been brought fully into line with EU policy recommendations.**

Article 87 of Croatia's Criminal Code (CC) includes a statutory definition of hate crime and at the same time provides for bias motivation to be considered a general aggravating circumstance.

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<sup>56</sup> <http://global100.adl.org/#country/croatia/2014>

<sup>57</sup> <http://hatecrime.osce.org/croatia>

<sup>58</sup> Washington Post (2018), International soccer's fight against racism, anti-Semitism and homophobia, in four charts

<sup>59</sup> OSCE (2018)

The CC sets out a number of offences with enhanced penalties if they are motivated by hatred, of which the relevant articles are: aggravated murder (Article 111 of the CC); bodily harm (Article 117 of the CC); serious bodily harm (Article 118 of the CC); particularly serious bodily harm (Article 119 of the CC); coercion (Article 138 of the CC); threat (Article 139 of the CC); and incitement to riots (Article 324 of the CC).

Article 325 of the CC criminalises public incitement to violence or hatred directed against a group of persons or a member of such a group on account of their race, religion, national or ethnic origin, descent, colour, or any other characteristics.

In *Škorjanec v. Croatia*, Strasbourg's Court of Human Rights ordered Croatia to pay € 12,500 for non-pecuniary damage after Croatia refused to recognise the victim of hate speech who was targeted as a relation to her partner of Roma background who himself was the victim of a physical assault.<sup>60</sup> Croatia has since updated its procedures to fall into line with EU standards.<sup>61</sup>

Hate crime data are collected by the Ministry of Interior, the Prosecutor's Office, the Ministry of Justice and the Office for Human Rights and Rights of National Minorities.

**Data on hate crime are regularly published by the Government's Office for Human Rights and Rights of National Minorities.**

**Similar to Bulgaria, Croatia has seen some improvement in the status of Roma as a result of the implementation of a national plan in 2012, along with another plan for integrating internationally protected persons. However, the ECRI report compiled in 2018 notes that both plans have not been fully implemented or funded.<sup>62</sup>**

### **Challenges**

Croatia marks International Holocaust Memorial Day, the Day of Remembrance of the Breakout of Prisoners from Jasenovac Concentration Camp in April, and the Anti-Fascist Struggle Day in June.

**The Holocaust is studied in primary and secondary schools, as well as part of various programs in higher education.<sup>63</sup>**

However, the Croatian Jewish community along with Serbian and anti-Fascist groups have boycotted the official event at the Jasenovac Concentration Camp for the past three years, organising their own commemorations instead. This is due to a worrying trend inside the Croatian government and society that promotes Holocaust revisionism, downplaying crimes committed by the Croatian WWII fascist Ustaša movement, which ran the Jasenovac camp.<sup>64</sup>

**The 2018 ECRI report on Croatia highlighted that racist and intolerant hate speech has been increasing in public discourse in line with growing nationalism in politics, which routinely targets Serbs and Roma as two ethnic minorities in particular. Many cases of hate crime, especially those targeting Serbs, LGBT people and Roma, are only classified as misdemeanours.**

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<sup>60</sup> ECtHR, *Škorjanec v. Croatia*, No. 25536/14, 28 June 2017

<sup>61</sup> EUFRA, *Fundamental Rights Report 2018 – Chapter 4 – Racism, xenophobia and related intolerance*

<sup>62</sup> ECRI (2018), *Report on Croatia*

<sup>63</sup> IHRA (2015)

<sup>64</sup> Balkan Insight (2018)

**The report states that the responses of the Croatian authorities to these incidents “cannot be considered fully adequate”.<sup>65</sup>**

**The Commissioner for Human Rights of the Council of Europe urged Croatian authorities to improve the hate crime recording system and to train law enforcement and legal professionals.<sup>66</sup>**

ECRI recommends that the authorities further refine their national data collection system for hate speech incidents, by revising the way data are collected on the criminal offence of incitement to violence and hatred as well as on the application of provisions related to misdemeanours.

ECRI also recommends that a racist motivation in cases of violent incidents is made an integral part of investigations, particularly through providing clear guidelines between the police and State Attorney’s Office, as well as judicial proceedings from their very beginning.

ECRI also recommends that the authorities continue training to police, judges and prosecutors on the application of Article 87 (21) of the Criminal Code.<sup>67</sup>

## France

### Realities

**Nearly 40 percent of violent acts classified as racially or religiously motivated in France were committed against Jews in 2017, though Jews make up less than 1 percent of the population.<sup>68</sup>**

Anti-Semitism had been decreasing in recent years. In 2017, 311 anti-Semitic actions and threats were recorded by the Commission nationale consultative des droits de l'homme (CNCDH) out of a total of 950 racist or xenophobic crimes. This represents a small decrease overall, which masks a rise in violent anti-Semitic acts, which went up to 97 from 77 in 2016.<sup>69</sup> Overall, these figures represent a lower frequency of anti-Semitism from the highs of 2014-2015, which saw almost three times the number of incidents.<sup>70</sup>

This downward trend may not have continued into 2018. While official figures have not yet been released for the entire year, on the 80<sup>th</sup> anniversary of Kristallnacht, Prime Minister Édouard Philippe stated that anti-Semitic acts had risen in France by 69% in the first nine months of 2018.<sup>71</sup>

**The 2015 ADL survey of anti-Semitic beliefs in France resulted in a 17% index score.**

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<sup>65</sup> ECRI (2018), Fifth Report on Croatia

<sup>66</sup> OSCE (2017)

<sup>67</sup> FRA (2018)

<sup>68</sup> France 24 (2018), Anti-Semitic acts up 69 percent in France in 2018, prime minister says

<sup>69</sup> Kantor Centre

<sup>70</sup> FRA (2018)

<sup>71</sup> France 24 (2018)

While this was under half the recorded 2014 index score, it must be noted that both the 2014 and 2015 surveys reported a higher prevalence of anti-Semitism in Millennials and Generation X, a reverse of the common trend that generally sees anti-Semitism decreasing among younger people.

Additionally, France's Muslim community was attributed an anti-Semitism index score of 49%.<sup>72</sup>

This reflects upon the changing nature of the refugee crisis in Europe, where populations who were at first inwardly focused are beginning to express their latent anti-Semitism learned from their immersion in Arab countries.

**Radical Islamic terrorism has been the sole motive for anti-Semitic murder in France, such as those of Holocaust survivor Mireille Knoll and Sarah Halami.**

Islamic terror has been behind numerous other murders, attempted murders, and acts of extreme violence since the turn of the century.

Overall, there have been at least 11 anti-Semitic murders since 2000, Jewish children have been repeatedly targeted with physical violence,<sup>73</sup> stores have been set on fire,<sup>74</sup> and families assaulted at home.<sup>75</sup>

This prolonged environment of extreme victimization has motivated a high rate of Jewish emigration. According to Jewish community estimates, several tens of thousands, have changed their location inside France - an "internal Exodus".<sup>76</sup>

Aliyah to Israel has doubled since the turn of the century,<sup>77</sup> while Jewish emigration to the United Kingdom was thought to number roughly 5,000 between 2014-2016 alone.<sup>78</sup>

Despite the problems of the past 15 years, in mainstream society French Jews enjoy social and political acceptance, with 91% of those surveyed by the CNC DH in 2017 replying that Jews are like all other groups in France, a record high. This was 9% more than the response regarding Muslims, and 27% higher than the perception of the Roma community.<sup>79</sup>

More than 300 French signatories including former prime ministers and other elected officials signed a manifesto denouncing the "new anti-Semitism" in France in April 2018.<sup>80</sup> The declaration stated that French Jews were undergoing a "quiet ethnic purging" driven by rising Islamist radicalism, using phraseology which itself was criticized for lacking nuance and sympathy to the Muslim community.

Despite the actions of the centre, in the political arena there are multiple forces which amplify, justify or encourage anti-Semitism. On the far-right, Marine Le Pen's Front National continues to pose a threat to the Jewish and other minority communities, which is exacerbated by a strategy of dividing minority groups.

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<sup>72</sup> ADL

<sup>73</sup> The Local (2018), French boy, aged 8, beaten up for wearing kippa in anti-Semitic attack

<sup>74</sup> The Local (2018), Kosher store near Paris hit by arson attack on anniversary of Jewish supermarket shooting

<sup>75</sup> The Local (2017), Five Charged in France for Attacking Jewish Family

<sup>76</sup> Kantor Centre

<sup>77</sup> Israeli Central Bureau of Statistics, Annual Data 2018, Table 4.2

<sup>78</sup> The New York Times (2016), London Becomes a Leading Destination for French Jews After Attacks

<sup>79</sup> CNC DH (2018), Les Essentiels of the report on the fight against racism 2017

<sup>80</sup> Le Parisian (2018), Manifeste «contre le nouvel antisémitisme»

While Le Pen tries to put a new face on her party, a study by BuzzFeed News found that almost 100 candidates of the Front National party who were running in the 2016 French parliamentary elections had published, shared or “liked” anti-Semitic, homophobic, anti-Muslim or racist content on various social networks.<sup>81</sup>

In that election, Marine le Pen doubled the party’s power compared to her father’s results in 2002. At the same time, Le Pen has denied that her country had any responsibility for the deportation of the Jews from Paris to the Nazi death camps.<sup>82</sup>

From the far-left, the anti-Zionism of Jean-Luc Mélenchon has long crossed the line into anti-Semitism in the eyes of French Jews. CRIF, the umbrella group of French Jewish communities, has equated Mélenchon with Le Pen. CRIF President Francis Kalifat has said “they both traffic in hatred, and they are both a danger to democracy.”<sup>83</sup>

After the murder of Sarah Halami, CRIF asked Le Pen and Mélenchon not to join a silent march in solidarity with the Jewish community. Both joined the march but left early after they were booed.

France observes its national Holocaust Remembrance Day on the Sunday closest to 16 July, the day when the round-up of Jews in the Vélodrome d’Hiver began in 1942.

**Educating the Holocaust is mandatory in the French curriculum**, and the Holocaust is commemorated on numerous other occasions related to historical events, such as the Warsaw Ghetto Uprising commemorated during Yom HaShoah and International Holocaust Memorial Day.

**However, no specific day has been set for the specific commemoration of the Roma and Sinti genocide. Instead, there is a general Remembrance Day for the victims of national socialism on the last Sunday of April.**

**The Roma communities of France are experiencing an improvement of their conditions, according to the latest report by the CNCDH, linked to an increase in acceptance by society.<sup>84</sup> However, the acceptance of Muslims and Roma are still behind the levels enjoyed by black and Jewish French citizens.**

### Legislative

**France has improved its judicial approach to hate crimes by adopting a law generalising aggravating sanctions in cases of racism, homophobia and sexism to all crimes and offences punished by imprisonment.**

Actions taken by the French government against anti-Semitism include the Sentinel operation, in which 10,000 soldiers and 4700 police officers have been deployed to protect synagogues and Jewish schools from terror attacks.

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<sup>81</sup> BuzzFeed News (2017), Marine Le Pen's Party Is Running Dozens Of Candidates Who Post Hateful Messages Online

<sup>82</sup> The Guardian (2017), Marine Le Pen denies French role in wartime roundup of Paris Jews

<sup>83</sup> Times of Israel (2017), French Jews put off by Le Pen now worry about another presidential candidate

<sup>84</sup> CNCDH

**In 2015 the French government launched the €100 million National Plan against Racism and Antisemitism, which is directed towards education and law enforcement, including the establishment of a unit “to protect internet users against the spread of anti-Semitism”.**

**The unit is linked to the PHAROS platform, in which citizens can report troubling content to the police.<sup>85</sup>**

With regard to action against hate crimes, ECRI noted in its 2015 report that perpetrators have been prosecuted and convicted, and that representatives of the law enforcement agencies and the courts are updated and reminded about legal provisions. Nevertheless, the report called for regulations on the wearing of veils during school outings being clarified, and that assistance measures for Roma when illegal camps are deconstructed should be made systematic countrywide.

An additional recommendation stated that France should also propose legislative provisions on the collection of data on equality, as well as ratify Protocol No. 12 to the European Convention on Human Rights, which France has informed ECRI it has no intention to do.<sup>86</sup>

**Another recommendation noted that there is currently no provision criminalising the public expression with a racist aim of an ideology that claims racial or prohibited forms of superiority, nor for the formation or leadership of a group which espouses or supports these views. Also noted was that currently racist motivation does not constitute an aggravating circumstance in every ordinary offence.**

**Article 132-76 of the French Criminal Code (CC), modified by the law of 27 January 2017 on equality and citizenship, establishes an aggravating circumstance leading to enhanced penalties for criminal offences motivated by another person’s or a group of persons’ real or presumed race, ethnicity, nationality or religion.**

These enhanced penalties apply when the offence is preceded, accompanied or followed by written or spoken words, images, objects or actions of whatever nature which allow establishing that the crime has been committed on these grounds or when the offence is preceded, accompanied or followed by written or spoken words, images, objects or actions of whatever nature which damage the honour or the reputation of the victim, or a group of persons to which the victim belongs, on account of their actual or presumed membership or non-membership of these groups.

Article 225-1 of the CC, in conjunction with Article 225- 2, sets out the offence of discrimination in the areas of access to goods and services, economic activity and employment on grounds of origin, as well as ethnic, national or language differences.

Article 432-7 of the CC enhances the penalty set out in Article 225-1 when the discrimination is committed by a person invested with public authority or carrying out a public service and consists of denying the benefits of a right provided for by the law or of hindering the normal development of any economic activity.

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<sup>85</sup> Israeli Ministry of Diaspora Affairs

<sup>86</sup> ECRI (2015), Report on France

Article R625-7 of the CC criminalises non-public incitement to discrimination, hatred or violence against a person or a group of persons because of their real or presumed ethnicity, nationality or supposed race.

Article 24 of the Law of 29 July 1881 on the Liberty of the Press, last modified in 2017,<sup>73</sup> sets out the criminal offence of direct public incitement to discrimination, hatred or violence against a person or group of persons on grounds of origin or belonging or not belonging to a certain ethnic group, nation, race or religion.

Article 24 bis further criminalises the denial or trivialisation of crimes against humanity. Article 32 criminalises public libel against persons because of their real or presumed ethnicity, nationality or supposed race.

Article 33 criminalises public slander against persons because of their real or presumed ethnicity, nationality or supposed race.

### **Challenges**

The Service for the Protection of the Jewish Community (Service de Protection de la Communauté Juive, SPCJ) cooperates with the Ministry of the Interior in collection and reporting of anti-Semitism in France.<sup>87</sup>

**However, in 2011, the French government stopped categorizing those deemed responsible for anti-Semitic acts, making it more difficult to trace the origins.**

Before 2011, Muslims had been the largest group identified as perpetrators.<sup>88</sup> This is strengthened by the independent research of CNCDH in its 2017 report on racism, xenophobia and anti-Semitism, which found that the majority of anti-Semitic attacks come from Muslim and left-wing backgrounds.<sup>89</sup>

The work of the CNCDH competently surveys the public's opinions regarding Israel, highlighting the importance of this motive for anti-Semitic activity, and has called for renewed state research into the motives and background of perpetrators of racist and anti-Semitic acts.

**The fight against racism and anti-Semitism is hindered when the state will not publish findings which will assist in diagnosing and countering the problem.**

The CNCDH has also recommended that training for public servants be prioritized, funding for public awareness campaigns against racism, and consolidation carried out to improve reporting and action against hate crimes.

A competition set by the minister for culture in October 2018 to design a project to combat anti-Semitism might be considered a step towards fulfilling the public awareness campaign recommendation.<sup>90</sup>

**The ECRI in 2015 noted the rise in hate speech and crimes, in particular anti-Semitic hatred, including online.<sup>91</sup>**

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<sup>87</sup> FRA

<sup>88</sup> The New York Times (2018), 'They Spit When I Walked in the Street': The 'New Anti-Semitism' in France

<sup>89</sup> Rapport 2017 sur la lutte contre le racisme, l'antisémitisme et la xénophobie

<sup>90</sup> CFCA (2018), France's culture minister announces prize for fighting antisemitism

## Germany

### Realities

The Criminal Police Notification Service – Politically Motivated Crimes (Kriminalpolizeilicher Meldedienst – Politisch motivierte Kriminalität) collect anti-Semitism data.

They have reported that overall there is a slightly decreasing trend in anti-Semitic crimes and violence over the previous decade. 1,504 incidents (including incitement) and 34 acts of violence were recorded in 2017.<sup>92</sup>

Contrastingly, the Amadeu Antonio Foundation collects data on anti-Semitic incidents from the German press.

They recorded the highest number of such incidents in 2017 since monitoring began in 2002, with 260 incidents in one year, an increase of over 30% over 2016, which itself was previously the record-breaking year.<sup>93</sup>

While official figures for the entirety of 2018 are not yet available, anti-Semitic acts rose by 10% in the first half of the year compared to the corresponding period in 2017.<sup>94</sup>

The German government increased state benefits for the Central Council of Jews in Germany for the first time since 2011, noting “the rise in anti-Semitism in our society.”

Days later, 40 Jewish organizations in Germany signed an open letter calling on the government to confront anti-Semitism.<sup>95</sup>

**Numbers alone distort the picture of the rising anti-Semitic atmosphere - on the ground as well as in cyberspace, where anti-Semitic posts on social media, in public places and in letters to the editor have almost tripled during the last decade.<sup>96</sup>**

**Islamic anti-Semitism is the most significant motive behind anti-Semitism in Germany.**

Out of 1200 cases regarded as terror against Jews in Germany in 2017, 1000 were attributed to Muslim perpetrators. Islamic anti-Semitism is both motivated by anti-Zionism and classical religious anti-Semitism, and a survey conducted by the AJC in Germany showed that the religious dimension is on the rise even in schools.<sup>97</sup>

In a Berlin school in 2017, a 14-year-old Jewish student suffered a brutal attack after four months of verbal and physical harassment by students of Arab and Turkish backgrounds. The boy’s parents had contacted an organization that brings Jews and Muslims into public schools, and the father’s Holocaust survivor parents had met with pupils at the school to no effect.<sup>98</sup>

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<sup>91</sup> ECRI

<sup>92</sup> FRA

<sup>93</sup> FRA

<sup>94</sup> JTA (2018), Anti-Semitic crimes increase dramatically in Germany

<sup>95</sup> Jüdisches Forum für Demokratie und gegen Antisemitismus (2018), Grundsatzklärung zur Bekämpfung des Antisemitismus

<sup>96</sup> Kantor Centre

<sup>97</sup> Kantor Centre

<sup>98</sup> JTA (2017), Jewish parents pull son from Berlin school over anti-Semitic harassment

After anti-Semitic riots in Germany after the U.S. decision to move their embassy to Jerusalem, German president Frank-Walter Steinmeier said he was “horrified and ashamed that anti-Semitism has not been overcome, also not in our country, and it raises its evil head in many different guises: in extreme actions such as the burning of the Israeli flag and ignorant slogans of hatred and violence; but also in habits which are less obvious and the spreading of prejudices against all things Jewish... no exceptions be made for immigrants. It is non-negotiable – for all who live in Germany and want to live here!”<sup>99</sup>

**The Alternative für Deutschland party, which won 12.6% in the last election, has a deep and visible problem with anti-Semitism.**

**After incidents such as politician Björn Höcke calling the national Holocaust Memorial a “monument of shame”, the rise of the AfD raises the spectre of renewed right-wing anti-Semitism.**

The Party lost its leader Frauke Petry just after the elections, following the struggle between the moderate stream which she represented and the more nationalist stream.

**Alexander Gauland, who was elected to serve as Chairman in Petry’s place, is of the opinion that people “should stop focusing on Germany’s Nazi past,” and that Germans have the right “to be proud of German soldiers in both world wars.”<sup>100</sup>**

At the party’s November 2017 conference resolutions were passed concerning anti-Semitism and Israel, calling on the party to strongly condemn anti-Semitism but excluding subjects such as distorting the memory of the Holocaust and calls to stop criticizing Germany’s Nazi past.

**Outside of the AfD, institutional action against all forms of anti-Semitism are strong in Germany, highlighted by the federal government’s adoption of the IHRA working definition of anti-Semitism.**

For example, President Steinmeier condemned the anti-Semitic and anti-Israel demonstrations that followed the U.S. Jerusalem Embassy move, which included calls to kill Jews, and was largely populated by refugees and immigrants from Muslim countries. The president said that he was shocked by the burning of Israeli flags in public squares, and that there was no place for anti-Semitism in Germany, whether loud or quiet, old or new. Condemnation was also heard from Chancellor Angela Merkel and other ministers and members of Parliament.

Outside of right wing and Islamic anti-Semitism, mainstream and left-wing anti-Semitism also has some traction. This is highlighted by isolated incidents such as that of Mekan Kolasinac, the chairman of the German Left party in the town of Saarlouis in the state of Saarland, who on his Facebook page called the head of the Federal party, Bernd Riexinger, a “sneaky Jew”, before apologizing.

Prof. Anders Zick, of the Institute for Interdisciplinary Conflict and Violence Research of the University of Bielefeld, presented research on xenophobia and anti-Semitism that included

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<sup>99</sup> Facebook page of Israel in Deutschland (2017), <https://www.facebook.com/IsraelinGermany/videos/1525017624220846/>

<sup>100</sup> The Guardian (2017), AfD co-founder says Germans should be proud of its second world war soldiers

the statistic that 20-25% of the German population holds anti-Semitic views when it comes to criticizing Israeli politics.

This is concretized by the findings of the ADL in 2015, which gave Germany an anti-Semitism index score of 16%, which notably includes an oversample of Muslim respondents in a year where migration from the Middle East and North Africa was still at a high point.

Muslim respondents were indexed at 56%, compared to 14% for Christians and 20% for classified as atheist/no religion.

**In the ADL survey, two statements stood out as the most agreed with. 51% of those surveyed responding “probably true” to the statement “Jews still talk too much about what happened to them in the Holocaust”.**

This was a consistently high figure across all ages, genders and religious backgrounds. 49% agreed with the statement “Jews are more loyal to Israel than to [Germany/to the countries they live in]”. Again, this statement had remarkably high agreement rates across all segments of the population, and a particularly high agreement rate from Muslim respondents.<sup>101</sup>

In an independent expert group for studying anti-Semitism of the German Ministry of Interior released a study in cooperation with academics, classical anti-Semitism regarding conspiracies surrounding power and influence is a more marginal issue compared to Israel-related anti-Semitism, which is indexed at 40% of the population.

However, in a study commissioned on Muslim immigrants in Bavaria, results showed that classical anti-Semitism tropes are common in this population, with 50% of immigrants in the region expressing anti-Semitic views.<sup>102</sup>

**In general, xenophobia is increasingly problematic in Germany society. The most recent Leipzig Authoritarianism Study, released in November 2018, shows that almost 50% of eastern Germans and 33% of western Germans agree with certain xenophobic statements, for example that foreigners are exploiting the welfare state.**<sup>103</sup>

Germany commemorates the Holocaust on 27 January. The day was established in 1996 by President Roman Herzog and commemorates all victims of the crimes committed under National Socialism, including Jewish victims of the Holocaust and the extermination and persecution of Roma and Sinti.

Initiatives to commemorate the Jewish victims of the Holocaust are also held across Germany on 9 November, the anniversary of the 1938 Kristallnacht pogrom.

**The specific memorial for Roma and Sinti victims of genocide takes place on 2 August at the Memorial to the Sinti and Roma Victims of National Socialism in Berlin.**

**The Holocaust, the extermination and persecution of Roma and Sinti and crimes against other victim groups are also taught in schools at the secondary and upper secondary level, and at the college and university level. These three topics are also covered in textbooks.**

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<sup>101</sup> ADL

<sup>102</sup> Kantor Center

<sup>103</sup> CFCA (2018), Research in Germany: About a third of Germans hold antisemitic views

There is no nation-wide education curriculum in Germany, but the subjects of National Socialism and the Holocaust form a significant part of the curricula of all federal states.<sup>104</sup>

**The EU-MIDIS II survey found that 37% of SSAFR faced discrimination in the preceding five years.**

### Legislative

**Germany has also passed the Network Enforcement Act (NetzDG), fining internet companies who do not delete offensive content within 24 hours.**

Other criminal content must generally be taken down or blocked within 7 days of receiving a complaint. The measure has attracted a lot of criticism and has played into the hands of the far right who frame the controversy as censorship of their beliefs rather than the protection of minorities.

Germany has not ratified Protocol No. 12 to the European Convention on Human Rights, however the state's opinion is that it would not strengthen hate crime legislation.

Germany's criminal code contains a sentencing provision applicable to any crime in the code.<sup>105</sup>

**However, racist motivation for an ordinary offence does not expressly constitute an aggravating circumstance, and there are additional provisos which prohibit this provision from being enacted.**

**The ECRI also recommends that Germany introduce into the law an obligation to discontinue public financing of organisations, including political parties, which promote racism.<sup>106</sup>**

Section 46 of the German Criminal Code (CC) states explicitly that when weighing the seriousness of the offence, courts shall give particular consideration to the motives and aims of the offender, particularly where they are of a racist or xenophobic nature or where they otherwise show contempt for human dignity.

In addition, Section 130 of the CC sets out the offence of incitement to hatred, which is committed by whoever, in a manner capable of disturbing the public peace, incites hatred against a national, racial, religious group or a group defined by its ethnic origins, against segments of the population or individuals because of their belonging to one of the aforementioned groups or segments of the population, or calls for violent or arbitrary measures against them; and also by whoever assaults the human dignity of others by insulting, maliciously maligning an aforementioned group, segments of the population or individuals because of their belonging to one of the aforementioned groups or segments of the population, or by defaming segments of the population.<sup>107</sup>

**Germany has ratified the IHRA working definition of anti-Semitism in 2017, and its local and regional bodies have often been at the forefront of anti-BDS measures.**

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<sup>104</sup> OSCE (2018)

<sup>105</sup> ODIHR (2018)

<sup>106</sup> ECRI (2014), Report on Germany

<sup>107</sup> FRA (2018)

In a number of Germany's major cities, such as Frankfurt, Berlin and Munich, it has been said that BDS uses language from the Nazi era: The deputy mayor of Frankfurt, Uwe Becker, said in August 2017: "The BDS campaign with its messages uses the same language as the National Socialists once used to express... It is deeply anti-Semitic and should have no place in Frankfurt."<sup>108</sup>

In January 2018, the Bundestag created a commission to deal with anti-Semitism through liaising with Jewish groups and the coordination of government actions.

### **Challenges**

Anti-Semitic statistics do not always reflect the ideological balance of the motives due to Germany's classification process. For example, calls for "Judens Raus" is automatically classified as right-wing anti-Semitism due to the Nazi connotations, however other non-right groups such as Islamists have co-opted this call in Germany.

**Therefore, if an anti-Semitic incident of this nature is recorded it may not reflect on the true nature of the problem.**

**Germany also does not report the numbers of prosecuted and/or information on sentenced hate crime cases to ODIHR.**

**While some areas of law enforcement and judicial practises have improved, per the ECRI, it has been noted by multiple organizations including CERD that the state lacks adequate recording of racist crimes.<sup>109</sup>**

**The under-assessment of hate crimes is corroborated by an FRA study from 2013, when it was reported that only 28% of the victims of serious anti-Semitic attacks in Germany reported them to the police or to other organizations.<sup>110</sup>**

Institutional action against anti-Semitism does have some weaknesses when it comes to Israel, despite the strong rhetorical and legislative positions that have been taken against forms of anti-Semitism cloaked in anti-Zionism.

In 2017, a regional court in Wuppertal confirmed a decision of a lower court that an attempt to set fire to a synagogue in the city by three Palestinians residing in Germany in 2014 was in fact a legitimate expression of criticism of Israeli policy. Such positions undermine the safety of Jewish communities and the work of other areas of government and civil society to fight anti-Semitism.

Petra Pau of the Die Linke socialist party has warned that "while anti-Semitic crimes continue to be committed by right-wing extremists, it is by no means a marginal phenomenon, solely by Nazis or Islamists." Pau called for permanent financing of civil society prevention and education projects in order to combat anti-Semitism and protect democratic norms.

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<sup>108</sup> Kantor Centre

<sup>109</sup> ECRI (2017)

<sup>110</sup> FRA (2013), Diskriminierung und Hasskriminalität gegenüber Juden in den EU Mitgliedsstaaten: Erfahrungen und Wahrnehmungen im Zusammenhang mit Antisemitismus

**In the report on its mission to Germany, the United Nations Human Rights Council's Working Group of Experts on People of African Descent expressed concerns over the state's failure to protect people of African descent from hate crimes.**

The working group recommended the adoption of a comprehensive training strategy for police officers to end the racial profiling of people of African descent and specialized training for prosecutors and judges on identifying hate crimes.<sup>111</sup>

Additionally, the UNHCR noted in 2018 that the acceptance of migration and the protection of refugees within society in Germany has been continuously decreasing and that there is an increasing right-wing discourse in public debate.<sup>112</sup>

## Greece

### Realities

Although the number of Jewish Greeks is, according to the Greek Census, very low (5000, i.e. 0.05% of the population) the number of anti-Semitic incidents, both verbal and physical, are disproportionately high.

Greek authorities recorded seven incidents motivated by anti-Semitism in 2017, after three in 2016. These figures cover online incidents.

**In 2017, the UN-formed coalition group Racist Violence Recording Network (RVRN) recorded 12 anti-Semitic incidents in Greece. In 2017 there was a general uptick in racist and xenophobic violence, with recorded attacks up to 128 from 40 the previous year, with many incidents targeting Turkish minorities.**

Events that were more frequent than violent attacks included vandalism and the spreading of stereotypes and conspiracy theories both online as well as in the media. Jews are featured as ruling the world politics and finance.

The Protocols of the Elders of Zion is widely distributed online and was even quoted by Metropolitan Bishop of Piraeus Seraphim in 2017 in an online statement.<sup>113</sup>

**This is reinforced by data from the ADL global studies in 2014-2015, which reported that Greek society has a measured anti-Semitism index score of 69% or 67%, referring to 2014 and 2015 respectively. This is the highest score in Europe.**

Anti-Semitic stereotype statements regarding Jewish power in the financial, political and business spheres had widespread or near-total agreement rates, while over 70% of surveyed people agreed that Jews talk too much about the Holocaust.

As with many countries studied, there is a decrease in anti-Semitic index figures for younger generations, however this still stands at 60% across the 18-35 cohort.<sup>114</sup>

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<sup>111</sup> ODIHR (2018)

<sup>112</sup> FRA, (2018) Periodic data collection on the migration situation in the EU, September Highlights

<sup>113</sup> Kantor Centre

<sup>114</sup> ADL5

These findings are corroborated by research undertaken by the Central Board of Jewish Communities in Greece, which in 2017 found similarly pervasive attitudes towards Jews. One sample question from the survey required participants to score trust of Jews out of ten, with ten indicating high trust. Over a third scored their trust of Jews at 0, and a majority scored it as under 5. Almost 27% of our sample would like the Holocaust “to be forgotten.”<sup>115</sup>

Anti-Israel rhetoric is often the cover for anti-Semitism, and according to research conducted in Greece, 65% of society agrees with the statement “Israel treats the Palestinian exactly as the Nazis treated the Jews.” Reacting to these opinions, then-Foreign Minister Nikos Kotzias said “when I hear them equate Israel with the Nazi crimes, I do not hear ‘normal’ criticism. What I hear is an ex post attempt to acquit those who committed the crime of the Holocaust.”<sup>116</sup>

**Golden Dawn is a political party which represents a sustained fascist presence in national politics, after winning 18 members of parliament in 2015 in a campaign accompanied by racist and anti-Semitic statements, which sometimes climaxed in acts of violence against Jews and immigrants.**<sup>117</sup>

This is despite that the entire party has been under criminal investigation for over three years, including all its members of parliament. Public funds can be cancelled if a party’s leaders, or 10% of its members of parliament, are convicted of involvement in a “criminal organisation” or “acts of terrorism”.<sup>118</sup> Throughout this process, and despite losing members of parliament in its faction along the way, the party remains steady in the polls.<sup>119</sup> Unlike some other far-right populist parties in Europe, Golden Dawn is committed to its hatred of Jews and Israel and does not depart from those beliefs for political gain.

RVRN primarily collects information as it pertains to the victimization of migrants, releasing an annual report which in 2017 documented over 100 acts of racism. 2017 saw some significant incidents of violence specifically against migrants: for example, a group of masked teenagers used iron bars and knives to beat and stab two migrant workers in a field, while yelling racist insults.<sup>120</sup>

**Anti-Roma violence increased around Athens in 2017, and 20% of Roma reported in the EU-MIDIS II survey of experiencing discrimination in the workplace or in finding employment. There were significant clashes between Roma and non-Roma residents in the Menidi district of Athens.**<sup>121</sup>

Greece commemorates the Holocaust on 27 January. The National Day of Remembrance of Greek Jewish Martyrs and Heroes of the Holocaust was established in 2004 by parliament and affirmed by a presidential decree. The day commemorates the Jewish victims of the Holocaust, and in particular the annihilation of the Greek Jewish community. The day is used

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<sup>115</sup> Central Board of Jewish Communities in Greece (2017), Antisemitism in Greece today: Aspects, causes and tackling the phenomenon, 2017

<sup>116</sup> WJC (2017), At WJC reception, Greek FM Kotzias decries ‘hypocrisy and double-speak’ of criticism of Israel

<sup>117</sup> Israeli Ministry of Diaspora Affairs

<sup>118</sup> ECRI (2015), Report on Greece

<sup>119</sup> Marc/Proto Thema poll October 2018, <https://www.protothema.gr/politics/article/833427/dimoskopisi-marc-gia-to-proto-thema-autodunamia-nd-me-160-edres/>

<sup>120</sup> FRA (2018)

<sup>121</sup> European Roma Right Centre (ERRC) (2017), ‘Athens: This is not a protest. This as a pogrom’

to raise awareness – especially among young people – about intolerance, xenophobia, racism and anti-Semitism.

**The Holocaust and crimes committed against other victim groups are studied in schools at primary, secondary and upper secondary, and college and university levels, and are also covered in textbooks.**

**The teaching of the extermination and persecution of Roma also forms part of studies about the Holocaust, and students are encouraged to use online sources to learn more.**<sup>122</sup>

### **Legislative**

Anti-Zionism is not considered to be within the bounds of the law covering anti-Semitism (Law 4285/2014), and therefore anti-Zionism cannot be considered a criminal offence.<sup>123</sup> This is used by both far-right and far-left groups who delegitimize Israel, and mask anti-Semitic epithets in the language of anti-Zionism.<sup>124</sup>

Greece has also not ratified Protocol No. 12 to the European Convention on Human Rights.

Article 81 A of the Criminal Code (CC) sets out a general aggravating circumstance for crimes or misdemeanours committed out of hatred on the grounds of race, colour, religion, descent, national or ethnic origin. Law No. 927/1979 on punishing acts or activities aiming at racial discrimination sets out in Article 1 the offence of Incitement to violence or hatred, which is committed by anyone who publicly incites, provokes, or stirs, either orally or through the press, the Internet, or any other means, acts of violence or hatred against a person or group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin, in a manner that endangers the public order and puts the life, physical integrity or freedom of these persons at risk.

Law 4356 of 2015 (Articles 15-19) established the National Council against Racism and Intolerance, an inter-ministerial body tasked with the development of policies on preventing and combatting racism and intolerance with the cooperation and coordination of the relevant stakeholders in this field, including civil society actors. The National Council met for the first time in April 2016 and has held regular meetings since then, with a view to carrying out a national plan.<sup>125</sup>

**The Ministry of Public Order and Citizen Protection created special units within the police to tackle racist violence through investigations, also ex officio, and receive anonymous complaints.**

**In October 2013, a Public Prosecutor for the prosecution of acts of racist violence was appointed.**

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<sup>122</sup> OSCE (2018)

<sup>123</sup> Kantor Centre

<sup>124</sup> The Central Board of Jewish Communities in Greece (KIS), *KIS Condemns 'New Antisemitism'* (2018)

<sup>125</sup> ECRI (2018), Report on Greece

**The Greek authorities also have no effective strategy to end racial segregation affecting Roma children in schools.**<sup>126</sup>

### **Challenges**

Summarizing the challenges ahead for Greece in the fight against xenophobia and racism in March 2018, the RVRN noted that “On the one hand, the presence of groups with xenophobic ideologies and acts of organized violence against organizations of refugees, immigrants, LGBTQI and their defenders was strengthened. On the other hand, the authorities have developed clearer and faster responses.”<sup>127</sup>

For migrants reaching Greece, they were found as of August 2018 to be subject to sub-standard reception and detention conditions, with vulnerable groups (e.g. pregnant women and mothers with babies) lacking necessary protection.<sup>128</sup>

On the subject of anti-Semitism, the Jewish community has called for an increase in police surveillance around Jewish monuments and an even stronger need to prevent hate crimes, which they feel requires education and have offered to assist in this.

## **Hungary**

### **Realities**

**According to the EU’s FRA body, Hungary makes no specific attempts to define or collect data on anti-Semitic crimes.**

In civil society, the Action and Protection Foundation (TEV) monitors and analyses anti-Semitism in Hungary through the Brussels Institute and reports to the Prime Minister’s Office. In 2017, 37 anti-Semitic incidents were reported, down from 52 in 2015 and 48 in 2016, with the vast majority of incidents defined as hate speech.<sup>129</sup>

The Federation of Jewish Communities in Hungary (MAZSIHISZ) prepared its first annual report on anti-Semitism in Hungary in 2013. In 2015, there was a 50 % decrease in the number of recorded incidents compared to 2013.

According to official statistics there are hardly any hate crime cases in Hungary, with only 233 recorded in 2017, a jump from 33 in 2016 according to data submitted regularly to the ODIHR. The ODIHR observed that Hungary has not recorded the bias motivations of hate crimes.<sup>130</sup>

However, a memo by the European Society of Criminology notes that state complicity in hate crimes is a major factor behind the under-reporting of incidents.<sup>131</sup> The government initiated a fear-mongering referendum campaign against allowing the EU “to mandate the

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<sup>126</sup> ECRI

<sup>127</sup> RVRN (2018), RVRN Annual Report 2017

<sup>128</sup> FRA (2018), Periodic data collection on the migration situation in the EU

<sup>129</sup> FRA

<sup>130</sup> OSCE (2018)

<sup>131</sup> Petra Bárd, *What Is Behind the Low Number of Hate Crimes in Hungary?*, European Society of Criminology

resettlement of non-Hungarian citizens to Hungary without the approval of the National Assembly”.

It conducted a massive public relations effort, spreading the message that refugees coming from the Middle East and North Africa are terrorists, rapists or economic migrants. As research data show, whereas in 2015 two-thirds of respondents expressed their tolerance and pro-migrant support, a year later the proportion decreased to one-third.<sup>132</sup>

The distortion between figures and experiences is also corroborated by other studies of the Jewish community.

According to the Kantor Center, “Following a year (2009) with nine violent cases in Hungary, 90% of its Jews said anti-Semitism is a very grave problem, an answer which indicates that the so-called non-violent manifestations of anti-Semitism determine their feeling of insecurity.”<sup>133</sup>

Anti-Semitic sentiment is a significant problem in Hungary.

**The ADL has indexed Hungarian anti-Semitism at 40% in 2015**, with young people agreeing in general with fewer anti-Semitic statements compared to older people.

The only exception for this trend is with the statements “Jews are responsible for most of the world’s wars” and “People hate Jews because of the way Jews behave.” In these cases, younger people were more sympathetic to anti-Semitic attitudes than their elders.<sup>134</sup>

Hungary’s largest Jewish organisation, Mazsihisz, called on the prime minister to stop a government campaign against a Hungarian-born Jewish émigré, adding that the “poisonous messages harm the whole of Hungary.” This referred to anti-Semitic imagery and language used against migrants and globalist politics.

Before the anti-Soros campaigns began, according to an OSCE report “Hungarian Jews largely agree that FIDESZ leaders are very careful in their own public remarks and do not accuse them of espousing anti-Semitism. There are some who see in the general attacks on certain European and economic interests coded references to attacks on Jews, although this is surely open to debate.

However, there is general agreement that in the outer circles of the party or among traditional party supporters in the media more explicit anti-Semitic appeals are present, and they believe that the FIDESZ leadership turns a blind eye to this. With a worsening economic climate and the prospect that FIDESZ will need to ratchet up its populist appeals in the next election, Hungarian Jews—not a terribly optimistic people in the best of times—are quite understandably on edge.”<sup>135</sup>

However, Orban has also tried to counter this reputation through reciprocal visits with Prime Minister Netanyahu, and by stating that Hungary would show “zero tolerance” for anti-Semitism.<sup>136</sup>

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<sup>132</sup> BBC (2016), Hungary poster campaign pokes fun at migrant referendum

<sup>133</sup> Kantor Centre

<sup>134</sup> ADL

<sup>135</sup> OSCE (2012), Country Visit: Hungary, Report of the Personal Representative of the OSCE Chair-in-Office on Combating Anti-Semitism

<sup>136</sup> Reuters (2018), Hungary’s Orban tells Israel that Jews in his country can feel safe

This has been belied by continued attempts to rewrite Hungary's Holocaust history, with Yad Vashem publicly criticising a new Holocaust museum set to open in 2019, known as the House of Fates, which omits references to Hungary's role in the Shoah.<sup>137</sup> This follows similar acts which aim to frame the Nazi-Hungarian relationship as one of occupation, rather than collaboration, as a deliberate long-term project handled by Prime Minister Orbán.<sup>138</sup>

The extreme right-wing party "Jobbik" is on a journey to shake off its anti-Semitic and racist past. On one hand, a large number of right-wing websites and blogs continue to preach Holocaust denial and disseminate anti-Semitic messages, although websites affiliated with Jobbik recently show some restraint in the new line.<sup>139</sup>

**The European Commission initiated infringement proceedings against Hungary for failure to correctly implement the Racial Equality Directive (2000/43/EC), due to different situations of systemic discrimination and segregation of Roma children in schools.**<sup>140</sup>

Hungary commemorates the Hungarian Holocaust Memorial Day on 16 April. The main event is held at the Danube Shoe Memorial, which commemorates the Jewish people that were shot and thrown in the river between 1944 and 1945. Hungary also commemorates the Jewish victims of the Holocaust on other dates throughout the year, including on 18 January – the Liberation of the Budapest ghetto; 27 January – International Holocaust Remembrance Day; 4 August – Raoul Wallenberg's Birthday; 9 November – Memorial Day of Miklós Radnóti; and 1 December – the Memorial Day of Forced Labourers. On these days, commemorative initiatives take place at memorial sites.

**The Holocaust, the extermination and persecution of Roma and Sinti and crimes committed against other victim groups are taught within the Hungarian education system at primary, secondary and upper secondary, and college and university levels. These topics are also covered in textbooks.**<sup>141</sup>

### Legislative

**According to the ECRI in its monitoring report on the country, "Hungary's Criminal Code provisions on incitement to hatred and violence against a community, The Act on Equal Treatment and Promotion of Equal Opportunities, is widely considered a good instrument".**

The structure and powers of the Equal Treatment Authority are now in line with the principles set out in ECRI's General Policy Recommendations No. 2 and No. 7.

An amendment to the Act on the National Assembly was introduced in 2013 allowing members of Parliament to be fined or excluded from proceedings for abusive language or expressions offending the dignity of any national, ethnic, racial or religious community."<sup>142</sup>

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<sup>137</sup> EJC (2018), Yad Vashem: Hungarian Holocaust Museum is a falsification of history

<sup>138</sup> Tablet Magazine (2017), Hungary's Ugly State-Sponsored Holocaust Revisionism

<sup>139</sup> Kantor Centre (2018)

<sup>140</sup> FRA (2018), Fundamental Rights Report 2018, Chapter 5: Roma Integration

<sup>141</sup> OSCE (2018)

<sup>142</sup> ECRI (2015), Report on Hungary

Additionally, the application of criminal law provisions on incitement to hatred remains “extremely limited,” and hate speech is not restricted to extremist parties and groups but occurs across the political spectrum.

**Some media publish or broadcast blatantly racist material.**

**Cyberhate poses a particular challenge and Hungary has still not ratified the Additional Protocol to the Convention on Cybercrime.**

**Racist violence against Roma is one of the most important problems in Hungary.**

Paramilitary groups have been marching and organising demonstrations and illegal patrols in villages, harassing and intimidating the Roma community in their own neighbourhoods, while migrants, asylum seekers and refugees have been victims of racist violence.

The migrant crisis has brought about immense government pressure on migrant communities, and the ECRI has stated that it is “appalled at the measures taken in response and the serious deterioration in the situation since its fifth report”.

The European Court of Human Rights found Hungary in violation of Article 5 of the ECHR (right to liberty and security) in the case of Ilias and Ahmed v. Hungary in March 2017 for unlawfully depriving migrants of their liberty for 23 days in a transit zone, which consists of barbed wire-encapsulated shipping containers, surrounded by more barbed wire.

“ECRI notes that the authorities currently only allow around five asylum seekers per working day to enter each transit zone to claim asylum. Others wait outside the border in the hope of accessing the asylum procedure in Hungary. The UNHCR has described conditions for those waiting to enter as dire; individuals and families stay in the open or in tents on muddy fields next to the border fence, with health and sanitation being major challenges”.<sup>143</sup>

**Regarding Roma, following the “Roma murders” in 2008-2009, a specialised unit in the police now deals with hate crime, and training sessions have been organised with the help of NGOs.**

ECRI reports that “Police constantly monitor areas at risk of conflict. They now also monitor files in cases of violence and can re-qualify an offence if any hate motivation is suspected.”<sup>144</sup> Infringement proceedings are being pursued by the European Commission against Hungary pertaining to systematic discrimination against the Roma community.

**Hungary regularly reports hate crime data to ODIHR.**

### **Challenges**

**As noted in the first section, Hungary is not matching the efforts of other EU nations in the collection of anti-Semitism data.**

Nevertheless, other groups have shone a spotlight onto the reality of the situation. The Brussels Institute produces monthly reports on incidences of anti-Semitism, drawing on local

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<sup>143</sup> Ilias and Ahmed v. Hungary, Application No.47287/15, 14 March 2017

<sup>144</sup> ECRI (2015)

and international partnerships in order to create a more detailed picture and “eliminate ignorance” around the issue of anti-Semitism in Hungary, and coordinates its data with the Prime Minister’s Office. In the August 2018 report, the latest to be published at the time of research, it was reported that the police dropped investigations into a swastika daubed at a Jewish cemetery in part because swastikas have “positive connotations in some societies”.<sup>145</sup> Institutional weaknesses such as these cannot be addressed if facts are not collected by law enforcement and made available to the general public.

Coordination at the highest levels has not reached proper action at the levels which encounter and act against anti-Semitism.

Hungary’s National Social Inclusion Strategy has had little impact so far, especially with regards to segregation in education against Roma, with housing and employment two additionally problematic fields for Roma integration.<sup>146</sup>

The ECRI recommendation concerning Roma required the Central Government to prohibit local authorities from causing homelessness in the Roma community. As of 2018 this situation had not improved.

According to ECRI in 2015, “Around 22% of all asylum seekers are deprived of their liberty, mostly in asylum detention facilities with very poor living conditions, harsh treatment by guards and lack of access to legal aid or assistance from civil society.”<sup>147</sup> The ECRI recommended that Hungary, among other measures, open reception facilities for migrants with families.

By 2018, the situation had changed radically, and migrants are now subject to emergency laws which severely restrict their freedoms, as covered in the previous section.

## Italy

### Realities

**In 2017, Italy reported to the ODIHR that there had been 828 incidents of racism and xenophobia that year.**<sup>148</sup>

According to The Observatory of Contemporary Anti-Jewish Prejudice, reported anti-Semitic incidents in 2017 were down to 111 from 130-140 in 2016.<sup>149</sup>

Anti-Semitic environments continue to be a feature of Lazio and Juventus, two of the largest soccer clubs in the country. Anti-Semitism in soccer reached a level that Anne Frank’s diary was read in Italian stadiums before the match. This was after Lazio fans produced stickers of Frank wearing a rival team’s jersey, among a long history of anti-Semitism from the club’s supporters and even players. On the day of the diary reading, some Lazio fans sang fascist songs and made Nazi salutes in the stands, while some Juventus supports turned their backs.

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<sup>145</sup> Brussels Institute (2018), Anti-Semitic Hate Crimes And Incidents Report

<sup>146</sup> ECRI (2015)

<sup>147</sup> ECRI (2015)

<sup>148</sup> OSCE (2018)

<sup>149</sup> Observatory of Contemporary Anti-Jewish Prejudice, 2007–2017

In September 2017, a bill to ban fascist propaganda proposed by Jewish MP Emanuelle Fiano of the Democratic Party (PD) was introduced in the Italian Senate. This was followed by a wave of online anti-Semitism.<sup>150</sup>

In 2017, 2,635 posts in Italian have been shared on Facebook which include anti-Semitic slurs and links to 330 neo-Nazi or fundamentalist Catholic pages citing counterfeit stories about Jewish communities. According to a review of the “tidal wave” of anti-Semitism in the *Corriere* newspaper, the official number of incidents is insignificant to the reality.<sup>151</sup>

**In 2015, Italy was indexed as having a prevalence of anti-Semitism in society measured at 29%. This includes 56% of the surveyed population of Muslims, which is double the score of the Christian population, which scored at 28%.**

Interestingly, the only statement in which Christians displayed a higher rate of anti-Semitic beliefs than their Muslim peers was regarding dual loyalty to Israel.<sup>152</sup>

In another study carried out by IPSOS in cooperation with the Antisemitism Observatory (Osservatorio Antisemitismo) of the CDEC Foundation in 2017, 11% of Italians are anti-Semites. They found that the “typical anti-Semite” is a male, poorly educated, a resident of central or south Italy, right-wing, and expresses a similar rejection of immigrants in general and very polarized on other issues as well.

While Muslim anti-Semitism was also raised as a concern, the reality as assessed by the study was that majority population anti-Semitism was a significant problem.<sup>153</sup>

While the CDEC findings identified right-wing Italians as the main source of anti-Semitic sentiment, another study by the Institute for Jewish Policy Research actually identified left-wing Italians as behind a plurality of both physical and verbal incidents of anti-Semitism as reported by the community, at significantly higher numbers than those by right-wing, Muslim or Christian motivations.<sup>154</sup>

According to a fact-finding mission in 2011 by the OSCE, “The Jewish Community remains vigilant at the presence of neo-fascist elements in Italian political life. Its analysts admit that they are not overtly anti-Semitic but still exhibit strong xenophobic views. They note a parallel “whitewashing” of fascist history in Italy.

Jewish Community leadership maintains good relations with both government and opposition parties and receives support for their cultural programs. They cite the new, positive attitudes of the Vatican toward Jews and the State of Israel which were part of the legacy of Pope John Paul II as providing a significant contribution to their well-being.”<sup>155</sup>

Italian politicians have been allies against BDS. An Italian EUMP, Fulvio Martusciello, included a stance opposing boycotts in the European Report on Competition Policy for 2016.

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<sup>150</sup> Kantor Center

<sup>151</sup> CFCA (2018), Graffiti, vandalism and cyber attacks. An antisemitic tidewave is hitting Italy as well

<sup>152</sup> ADL

<sup>153</sup> CFCA (2017), Poll: 11% of Italians are antisemites. Most of them from central and south Italy

<sup>154</sup> JPR (2015), From Old and New Directions, Perceptions and experiences of anti-Semitism among Jews in Italy

<sup>155</sup> OSCE (2011), Report of the Personal Representatives of the OSCE Chair-in-Office on Tolerance and Non-Discrimination Issues

Italy commemorates the Holocaust on International Holocaust Memorial Day, 27 January. The Day of Remembrance was established in law in 2000 to commemorate Jewish victims of the Holocaust, Roma and Sinti victims and all those who suffered deportation, imprisonment and death, or formed a part of the resistance. The day also allows for reflection on racial laws and the historical persecution of Jews in Italy.

The Italian President marks the Day of Remembrance by holding an award ceremony for winners of a national school competition about the Holocaust, and medals are awarded to Holocaust survivors or their family members.

Italy's Jewish community also observes the Anniversary of the Deportation of the Jews of Rome on 16 October since the end of World War II.

**The Holocaust, the extermination and persecution of Roma and Sinti and crimes committed against other victim groups are studied at the primary, secondary and upper secondary levels.**

Currently, the Ministry of Education, Universities and Research, in co-operation with the Italian delegation to IHRA and the Union of the Italian Jewish Communities (UCEI), is working to create national guidelines for teaching about the Holocaust.<sup>156</sup>

Immigrants from SSAFR report a low incidence of being harassed "all the time" in Italy compared to other EU countries, however most have been the subject of discrimination more than one in the past year, according to an EUFRA study.<sup>157</sup>

The "Don't say Roma" programme continued to research the language used in the media and its impact on racial stereotypes targeting Roma, while Rome's municipality budgeted €1.5 million for housing solutions after a problem of evictions leading to squalid living conditions.

### **Legislative**

**Italy adopted legislation (Law No.167, 2017) that increases the penalty for intentionally denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes.**

**The law also introduces administrative responsibility for companies that engage in racist and xenophobic conduct.**<sup>158</sup>

An increasing number of incidents of hate speech have given rise to legal proceedings against the authors of the offensive remarks.<sup>159</sup>

As summarised by the FRA, "Article 604 ter of the Italian Criminal Code (CC) sets out a general aggravating circumstance for any offence punishable with a penalty other than life imprisonment if it is committed with discrimination purposes, with ethnic, national, racial or religious hatred purposes or with a view to facilitating the activities of organisations, associations, movements or groups pursuing these purposes.

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<sup>156</sup> OSCE (2018)

<sup>157</sup> FRA, EU-MIDIS II

<sup>158</sup> FRA (2018), Fundamental Rights Report, Chapter 4: Racism, xenophobia and related intolerance

<sup>159</sup> ECRI (2016), Report on Italy

Article 604 bis of the CC97 criminalises the violence and incitement to violence on racial, ethnic, national or religious grounds, the acts of discrimination or incitement to discrimination on racial, ethnic, national or religious grounds and the promotion of ideas based on racial superiority or ethnic or racist hatred.

Furthermore, it set out the criminal offence of setting up or running, participating in or supporting any organisation, association, movement or group whose purpose is the instigation of racial discrimination or hatred.”<sup>160</sup>

In addition to police collection methods, “The Observatory for Security against Acts of Discrimination (OSCAD) has a holistic approach to tackling hate crime. OSCAD was established in 2010 to assist victims and afford them protection against discrimination. It is a multi-agency body formed by the State Police and the Carabinieri, and it is housed within the Department of Public Security at the Ministry of the Interior.

OSCAD runs its own monitoring system, also concerning discrimination not included in the legislation (i.e. sexual orientation and gender identity) and prepares reports for national and international authorities and agencies.”<sup>161</sup>

In 2017, an Italian MEP was found guilty for incitement to racist hatred over discriminatory statements he made against the former Minister for Integration, an Italian citizen of African origin. The ordinary Court of Milan considered in its decision Article 10 of the ECHR (freedom of expression) and its limitations when a political debate is at stake and concluded that the MEP offended the former minister on the grounds of her African origin and skin colour, fining him €1,000 and ordering that he pays € 50,000 in compensation. This result does not align with the ECRI assessment in 2016 that discrimination based on skin colour is not treated as a criminal violation.<sup>162</sup>

Act No. 107/ 15 “on good schooling” provides for substantial financial and HR support to schools with large numbers of foreign pupils.<sup>163</sup>

### **Challenges**

The United Nations Committee for Ending Racial Discrimination (CERD) recommended in 2017 that all individuals, including politicians at all levels, are held accountable and are sanctioned for the dissemination of ideas based on racial superiority or hatred, including by lifting parliamentary immunity for racist hate speech. CERD also recommended that victims of racist hate speech are provided with effective remedies, and that a coherent data collection mechanism be built to record systematically incidents of racist hate speech, the application of relevant legislation, penalties imposed on the perpetrators and remedies provided to the victims.

Furthermore, the committee condemned “unequivocally at the highest political level the dissemination of hate speech and hateful ideas and engage in promoting a culture of tolerance and respect,” and sought to “ensure that the prohibition of racist hate speech

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<sup>160</sup> FRA (2015)

<sup>161</sup> IFRA (2015)

<sup>162</sup> ECRI (2016)

<sup>163</sup> ECRI (2016)

extends to the Internet, and ratify the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.”

Among additional recommendations was the call to “use the platforms of public office to encourage the means of eliminating barriers between races and to discourage policies that tend to strengthen racial division,” as well as strengthen reporting and prosecution mechanisms of hate crimes.<sup>164</sup>

**The need to strengthen and clarify hate crime reporting mechanisms was also expanded upon by ECRI<sup>165</sup> the FRA, which summarised that “No institution is officially in charge of collecting data on hate crimes. Hate crime data are collected by law enforcement authorities and the Ministry of Interior.**

**Data are not publicly available. The main sources of data on offences related to hate speech and hate crime are the National Office against Racial Discrimination (UNAR, the equality body), OSCAD, SDI, the Ministry of Justice and the National Statistical Institute (ISTAT).**

Data systems used by ISTAT and the Ministry of Justice do not use the same categories and do not always distinguish between hate speech and other offences linked to racism and racial discrimination.”<sup>166</sup>

ECRI also notes that the implementation of the 2012 National Roma Integration Strategy has suffered considerable delays and that Roma still suffer from vast inequality.

The move to deport Roma without citizenship and creation of a Roma “list” was met with “shock and concern” by the European Jewish Congress<sup>167</sup> and other Jewish groups such as the Union of Italian Jewish communities, especially considering the Interior Minister’s comment that “The Italian Roma, unfortunately, you have to keep in Italy.”<sup>168</sup> This move was even more insensitive considering that it came in the 80<sup>th</sup> anniversary of Mussolini’s discrimination laws of 1938 against Roma and Jews.

## Latvia

### Realities

**Latvia regularly reported hate crime data to the ODIHR until 2017. In 2016 there were 11 crimes reported, including incitement, however no data for 2017 was transferred to the OSCE-ODIHR by the time of this report.**

In 2016, the Ombudsman's Office published a study on the "Issues of Investigating Hate Crimes and Hate Speech in the Republic of Latvia".

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<sup>164</sup> CERD (2016), Concluding observations on the combined nineteenth and twentieth periodic reports of Italy

<sup>165</sup> ECRI (2016)

<sup>166</sup> FRA (2018)

<sup>167</sup> EJC (2018), EJC expresses shock at proposed Roma registry in Italy

<sup>168</sup> CNN (2018), Italian interior minister's Roma census announcement causes outrage

The study recommended a more strategic approach to addressing hate crimes, strengthening the implementation of criminal law and conduct prevention activities.

The study further noted that law enforcement agencies do not have a uniform understanding of the concept of hate crime and recommended the development of a methodology for recognizing, identifying and investigating hate crimes. Improvements to hate crime recording and data collection were also suggested.<sup>169</sup>

**The Latvian government informed FRA that no anti-Semitic crimes were recorded in 2017.**

In 2016, one case related to desecration of Jewish graves was successfully prosecuted.<sup>170</sup>

**The ADL's index score for Latvian anti-Semitism in 2015 was 28%, 8% lower than their southern neighbour Lithuania.**

In Latvia there was a significant drop in the rate of anti-Semitism recorded among 18-35-year-olds compared to the 50+ population, however regarding the Holocaust, 45% of young Latvians agreed that Jews talk too much about their victimization at the hands of the Nazis, which marks a smaller decrease compared to older Latvians than the gap seen in response to other statements.<sup>171</sup>

According to an academic study profiling anti-Semitism in the country's political and sociological climate: "Recent events suggest a new, more conciliatory, trend where Jews are seen as an integral part of the people of Latvia, rather than as a potential risk to the state and nation."<sup>172</sup>

Since 1990, Latvia has commemorated the Holocaust on 4 July. The Official Commemoration Day of Genocide against the Jews recalls the burning of the Choral Synagogue in Riga.

**On 27 January, Latvia marks International Holocaust Remembrance Day, which also includes Roma and Sinti victims.**

**The Latvian Roma community also commemorates the Roma genocide on 8 April, on International Roma Day, and 8 May, Commemoration Day of Victims of World War II.**

**The Holocaust, the extermination and persecution of Roma and Sinti and crimes committed against other victim groups are studied at the primary, secondary and upper secondary, college and university levels. These topics form part of the mandatory history curriculum, approved and adopted by cabinet ministries.**<sup>173</sup>

### Legislative

Latvia's Criminal Code contains a combination of general and specific penalty-enhancement provisions and a substantive offence.

According to the Latvian Center for Human Rights, the 2014 Criminal Law amendments which envisage criminal liability for incitement to social hatred on grounds of an individual's

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<sup>169</sup> OSCE (2016)

<sup>170</sup> EUFRA (2018), Antisemitism - Overview of data available in the European Union 2007–2017

<sup>171</sup> ADL

<sup>172</sup> Matthew Kott. (2018). Antisemitism in Contemporary Latvia: At the Nexus of Competing Nationalisms and a Securitized State. *Antisemitism Studies*, 2(1), 35-74.

<sup>173</sup> OSCE (2018)

characteristics expand the protection of vulnerable groups against hate crimes and hate speech. While racist motive was made aggravating circumstance already in 2006, and “national, ethnic and religious motive” was added in 2014, allegedly to bring the Latvian legislation in line with Article 4 of Framework Decision 2008/913/JH on combatting certain forms and expression of racism and xenophobia by means of criminal law, this provision has never been applied in practice.<sup>174</sup>

Latvia amended its legislation to prohibit associations and foundations from propagating openly Nazi, fascist or communist ideology and conducting activities aimed at inciting national, ethnic, racial and religious hatred or enmity.<sup>175</sup>

**Similarly, Latvia has introduced in its Criminal Code a new provision criminalising the justification or public glorification or public denial of genocide, crimes against humanity, crimes against peace and war crimes and has included ethnicity as one of the grounds on which incitement to hatred is prohibited.**

The grounds on which discrimination is prohibited in certain laws have also been broadened.

Associations and foundations whose mandate includes advocacy of human rights are now authorised under the law to represent individuals before court with their consent.

A few activities have been organised on monitoring hate speech on the Internet. Much effort has been invested in training the police on non-discrimination and combating hate crime.<sup>176</sup>

In the area of Roma integration, the reintroduction of Roma teacher assistants has aided the absorption of Roma children into society.<sup>177</sup>

### **Challenges**

**According to the Latvian Center for Human Rights, there remains very serious concern about the unwillingness of hate crime victims to report hate crimes to the law enforcement authorities.<sup>178</sup>**

In its report, the Working Group on the Universal Periodic Review of Latvia recommended the strengthening of the hate crime provisions in criminal law and that the authorities organize training on hate crimes for police and judicial officials.

In his report following a visit to Latvia, the Commissioner for Human Rights of the Council of Europe urged the authorities to build the capacity of police, prosecutors and judges to effectively investigate, prosecute and punish all hate crimes.<sup>179</sup>

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<sup>174</sup> Latvian Centre for Human Rights (2017), Lifecycle of a Hate Crime, Country Report for Latvia

<sup>175</sup> FRA (2018)

<sup>176</sup> ECRI (2012), Report on Latvia

<sup>177</sup> ECRI (2015), Conclusions on the Implementation of the Recommendations in Respect to Latvia

<sup>178</sup> LCHR (2017)

<sup>179</sup> OSCE (2016)

## Lithuania

### Realities

**Lithuania reported to the OSCE that there were nine hate crimes reported in 2017.**

**Lithuania regularly reports hate crime data to ODIHR; however, the statistics do not account for specific victim groups.<sup>180</sup>**

The European Foundation of Human Rights (EFHR) is an organization that has been actively operating in Lithuania since 2010 and regularly monitors the country's progress and challenges in combating hate crimes.

**The ADL's 2014 global index for anti-Semitism classified Lithuania as having a 36% anti-Semitism score.**

This translates into high agreement percentages for the dual-loyalty and Holocaust statements, at 74% and 65% respectively. It is worth noting that younger populations were not significantly less in agreement with the anti-Semitic statements compared to older generations.<sup>181</sup>

A Pew Research Study found that 23% of Lithuanians would not accept Jews as citizens of their country, the highest figure in Central and Eastern Europe.<sup>182</sup>

Kazys Skirpa, who bears responsibility for the death of 95% of Lithuania's Jewish community in the Second World War, is still venerated by society. Others, like Jonas Noreika, have been honoured with plaques or street names, and often calls from Jewish groups to remove these honours have gone unheeded.<sup>183</sup> The official government institution tasked with exposing the lionizing of war criminals, the Genocide Centre, led by Teresa Birute Burauskaite, has not shown any particularly remarkable results in correcting this trend.

Antipathy for Jews after the Holocaust also affected the country's lack of prosecution efforts against Holocaust perpetrators. Efraim Zuroff, the Simon Wiesenthal Center's chief Nazi hunter, said that the center had the names of 20,000 Lithuanians who participated in the Holocaust but that only three were ever prosecuted and convicted — and of those, none ever served jail time.

Zuroff has said there has been "consistent efforts of the Lithuanian government to hide, or at least minimize, the highly significant role played by Lithuanian Nazi collaborators in the murder of Jews during the Holocaust,"<sup>184</sup> most recently portrayed by the banning of books which "distort Lithuania's history."

However, there is no reliable information on the prevalence of anti-Semitism within Lithuania.

Between 2014 and 2017, three pre-trial investigations under Article 312 (2) of the Criminal Code were initiated – these concerned incidents where places of public respect had been

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<sup>180</sup> OSCE (2017)

<sup>181</sup> ADL

<sup>182</sup> Pew Research Study (2018), Most Poles accept Jews as fellow citizens and neighbors, but a minority do not

<sup>183</sup> Times of Israel (2018), Jewish groups in Lithuania say national hero killed Jews, should not be honoured

<sup>184</sup> Simon Wiesenthal Center (2018), Wiesenthal Center Urges Lithuanian Government to Reconsider Decision to Pass Bill Prohibiting Sale of Books Which "Distort Lithuanian History"

desecrated for anti-Semitic reasons. All these pre-trial investigations were discontinued because the offenders liable for criminal offence were not identified.<sup>185</sup> Further than this, no official data on anti-Semitism since 2011 was released to the EUFRA monitoring body.<sup>186</sup>

With Jewish history scattered across Lithuania, desecrations are sometimes of an ambiguous nature. In August 2018 it was reported that a Jewish cemetery in Siauliai was left desecrated during illegal digging for pipes.<sup>187</sup> Similarly, the Palace of Concerts and Sports stadium is built over an ancient Jewish cemetery, and the government wants to expand it.

In 2011, after international criticism, the Museum of Genocide Victims added one room, in a small K.G.B. interrogation cell in the basement, devoted to the genocide of Jews. Dovid Katz, a Jewish scholar of Yiddish and a historian with Lithuanian ancestry, called the museum “a 21st-century version of Holocaust denial.” Nevertheless, the government has positioned itself as interested in solidifying ties to Jews and Israel, at least rhetorically.

They have also proposed to declare 2019 “The Year of the Jew.”<sup>188</sup>

**However, Lithuania’s behaviour of indulging in Holocaust revisionism while not releasing contemporary anti-Semitism data does not bode well when set against the backdrop of Lithuania’s permitting neo-Nazis to march in the capital city’s center square on the county’s Independence Day for 11 years in a row.**

These events are habitually accompanied by calls against Jews, the display of swastikas, and chants of “Lithuania for Lithuanians”.<sup>189</sup>

Lithuania officially commemorates the Holocaust on 23 September, including Roma and Sinti victims, who are also commemorated on Roma Genocide Remembrance Day on 2 August. Lithuania also marks International Holocaust Remembrance Day on 27 January, and there are also initiatives to commemorate Yom HaShoah, and commemorative events are organized in Lithuania’s cities on this date.

However, Lithuania’s Holocaust memorial is tied to Soviet crimes, as part of an effort to link the two and downplay the importance of the Holocaust, according to critics, as shown by having national holidays commemorating both Nazi and Soviet evils on the same day.

**The Holocaust and the extermination and persecution of Roma and Sinti are studied in schools at primary, secondary and upper secondary, and college and university levels in Lithuania. These topics are also covered in textbooks, as is the subject of crimes committed against other victim groups under National Socialism.**<sup>190</sup>

### Legislative

In 2015, Lithuania adopted the Inter-Institutional Action Plan for 2015-2020 on Non-Discrimination, which aims at assessing the current situation of relevant vulnerable groups,

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<sup>185</sup> FRA (2018)

<sup>186</sup> FRA (2017)

<sup>187</sup> JTA (2018), Jewish cemetery desecrated in Lithuania, leaving bones scattered

<sup>188</sup> New York Times (2018), Where the Genocide Museum Is (Mostly) Mum on the Fate of Jews

<sup>189</sup> Defending History (2018), Center of Vilnius Again Gifted to 1,000 Far-Right & Neo-Nazi Marchers on Lithuania’s Cherished March 11th Independence Day

<sup>190</sup> OSCE (2018)

and at raising public awareness about their situation. This included training courses for police officers, prosecutors and judges on racist and other violence.

**In 2017, the Supreme Court ruled that the right to hold beliefs and freedom of expression are not in conformity with public insult, incitement to hatred and discrimination, and incitement to violence against a group of people of a certain nationality.<sup>191</sup>**

Independently of the plan, the authorities have constructed systems to combat hate speech online, through the Inspector for Journalist Ethics and district police cybercrime units.

**The country adopted the IHRA working definition of anti-Semitism in 2018.**

The authorities also developed the new Action Plan for Roma Integration into the Lithuanian Society 2015 – 2020 which includes measures in the areas of housing, education, employment and health. Impact is measured through yearly outputs, including indicators such as the number of Roma children in general schools, the number of Roma women involved in social activities and the number of illegal buildings in Roma ghetto

However, Lithuania has neither signed nor ratified Protocol No. 12 to the European Convention on Human Rights, and as of 2015 its criminal code does not adhere to ECRI standards regarding combatting racism. In its fifth monitoring report of the country, ECRI also called for Lithuania to improve housing standards and interaction with the Roma community, and to ensure the cessation of evictions.<sup>192</sup>

In ECRI's report, it was summarized that Lithuania has not specified colour and citizenship, among other factors, to the list of enumerated grounds in Articles 60, 169 and 170; neither had Article 170 been amended to criminalise public defamation or threats, and the public expression, with a racist aim, of an ideology that claims superiority; similarly it was not presently a criminal offense to employ racial discrimination in the exercise public office.

**Additionally, ECRI recommended that the authorities take measures to prevent or punish any public praise or association with Nazi-collaborators and persons who engaged in genocide, war crimes or crimes against humanity.**

Contextually, the report called for a project in combatting anti-Semitism in the specific area of property restitution.

**There are disadvantages for national minorities in Lithuania since there is no law that can ensure their rights.**

Examples of situations that represent disadvantages for them can be the following: no bilingual street names and problems for recording nationality in Lithuanian passport. Similarly, The EFHR reported in 2018 that no measures have been taken by the Lithuanian Prosecutor General's Office to protect the right to freedom of religion of national minorities, and that hate speech crime recognition is low among law enforcement.<sup>193</sup>

## **Challenges**

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<sup>191</sup> FRA (2018)

<sup>192</sup> ECRI (2015) Report on Lithuania

<sup>193</sup> EFHR (2018), Alternative report on the implementation of the FCPNM in Lithuania

According to the ERRC, segregationist attitudes towards Roma in Lithuania are clearly seen at work among public authorities and non-Romani citizens alike.<sup>194</sup>

The non-criminalization of employing racism in the exercise of public office has led to a situation in 2018 whereby the ombudsman for academic ethics and procedures offered a cash grant for students or scholars willing to write a thesis about Jews' involvement in war crimes or murder. Vigilius Sadauskas managed to withstand calls to step down, also highlighting the problem of the lack of resilience among officials to force openly racist or anti-Semitic individuals from their positions of influence.

**Lithuania will continue to fail to meet its obligations towards Jews and other minorities while it indulges in the falsification of history and the glorification of war criminals.**

## Netherlands

### Realities

**The Netherlands report hate crime data to ODIHR**, which includes hate speech, and it was relayed that in 2017 there were a reported 327 incidents of racism or xenophobia in addition to 5 incidents of targeting other unspecified religious groups, 432 incidents of anti-Semitism, and 27 Islamophobic incidents.<sup>195</sup>

**In 2017, some notable incidents of violent hate crimes included the murder of a transgender asylum seeker, multiple incidences of arson and pigs' heads left in mosques, and other cases of group violence against migrants and Muslims.**

**In the Netherlands there are multiple official and unofficial sources for anti-Semitism data.**

**A recent poll found that almost half of Dutch Jews take steps to hide their identity.**

**Over half of the respondents said anti-Semitism on the street has become more common; 59% say it extends also to media and 82% see it rising online.**

**34% said they had experienced anti-Semitic remarks directed against them; of those, 89% said that those remarks were connected to Israel, while 11% had experienced violence against them.**<sup>196</sup>

According to the FRA, the main source of official data on anti-Semitic incidents in the Netherlands is the annual report on the situation of criminal discrimination by the Verwey-Jonker Institute.

Since 2012, these figures have decreased as a result of methodological changes in the way law enforcement define crime motives, and in 2017 anti-Semitic incidents constituted 8% of all hate crimes with 284 incidents.

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<sup>194</sup> Roma Rights Journal (2012), In the Dark: Segregating Roma in Lithuania

<sup>195</sup> OSCE (2018)

<sup>196</sup> JTA (2018), 43% of Dutch Jews say they hide their ethnic identity

Other authorities also record anti-Semitism, such as the Public Prosecution Service, and civil society group Information and Documentation Centre Israel (CIDI) publishes data on the number of anti-Semitic incidents reported via hotlines throughout the Netherlands.

CIDI's figures show that, unlike official authorities, the problem of anti-Semitism is in fact growing in the Netherlands, not decreasing, and that discrimination against Jews in the Netherlands nearly doubled in 2017, reaching a five-year high that accounts for 41% of all the xenophobic incidents recorded.<sup>197</sup>

Not including online crimes, CIDI recorded 113 incidents and has reported a steadily growing number of incidents over the past decade, accounting for peaks in 2009 and 2014 in correspondence with violence in the Middle East.<sup>198</sup>

**Another 113 incidents were reported online, with 17% of online hatred directed towards Jews, despite that in the Netherlands they represent less than 0.3% of the population.<sup>199</sup>**

There have been numerous significant violent and politically extreme incidents of anti-Semitism in the Netherlands in 2017 and 2018. A weekly anti-Israel protest in Amsterdam has featured songs which glorify terror attacks against civilians,<sup>200</sup> while identifiably Jewish people including children have been targets for intimidation and abuse<sup>201</sup>, councilmembers have indulged in anti-Semitic conspiracies<sup>202</sup>, cemeteries and Holocaust monuments have been vandalised and desecrated,<sup>203 204 205</sup> and even the Anne Frank House attempted to pressure a Jewish employee from refraining to wear a religious head covering, saying that it might 'influence its work combating anti-Semitism' – it should be noted that no further foundation or logical explanation was presented for the basis of this statement.<sup>206</sup>

As illustrated by the significant spikes in anti-Semitic incidents in 2009 and 2014, incidents are often linked to the Israeli-Palestinian conflict, particularly in countries with a sizeable minority population of Muslims, however this fact must be dealt with delicately as there are significant distinctions between different subsections of Muslim migrants along many axes, and the fact that in general anti-Semitism levels are found to be driven by the majority population.<sup>207</sup>

An illustration of this is the case of former Prime Minister Dries van Agt, who has been accused of anti-Semitism for 40 years, and was officially denounced by the Jewish community in 2017 as an anti-Semite. He has in the past compared Israel and Nazi Germany,

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<sup>197</sup> CFCA (2018), Targeting of Jews in the Netherlands hits a 5-year high

<sup>198</sup> FRA (2018)

<sup>199</sup> Kantor Center (2018)

<sup>200</sup> CFCA (2018), Jews haters on Dam Square in Amsterdam

<sup>201</sup> CFCA (2018), "Everyone should be shot!" a man shouted at a Jewish woman and her children in Amsterdam

<sup>202</sup> CFCA (2018), Antisemitic tweet from municipal council member

<sup>203</sup> CFCA (2018), Netherlands – Blood and mud poured on Holocaust monument

<sup>204</sup> CFCA (2018), Swastikas on a monument commemorating Jews in the city of Hoogezand

<sup>205</sup> CFCA (2018), Jewish cemetery in Amsterdam daubed with swastikas

<sup>206</sup> CFCA (2018), Anne Frank House banned Orthodox Jewish employee from wearing his skullcap at work

<sup>207</sup> Pears Institute for the study of Antisemitism (2018), Antisemitism and Immigration in Western Europe Today Is there a connection?

shared a platform with a Hamas leader, and cited his “Aryan” roots in explaining his plan to pardon four Nazi war criminals due to health reasons.<sup>208</sup>

As reported by the Pears Institute study into anti-Semitism by migrants, “The Second Intifada led to the emergence of new patterns of anti-Semitism which featured Dutch youths with a migrant background. Survey data suggests that this sort of anti-Semitism may arise in response to events in the Middle East. A survey conducted in 2014–2015 found that many more young Muslims had negative attitudes towards Zionists (66%) than towards Jews (12%). Moroccan-Dutch youth and more recently Turkish-Dutch, mostly male, have been involved in harassment of Jews on the street. Dutch citizens with a Muslim background were clearly present in anti-Semitic incidents in the summer of 2014. During one exceptional incident Islamic State of Iraq and al-Sham (ISIS) supporters carried black flags and shouted in Arabic ‘death to the Jews.’”<sup>209</sup> Another explicit example of the conflict spilling over into a diaspora setting was in December 2017, when a Palestinian holding a flag smashed the windows of a kosher restaurant in Amsterdam.<sup>210</sup>

As in all countries, not all Israel related anti-Semitism comes from the Muslim community, as anti-Semitic chants are commonplace at soccer grounds, for example, where shouts such as, “Hamas, Hamas, Jews to the Gas” and “Kill the Jews” are regularly heard from fans of teams playing against Ajax, the “Jewish team,” and the general “salon” anti-Semitism that contributes as equally to the discomfort as does antipathy from the Muslim community. However, it must be noted that Muslim anti-Semitism is identified as the primary source for verbal and physical assaults against Jews according to the Amsterdam municipal office that fields such complaints.<sup>211</sup>

In the media, anti-Semitism and extreme anti-Israel bias have been found regularly. In two recent examples, the largest Dutch newspaper in November 2018 had a two-page spread replete with anti-Semitic conspiracies around the idea that George Soros was behind initiatives to ban blackface, which is still a cultural phenomenon in the Netherlands.<sup>212</sup>

Just weeks previously, the Dutch public broadcaster NOS apologized for using anti-Semitic slogans when discussing Soros,<sup>213</sup> after having apologized in June for delegitimizing the State of Israel.<sup>214</sup> Nevertheless, NOS has denied it is institutionally anti-Semitic or biased, even though after retracting language made about Israel, grave factual errors remained in the article concerning Israeli threats to “destroy” Iran.

Anti-Semitism in the Netherlands as measured by the ADL was indexed at 11%, with a generational difference exhibiting more anti-Semitic sentiments among the youngest and oldest segments of responders.<sup>215</sup>

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<sup>208</sup> JTA (2017), Dutch Jews say former prime minister peddles anti-Semitism

<sup>209</sup> Pears Institute for the study of Antisemitism (2018)

<sup>210</sup> JTA (2017), Man holding Palestinian flag smashes windows of Amsterdam kosher restaurant

<sup>211</sup> OSCE (2011), Country Visit: The Netherlands Report of the Personal Representative of the OSCE Chair-in-Office on Combating Anti-Semitism, Rabbi Andrew Baker

<sup>212</sup> <https://twitter.com/search?f=tweets&q=soros%20newspaper%20blackface&src=typd>

<sup>213</sup> EJC (2018), Dutch public broadcaster calls Soros a Jew who has “tentacles” in US politics

<sup>214</sup> EJC (2018), Dutch state TV channel apologies for anti-Israel bias

<sup>215</sup> ADL

The settlement of Eastern Europeans in the Netherlands, as well as Islam and Muslims have been portrayed by politicians and media as a threat to Dutch society, especially by the Party for Freedom (PVV) led by Geert Wilders, which is currently the second-largest in the lower chamber of parliament, and is tied for the most seats held by an opposition party in the upper chamber.

The Netherlands is one of a number of European countries which has taken a stance against the BDS movement. In a January 2018 meeting with Israeli President Reuven Rivlin, Dutch Foreign Minister Halbe Zijlstra said “When BDS and anti-Semitism come together, we will fight them.”<sup>216</sup> Other politicians, such as the Minister of Social Affairs and Employment Lodewijk Asscher and the EU commissioner Frans Timmermans, have expressed concern over anti-Semitism as well, but have resisted popular opinion in linking this to immigration from MENA which has brought the Netherlands total international migrant population (not only MENA) to 12%.

The Netherlands officially commemorates the Holocaust on 27 January. Additionally, the Netherlands marks the National Remembrance of the Dead day on 4 May, as well as the anniversary of an uprising to resist the persecution of Dutch Jews on 25 February 1941.

### **Legislative**

According to the ECRI per 2013, the Netherlands’ Public Prosecution Service has issued instructions, providing for the improvement for hate crime systems.

A regional anonymous online form has been set up by the police, and awareness-raising campaigns aimed at increasing victims’ willingness to report incidents on discrimination and equal rights have been run by the authorities.

Debt relief and other assistance is being provided to the Roma communities.<sup>217</sup>

**There is no comprehensive Action Plan for Combating Racism at national level that fully meets ECRI definitions and standards**, and the Netherlands has been unwilling to adjust its activities accordingly.

So too with the country’s criminal law against racism and racial discrimination, where there are no provisional grounds based on citizenship and language, or explicitly establishing racist motivation as a specific aggravating circumstance in sentencing. Again, the authorities have indicated an unwillingness to align standards.<sup>218</sup>

There are also concerns regarding provisions encompassing hate speech including online, funds have been withdrawn from the national expertise centre and backbone of the anti-discrimination bureau network, and recruitment processes in the country are often found to be discriminatory on a xenophobic basis.

Barriers to migrants, including those whose families are already partially in the Netherlands, are prohibitive to those from low socioeconomic backgrounds due to cost and education demands.

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<sup>216</sup> The Jerusalem Post (2018), Rivlin, Dutch FM Agree on Confidence-building Measures Between Israel and the Palestinians

<sup>217</sup> ECRI (2013), Report on the Netherlands

<sup>218</sup> ECRI (2016), Conclusions on the Implementations of Recommendations

In the case of far-right extremism, Geert Wilders was acquitted on multiple counts of racist insults and incitement to hatred, discrimination and violence, with the District Court stating that some of the highly controversial comments were “addressed to a religion (Islam) rather than to the people who practice it and therefore would fall out of the remit of Articles 137c and 137d of the Criminal Code and would not incite to hatred or discrimination, while others had been made in the context of a social debate, in Mr Wilders’ role as a politician, which made them admissible.”<sup>219</sup>

### **Challenges**

In its most recent monitoring report, ECRI its recommendation covering the need to improve the response of the criminal justice system to racially motivated offences, and to abandon any bans on face coverings in public or any other legislation that may single out Muslim communities.

In Jewish-Muslim relations, teaching the history of the Holocaust to Muslim students has been very challenging, and efforts to equate the Holocaust with the Middle East conflict have been challenged by Jewish communities.<sup>220</sup>

The Ombudsman published a report concluding that local governments have to take account of the specific housing needs of Roma and Sinti and have to ensure enough locations to meet demand.<sup>221</sup>

## **Poland**

### **Realities**

The current Polish government was formed solely by the nationalist populist party 'Law and Justice', which got 40 percent of the vote during the last parliamentary elections in 2015. Despite not being an ideologically anti-Semitic party, since their rise to power the most serious incident concerning Poland’s relationship with the truth surrounding its people’s role in the Holocaust has heralded a serious uptick in anti-Semitism, and soured what was an increasingly positive trajectory for Jewish-Polish relations.

In early 2018 both chambers of the Polish parliament adopted an Amendment to the Act on the Institute of National Remembrance, criminalizing the ascription to Poles collectively of complicity in World War II or the Holocaust, or use of the expression "Polish death camp". The law was later amended to remove the threat of criminal sanction and a joint statement with the Israeli government was made announcing an understanding on protecting Holocaust research and the freedom of speech.

Months before this action was taken, a Polish nationalist group asked prosecutors to investigate whether Israeli President Reuven Rivlin broke the law during a visit to Poland,

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<sup>219</sup> ECRI (2013)

<sup>220</sup> ECRI (2013)

<sup>221</sup> National Ombudsman (2017), Research into the reliability of the government for caravan dwellers

and other Israelis and Jewish groups were coerced or pressured into changing how they educated their tour groups.

The law has sparked a crisis in Polish-Israeli relations. This crisis was worsened still after Prime Minister Morawiecki claimed that if there were Polish collaborators then there were Jewish collaborators, in a statement Israeli Prime Minister Netanyahu called “outrageous” and what can only be interpreted as clear historical revisionism and therefore a form of Holocaust denial, as well as an affront to Jewish victims of the Nazis and their collaborators. The Polish prime minister’s comments came amid a wave of anti-Semitism in the media, from politicians and online.

The law has been decried as harmful to research about the Holocaust and a crude attempt to whitewash the actions of many Poles who helped Nazis kill Jews. Opposition has arisen from across the Jewish world,<sup>222</sup> Yad Vashem,<sup>223</sup> Israel,<sup>224</sup> the Catholic Church,<sup>225</sup> and the international community including the US.<sup>226</sup>

**Anti-Semitism in Poland is prevalent, with the ADL’s 2015 survey measuring societal anti-Semitism at 37%**, however it is somewhat encouraging that younger people in general have a decreased adherence to anti-Semitic statements than older generations.<sup>227</sup>

In 2017, a study that was released by the Center for Research on Prejudice at Warsaw University revealed a significant rise in negative attitudes towards Jews, showing that expressions of anti-Semitic hatred had become more accepted and were popular on the internet and on Polish television, demonstrably influencing the views of young people between 2014-2016. This accompanied a general rise in racism and xenophobia.<sup>228</sup>

Adding to the problem was the debacle over the colloquially named “Holocaust Law”. An academic study by the Israel Journal of Foreign Affairs has found “a surge” in hostility to Jews and Israel in Polish media and politics (a list of governmental anti-Semitic acts and statements was compiled in a single article in Israeli news<sup>229</sup>).

“According to the study written by Dr. Rafał Pankowski, a sociology professor at Warsaw’s Collegium Civitas, there has been a ‘disturbing revival of anti-Semitism’ in Poland since the law was introduced and stirred controversy. ‘The surge of hostility to Jews and the Jewish State in the Polish media and politics in early 2018 took many observers by surprise,’ wrote Pankowski for the IJFA, a publication of the Israel Council on Foreign Relations which operates under the auspices of the World Jewish Congress.”<sup>230</sup>

Around 60,000 nationalists marched in a demonstration organized by extreme right-wing organizations on Polish Independence Day in 2017. The marchers expressed support for hatred of foreigners and white supremacy and called for a “pure white Europe – without Jews, without Muslims” and to “purify Poland”. Ahead of the 2018 march marking Poland’s

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<sup>222</sup> EJC (2018), EJC expresses deep concern over proposed Holocaust Law in Poland

<sup>223</sup> Haaretz (2018), Yad Vashem Condemns Poland's New Holocaust Law, but Says Warsaw Is Right to Object to Term 'Polish Death Camps'

<sup>224</sup> BBC (2018), Israel criticises Poland over proposed Holocaust law

<sup>225</sup> CFCA (2018), Antisemitism has resurfaced in Poland because of Holocaust law, Catholic leader says

<sup>226</sup> Washington Post (2018), Tensions rise between U.S. and Poland over ‘Holocaust law’

<sup>227</sup> ADL

<sup>228</sup> Forward (2017), Anti-Semitism Spikes in Poland — Stoked by Populist Surge Against Refugees

<sup>229</sup> INN (2018), Poland's official anti-Semitism

<sup>230</sup> CFCA (2018), Study: ‘surge’ in Polish antisemitism since controversial holocaust law

centenary, the mayor of Warsaw attempted to ban the event. Immediately, Poland's President Duda and Prime Minister Morawiecki stepped in to ensure that the march would occur, and that they "invite all Poles to take part."<sup>231</sup>

Anti-Semitism in Poland also exists in a primitive form, alongside its industrialised and religious manifestations. For example, in 2017 a group calling themselves "Conscience of the Nation" burned an effigy of a Jewish woman in Warsaw and drowned it in the Vistula River to mark the beginning of spring.<sup>232</sup>

Poland has officially established several Holocaust Memorial Days, including 27 January - International Holocaust Remembrance Day, 13 March - liquidation of the Krakow ghetto, 19 April - the Warsaw ghetto uprising, 14 June - National Remembrance Day for Victims of Nazi Concentration Camps, 22 July - the liquidation of the Warsaw ghetto and 2 August - Day of Remembrance of the Extermination of the Roma and Sinti and the memorial to the Treblinka death camp revolt.

**Lastly, there are annually recurring unofficial initiatives in Poland to commemorate the victims of the Holocaust and other victim groups, including Roma and Sinti. These are organized by civil society organizations and educational institutions and include commemorative and awareness-raising activities.**

**The Holocaust, the extermination and persecution of Roma and Sinti and crimes committed against other victim groups under National Socialism are taught in schools at the primary, secondary and upper secondary levels, and are also present in textbooks. The Holocaust is taught as part of the national curriculum.**<sup>233</sup>

Poland registered 880 hate crimes relating to all forms of racism, xenophobia, anti-Semitism and Islamophobia in 2017, including hate speech crimes.

However, according to the Kantor Center, it should be noted that measuring anti-Semitism should not be relied upon solely based on official sources, due to not all anti-Semitic offences being reported to the police or prosecutor's office, or simply not being made public.<sup>234</sup>

Civil society groups such as NEVER AGAIN work to compile data and directly report to the OSCE.

### **Legislative**

According to the FRA study on Poland's legal positions on hate crimes, "The Polish Criminal Code (CC) does not include any general or specific aggravating circumstance related to bias motivation.

Section 53 of the CC includes a general provision stating that when imposing the penalty the court shall take into account, among other elements, the motivation and the manner of conduct of the perpetrator, but it does not mention a bias motivation on specific grounds.

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<sup>231</sup> CFCA (2018), Warsaw bans nationalist march marking 100 years of Polish independence

<sup>232</sup> Times of Israel (2017), Warsaw residents burn effigy of Jewish woman

<sup>233</sup> OSCE (2018)

<sup>234</sup> Kantor Center

Similarly, Section 148 of the CC sets out an aggravated penalty when a homicide is committed out of motives deserving particular reprobation, but does not explicitly mention bias motivation.

The CC contains a number substantive hate crime offences: Section 118 of the CC criminalises committing homicide or causing serious injury to any person belonging to a national, ethnical, racial, political or religious group or a group with a different perspective of life with the aim of destroying in whole or in part such group. It further criminalises the creation of living conditions which threaten the biological destruction of such a group, as well as applying means aimed at preventing births within this group or forcibly removing children from persons belonging to this group;

Section 118a § 3 of the CC criminalises taking part in a mass attack or in one of repeated attacks against a group of people in order to implement or support the policy of a state or an organisation which either compels these people to change their lawful place of residence in violation of international law or severely persecutes a group of people for reasons recognised as inadmissible under international law, in particular for reasons of political, racial, ethnic, cultural, religious belief or lack thereof, or world view, thereby depriving them of their fundamental rights;

Section 119 of the CC criminalises violence or unlawful threats towards a person or group of persons on grounds of their national, ethnic, political or religious affiliation, or lack of religious beliefs;

Section 126a stipulates the offence of publicly inciting others to the commission or publicly commending the commission of acts described in Sections 118, 118a and 119 of the CC;

Section 256 criminalises promoting a fascist or other totalitarian system and the incitement to hatred on grounds of national, ethnic, race or religious affiliation, or lack of religious belief as well as producing, recording or importing, purchasing, storing or possessing, presenting, carrying or sending a print, recording or another object with such content for the purpose of dissemination;

and Section 257 sets out the offence of publicly insulting a group of the population or a particular person on the same grounds or breaching the personal inviolability of a person on these grounds.”<sup>235</sup>

### **Challenges**

In his 2016 report, Rabbi Andrew Baker of the OSCE reported that in Poland “There is growing right-wing nationalism that has been bolstered by anti-immigrant sentiment in the EU-wide debate about accepting Syrian refugees.”<sup>236</sup>

The open political and social hostility the basis for the current situation in Poland, and any work to remedy these trends must begin at the source. The Polish government has closed its communications with the official representatives of the Jewish community, and as the

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<sup>235</sup> FRA (2018)

<sup>236</sup> OSCE (2016), Poland, Report of the Personal Representative of the OSCE Chair-in-Office on Combating Anti-Semitism

President of the EJC warned in 2017, anti-Semitism, racism and xenophobia is being normalized.<sup>237</sup>

## Romania

### Realities

**The ADL in 2015 measured Romania's anti-Semitism index score at 47%, the second-highest in the EU** and with a 18-35 score that ranked higher than older generations.

Concerning the younger generation, there was a noticeable difference in Romania compared to other European nations that younger people were more sympathetic to the ideas that Jews were responsible for wars, and that Jews' behaviour caused anti-Semitism. Usually, these numbers were seen to be decreasing in younger populations, and that if younger populations were found to be receptive to anti-Semitic ideas these would be more aligned to ideas over Jewish control in the financial world, but this is not the case in Romania.<sup>238</sup>

Similar to Lithuania, 22% of surveyed Romanians would seek to deny Jews the right to citizenship in their country.<sup>239</sup>

**Roma and the LGBT are reported to be the most common targets of discrimination and hate in Romania, according to NGOs.**<sup>240</sup>

Anti-Semitism is also highly present, particularly in the form of 5 Holocaust denial (denying that it happened in Romania) and the glorification Antonescu Government which was responsible for the Holocaust in Romania or of the country's Legionnaire past (a Romanian inter-war extreme-right, fiercely anti-Semitic movement also part for a while in the Antonescu Government).

In a trial of Israel's new anti-Semitism online tracking software, **Bucharest was found to be the source of the third-most anti-Semitic social media posts in the world.**<sup>241</sup>

The Kantor Center report on anti-Semitism in 2017 summarized the present environment: "The most prominent anti-Semitic incident in 2017 was the desecration of the Jewish cemetery Giurgiului in Bucharest, where victims of the Holocaust and Jewish soldiers are buried, where dozens of graves were desecrated on the eve of Holocaust Remembrance Day on April 24.

The Jewish cemetery in Bucharest, where victims of the Holocaust and Jewish soldiers are buried, has already seen similar attacks. According to the police, the perpetrators were young. The Jewish community and others responded harshly, and there were hints that the

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<sup>237</sup> The Jerusalem Post (2017), Antisemitism in Poland Being 'Normalized', European Jewish Group Warns

<sup>238</sup> ADL (2015)

<sup>239</sup> Pew Research Study (2018), Most Poles accept Jews as fellow citizens and neighbors, but a minority do not

<sup>240</sup> eMore Country Profile (2017)

<sup>241</sup> Times of Israel (2018), Diaspora Ministry unveils system for tracking online anti-Semitism

police tried to minimize the incident by claiming that it was an act of vandalism by a small group of youngsters."<sup>242</sup>

**Anti-Semitic crimes are not wholly recorded separately under hate crime statistics in Romania, however this is currently being implemented in time for 2018 hate crime reports.**

For the time being, the General Prosecutor's Office indicated that 22 anti-Semitic incidents were registered by the Prosecutor's office and by the police in 2017, while 41 files with the anti-Semitism "attribute" were registered at courts' level in the same year.<sup>243</sup>

In 2018, Holocaust survivors and Nobel laureate Elie Wiesel's childhood home was vandalized with slurs such as "Nazi Jew lying in hell with Hitler". Romanian President Klaus Iohannis said he wondered "what secret deals" President of the Chamber of Deputies Liviu Dragnea was "making with the Jews" during his visit to Israel in May 2018. The statement was denounced and cautioned against by various community leaders as well as elected officials, however the president refrained from a public apology.<sup>244</sup>

Romania has officially designated several Holocaust Memorial Days: 27 January - International Holocaust Memorial Day, 2 August - European Day of Commemorating the Holocaust of the Roma Population, and 9 October - deportation of Jews from Bucovina.

**The Holocaust and the extermination and persecution of Roma and Sinti are studied at the secondary and upper secondary, and college and university level, and are also covered in textbooks.**<sup>245</sup>

### Legislative

**According to the OSCE, the Romanian Police has established a working group to guide implementation of a number of measures aimed at increasing the effectiveness of hate crime investigations, registration and data collection on hate crimes, and at furthering the hate crime training for officers.**

The working group comprising representatives of the Romanian Police, General Prosecutor's Office and the civil society organization ACCEPT has developed a methodology on the investigation of hate crimes, pending approval in 2018.

The Police have been implementing the project "Integrated action for combating hate crimes, particularly against Roma communities and ensuring a high-quality standard of police service", funded by the Norwegian Financial Mechanism.

The project aims to, among other things, improve structures for addressing hate crimes, train police officers, and learn from experiences of other countries in addressing hate crimes.<sup>246</sup>

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<sup>242</sup> Kantor Center

<sup>243</sup> FRA (2018)

<sup>244</sup> The Jerusalem Post (2018), Romanian President Wonders What 'Secret Deals' Dragnea Made in Israel

<sup>245</sup> OSCE (2018)

<sup>246</sup> OSCE (2018)

The Law on Religious Freedom and the General Regime of Denominations entered into force in 2007 and an advisory Council of the Churches and Religious Denominations was set up in order to prevent conflicts between the different religions. Racist motivation is now an aggravating circumstance for all criminal offences provided under the Criminal Code and the principle of the sharing of the burden of proof before the courts and the National Council for Combating Discrimination has now been introduced by law.<sup>247</sup>

Article 77 h) of the Romanian Criminal Code (CC) sets out a general aggravating circumstance for offences committed for reasons related to race, nationality, ethnicity, language, or for other reasons of the same type considered by the offender to imply the inferiority of an individual to other people.

The CC further contains a number of substantive hate crime offences: torture for a reason based on any form of discrimination (Article 282.1d of the CC), abuse in office of a public servant who, while exercising professional responsibilities, limits the exercise of a right of a person or creates for the latter a situation of inferiority on grounds of race, nationality, ethnic origin, language, religion (Article 297.2 of the CC), incitement to hatred or discrimination, using any means, against a category of individuals (Article 369 of the CC), preventing the freedom to practice religion or coercing a person to perform a religious act or an act forbidden by the religion to which he or she belongs (Article 381 of the CC), desecration of places or objects of worship (Article 382 of the CC).

Furthermore, Government Emergency Ordinance No. 31 of 13 March 2002 prohibits fascist, racist and xenophobic organisations and symbols, as well as organisations and symbols that promote the cult of personalities guilty of crimes against peace and humanity.

This ordinance sets out the following criminal offences: setting up of a fascist, racist or xenophobic organisation (Article 3); dissemination, sale or manufacturing of fascist, racist or xenophobic symbols, as well as public exhibition and possession with the intent of dissemination (Article 4); promoting the cult of personalities guilty of crimes against peace and humanity, as well as publicly promoting fascist, racist or xenophobic ideology through propaganda, by any means (Article 5); publicly disavowing or denying Holocaust or the effects thereof (Article 6).<sup>248</sup>

Regarding Roma, results have been achieved after measures taken in the fight against prejudice in health and education has brought results. Refugees now have specific rights, especially unaccompanied minors. However, the implementation of the National Roma Inclusion Strategy has been partial and unaccountable at the local level.

### **Romania has adopted the IHRA working definition of anti-Semitism.**

The Romanian Chamber of Deputies has also adopted unanimously a bill introducing criminal sanctions for anti-Semitic acts, passed in record time.<sup>249</sup>

### **Challenges**

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<sup>247</sup> ECRI (2014), Report on Romania

<sup>248</sup> FRA (2018)

<sup>249</sup> European Jewish Congress (2018), New Romanian Law on antisemitism adopted unanimously

It remains to be seen if the new methodology would improve the rate of crime reporting significantly – the single hate crime reported to the OSCE in 2017 indicates the size of the challenge at hand for the authorities.

The Human Rights Committee of the United Nations recommended in 2017 that Romania: “Should enforce the prohibition of any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence; take measures to promote tolerance and an environment inclusive of persons belonging to minorities, including with respect to their linguistic and cultural rights; and remove barriers to their exercise of religious freedom.”<sup>250</sup>

Anti-Semitic - and Holocaust deniers’ sites continued to operate through 2017, according to the Kantor Center, which reported that the judicial level does not adequately implement existing legislation against incitement and racism.<sup>251</sup>

There is no single institution mandated with the systematic collection of racism and xenophobia data, and the fragmented information available indicates a weak application by the judiciary of the criminal law provisions against racism, according to the ECRI.<sup>252</sup> In general hate crime reporting from Romania is not streamlined. Romania regularly reports hate crime data to ODIHR, however in 2017 only one hate crime was recorded with the OSCE body.<sup>253</sup>

Attempts to educate the public about racism legislation have been limited,<sup>254</sup> however there is training for certain professions around the subject.

Police have been implementing the project "Integrated action for combating hate crimes, particularly against Roma communities and ensuring a high-quality standard of police service", funded by the Norwegian Financial Mechanism.<sup>255</sup> Nevertheless, quality of life for Romania’s Roma community is encapsulated best perhaps by the fact that in 2016, 79% of Roma lived in a residence without indoor plumbing, the highest figure for any European Roma community by some margin as found by the FRA.<sup>256</sup>

Romania has also lost several cases before the European Court of Human Rights for inadequate investigations into cases involving brutality (in some cases police brutality) against the Roma or the LGBT community.<sup>257</sup>

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<sup>250</sup> United Nations Human Rights Committee, *Concluding observations on the fifth periodic report of Romania*

<sup>251</sup> Kantor Center

<sup>252</sup> ECRI (2014), Report on Romania

<sup>253</sup> OSCE (2018), <http://hatecrime.osce.org/romania>

<sup>254</sup> ECRI

<sup>255</sup> OSCE (2018)

<sup>256</sup> FRA (2018)

<sup>257</sup> eMore (2017)

## Slovakia

### Realities

#### **Slovakia regularly reports police data and data on sentencing to ODIHR.**

In 2017, 34 hate crimes (including speech) were reported by the authorities, including 11 incidents of racism and xenophobia, 19 against Roma and Sinti, three counts of Islamophobia and one anti-Semitic incident.

This total is a significant increase compared to previous years, 2016 saw ten total incidents,<sup>258</sup> **however this reflects the reality that hate crime reporting is not prevalent in the country.**

#### **According to the Slovak National Centre for Human Rights, 10% of surveyed students between 11-19 years old held negative perceptions of Jews, with negative perceptions of Muslims indexed at over 40%.<sup>259</sup>**

The ruling SMER party, almost ten years in power often expresses its determination to fight against racism, xenophobia and anti-Semitism. However, the rise of the neo-Nazi People's Party, in conjunction with other nationalist and explicitly anti-migrant parties are of significant concern.

While direct anti-Semitic remarks are rare, Marian Kotleba's People's Party openly praises the war-time regime of Tiso and challenges the idea that Tiso's regime bore responsibility for the country's crimes against Jews during the Holocaust. Tiso's popularity is not restricted to the fringes, in 2018 he was nominated by the national broadcasting authority in a vote to acclaim Slovakia's greatest person.

The party is openly racist against Roma and calls for the banning of the entry of Muslims in the country.<sup>260</sup> Entering Parliament for the first time in 2016, 23% of the first-time young voters voted for the People's Party.

Kotleba was charged with "promoting sympathy towards a movement aimed at suppressing fundamental rights and freedoms" earlier in 2018 after publicly handing cheques with the figure 1488 on, the combination of two Nazi-associated numbers 14 and 88. Proceedings are still ongoing.

In contrast to right wing radicals, moderate leftist opponents of Israel are challenging the legitimacy of the Jewish state in a disguised and more sophisticated manner, specifically regarding Israel's right to self-defence.<sup>261</sup>

Recent surveys indicate that up to 25% of Slovaks would support a dictatorship, and some 35% would support leaving the EU – these numbers seemed to grow during 2016.<sup>262</sup>

#### **21% of Roma reported in the EU-MIDIS II survey of experiencing discrimination in the workplace or in finding employment.**

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<sup>258</sup> OSCE (2018)

<sup>259</sup> SNCHR (2018), Report on the Observance of Human Rights 2017

<sup>260</sup> Kantor Center

<sup>261</sup> The three faces of antisemitism in Slovakia (2012)

<sup>262</sup> The Slovak Spectator (2016), Quarter of Slovaks would welcome dictatorship

Slovakia officially commemorates the Holocaust on 9 September. Slovakia also holds other annually recurring activities to commemorate the Jewish victims of the Holocaust, including International Holocaust Remembrance Day on 27 January, and the Commemoration of the Victims of the First Transport from Slovakia to the Auschwitz concentration Camp on 25 March. On 2 August, the Commemoration of the Roma Holocaust is marked.

**The Holocaust, the extermination and persecution of Roma and Sinti and crimes committed against other victim groups under National Socialism are studied at primary, secondary and upper secondary, and college and university levels. The topics are also covered in education textbooks.<sup>263</sup>**

### Legislative

**The Court of Justice of the European Union (CJEU) rejected Slovakia's complaint against mandatory refugee relocation quotas. The discrimination of Roma remained widespread, and the European Commission continued an infringement procedure against Slovakia for discrimination against Roma pupils in schools.**

The ECRI noted that there has been a failure to implement the Roma integration programme due to a lack of will and because the various programmes remain under the responsibility of individual ministries.<sup>264</sup>

**The public denial, doubting or approval of the Holocaust, as well as other criminal offences committed on the basis of fascist or communist ideologies that encourage the suppression of fundamental rights and freedoms or violent ideologies, are now criminal offences.**

A prosecutor in each judicial district and a special police department in each police district deal with extremism. 231 police officers specialised in minorities/Roma operate at the level of regional police departments.

However, there is no general provision that racist motivation constitutes an aggravating circumstance for all criminal offences. Citizenship and language are not included among the characteristics of potential victims of racist conduct and racial discrimination, which are punishable under the Criminal Code.

The Slovak Criminal Code (CC) provides for an aggravating circumstance leading to enhanced penalties of a large list of substantive offences when they are committed out of a "specific motivation".

One of the circumstances that qualify as specific motivation is if the crime has been committed out of hatred against a certain group of persons or an individual because of their real or perceived affiliation to any race, nation, nationality, ethnic group, or because of their actual or perceived origin, colour or religion (Section 140e of the CC).

The list of substantive offences sanctioned with enhanced penalties when committed out of a specific motivation includes, among others, murder, bodily harm, trafficking in human beings, threat, violence against a group of citizens or against an individual, deprivation of

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<sup>263</sup> OSCE (2018)

<sup>264</sup> ECRI

personal freedom, kidnapping, robbery, extortion, restricting the freedom of worship, breach of mailing secrets, rape and sexual violence and abuse, theft, abuse of power by a public official, false accusation, and false testimony and perjury.

In addition, Section 421 of the CC criminalises establishing, supporting or making propaganda for a group of persons or movement or ideology which aim at suppressing fundamental rights and freedoms or advocate racial, ethnic, national or religious hatred or hatred against another group or person, or promoting a group, movement or ideology which in the past was directed at suppressing fundamental rights and freedoms.

This provision is complemented by Section 422 of the CC and Sections 422a-c of the CC, banning public manifestations of support of these groups or movements or ideology as well as the manufacturing, dissemination and possession of extremist materials.

Section 423 of the CC sets out the criminal offence of publicly defaming any nation, its language, any racial or ethnic group, or any person or group of persons on grounds of their real or perceived affiliation to any race, nation, nationality, skin colour, ethnic group, political conviction, religion or lack thereof. Section 424 of the CC sets out the criminal offence of publicly inciting to violence or hatred against a group of persons or an individual because of their real or perceived affiliation to any race, nation, nationality, skin colour, ethnic group, sexual orientation, political conviction, family origin, religion or lack thereof.

### **Challenges**

Linked to aforementioned issues surrounding government action on Roma, the FRA has reported significant and increasing problems in the integration of Roma in the areas of education and employment.<sup>265</sup>

The Slovak National Centre for Human Rights, which is UN accredited, monitors and evaluates human rights and gathers and upon request provides information on racism, xenophobia and anti-Semitism in the Slovak Republic. However, it has yet to reform itself in line with ECRI recommendations due to its under-performance.

**The ODIHR reported that Slovakia could benefit from encouraging victims to report hate crimes and could consider increasing co-operation with civil society in that respect.**<sup>266</sup>

The Committee for the Elimination of Racial Discrimination recommended in 2013 that Slovakia: "Identify individuals or groups who incite racial hatred against minorities and foreigners, investigate and apply appropriate sanctions for hate speech by politicians, governmental officials or media professionals."<sup>267</sup>

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<sup>265</sup> FRA (2018)

<sup>266</sup> OSCE (2018)

<sup>267</sup> Committee on the Elimination of Racial Discrimination, Concluding observations on the ninth to the tenth periodic reports of Slovakia

## Spain

### Realities

In general, Spanish authorities mobilise against racism and xenophobia.

According to the 2018 ECRI monitoring report, “Hate speech is not common in the Spanish mainstream political discourse and far-right groups and parties do not have significant impact.

In 2011, the Council of Ministers adopted an anti-racism strategy and the Council for the Promotion of Equal Treatment (CERED) issued a recommendation for avoiding hate speech in election campaigns.

**The authorities recently presented plans to combat bullying and violence in schools and in 2013 a new commission was set up to keep racist content out of audio-visual media.” Spain was commended for its action on migrant integration and work with the Roma community.**

Unfortunately, combatting anti-Semitism in Spain is hindered by governmental funding which is transferred to non-governmental organizations active in political campaigns against Israel, some of which are linked to terrorist organizations, promoting anti-Semitism, incite violence, and organising the BDS movement.<sup>268</sup> Despite this, the EJC has entered into an agreement with the Spanish Ministry of Education, Culture and Sport in order to train teachers in Spain to combat anti-Semitism and other forms of intolerance in the classroom, as well as promoting Shoah education, Jewish history and a balanced study of the Middle East.<sup>269</sup>

**Spain was revealed in 2015 as having a 29% anti-Semitism index score as measured by the ADL. This figure matches the study’s 2014 figure, and shows overall that the oldest cohort of society holds the most anti-Semitic opinions.**<sup>270</sup>

An increase in the visibility of anti-Semitic elements in Spain on 2017 included neo-Nazi site Daily Stormer beginning to publish articles in Spanish, and extreme right-wing and neo-Nazi groups took part in demonstrations against Catalan independence.

Catalonian groups also broadly identify with Palestinian causes, and the left in Spain, and particularly in Catalonia, are widely open supporters of BDS. Following Valencia’s vote to boycott Israel in June 2018, the leader of Spain’s far-left, and third-largest party called Israel an “illegal country” during an interview aired by a public television broadcaster.<sup>271</sup> Direct delegitimization of the Jewish people’s right to self-determination is a common theme among Spanish and European leftist anti-Semitic ideology.

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<sup>268</sup> Kantor Center (2018)

<sup>269</sup> EJC (2018), EJC welcomes landmark agreement for the eradication of antisemitism in Spain

<sup>270</sup> ADL

<sup>271</sup> EJC (2018), Spain’s third largest city votes to boycott Israel

**In line with a general trend which sees far-left and far-right ideologies converge in shared antipathy to Jews, in 2013 the speakers of the leftist AGE party and the nationalist BNG party in the parliament of Galicia vetoed a draft resolution commemorating the victims of the Holocaust, saying they viewed Holocaust commemoration as part of Israeli propaganda.<sup>272</sup>**

Anti-Semitism from influential figures continued as well, with Ramiro Grau, former senior Spanish prosecutor, claiming it could not be ruled out that the Legal Advisor to the Spanish government, Jose Manuel Maza, was murdered in Argentina by “Israel or the Jewish community”.<sup>273</sup>

In a move towards reconciliation with the past, Spain has made moves to open up citizenship applications for the descendants of Jews who were expelled in the Inquisition. That measure has been extended for an additional year to allow more Jews to begin the process.<sup>274</sup>

The Spanish cabinet established January 27 as the nation's official Holocaust Remembrance Day in 2004. The day has been marked with presidential and ministerial speeches annually since January 2006. The King was present for the first time in 2015, delivering a strong condemnation of Nazism and anti-Semitism.<sup>275</sup>

**18% of Roma reported in the EU-MIDIS II survey of experiencing discrimination in the workplace or in finding employment.**

### **Legislative**

According to the FRA study on hate crime legislation in Spain, “Article 22.4 of the Spanish Criminal Code (CC) sets out a general aggravating circumstance applicable to any crime committed for racist or anti-Semitic motives or another kind of discrimination concerning ideology, religion or beliefs of the victim, ethnicity, race or nation of belonging.

With regard to the offence of the disclosure of personal data, Article 197.5 of the CC provides for a specific aggravating circumstance when the data disclosed concern the ideology, religion, beliefs or racial origin of a person.

The CC also includes a number of substantive offences pertaining to hate crime: threats liable to inflict fear on an ethnic, cultural or religious group (Article 170.1 of the CC); crime against moral integrity (Article 173 of the CC); torture for reasons related to any discrimination ground (Article 174.1 of the CC); severe discrimination in employment (Article 314 of the CC); discriminatory denial of public services or of professional or business services to which someone is entitled (Articles 511 and 512 of the CC); public direct or indirect incitement to hatred, hostility, discrimination or violence for racist, anti-Semitic or other reasons regarding ideology, religion or beliefs, belonging of its members to an ethnicity, race or nation, national origin (Article 510.1a); production, distribution or sale of materials to that effect (Article 510.1b); public denial, gross trivialisation or apology of crimes of genocide, crimes against humanity and war crimes (Article 510.1c); humiliation,

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<sup>272</sup> Times of Israel (2013), Spanish parties call Holocaust remembrance ‘propaganda’

<sup>273</sup> Israeli Ministry for Diaspora Affairs

<sup>274</sup> EJC (2018), Spain extends citizenship law for Sephardic Jews

<sup>275</sup> The Jerusalem Post (2015), King of Spain Attends Holocaust Day at Spanish Senate

contempt or discredit of any of the groups mentioned, or part of it, or any person because of his/her belonging to a specific group, resulting in the violation of the dignity of persons (Article 510.2a of the CC); public apology or justification of crimes committed against any of the mentioned groups, a part of them or a person because of their belonging to this group (Article 510.2b of the CC); illegal association, which includes those promoting or directly or indirectly inciting to hate, hostility, discrimination or violence against persons, groups or associations due to the cited grounds (Article 515.4 of the CC); crimes against religious feelings (Articles 522-526 of the CC).

The Law 19/2007 against Violence, Racism, Xenophobia and Intolerance in Sports includes some hate related administrative offences, such as insulting or showing banners, symbols or other signs with insulting or intimidating messages against any person on grounds of his or her racial, ethnic, geographic or social origin, religion or harassing anyone on these grounds. The data about these administrative offences are included in the general hate crime data collection by the Ministry of Interior.<sup>276</sup>

Regarding BDS, the Regional Court in Seville issued an injunction against La Roda de Andalucía's municipality, ordering it to stop any process of boycott or of joining the BDS movement,<sup>277</sup> as part of a wave of defeats for BDS in Spain across a dozen court cases. Similarly, legal proceedings will be brought against organisers of a concert who banned a Jewish artist from attending, "imposing unconstitutional restrictions on the freedom to hold personal beliefs and opinions." However, more than 65 municipalities and public authorities have joined the boycott campaign to date.

### **Challenges**

**In its fifth report on Spain, ECRI recommended that Spanish law enforcement authorities further improve the system for recording and monitoring hate crime.**

**No data on hate crimes or anti-Semitism in Spain was available for 2017 at the time of this report's compilation, however, 17 incidents were recorded by the Observatory of Anti-Semitism in Spain.<sup>278</sup>**

**Overall, 1,272 hate crimes were reported in 2016 by the Spanish authorities to the ODIHR, however this figure includes racism and xenophobia, and there is no disaggregation in order to study racism and xenophobia, along with anti-Semitism.<sup>279</sup>**

**The Movement Against Intolerance (Movimiento contra la Intolerancia), an organization responsible for the records of all incidents, stated that in fact, only 10% of the total number of actual attacks are registered.**

**The organization estimates that total hate-crimes could be between 4,000 and 6,000.<sup>280</sup> Spain's collection of hate crime statistics was similarly criticized by the ECRI report in 2018.<sup>281</sup>**

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<sup>276</sup> FRA (2018)

<sup>277</sup> Israeli Ministry for Diaspora Affairs (2018)

<sup>278</sup> FRA (2018)7

<sup>279</sup> OSCE (2018)

<sup>280</sup> Raxen Report – Special 2017

<sup>281</sup> ECRI (2018)

Spain's Roma community are at an increased risk of poverty compared to recent years, and many have substandard housing conditions, according to the 2018 FRA report.<sup>282</sup>

**Despite other commendations of the authority's actions regarding the Roma community, there is still widespread discrimination found against Roma and Muslims.**<sup>283</sup>

## United Kingdom

### Realities

The United Kingdom is undergoing two significant political challenges which are directly linked to the fight against racism, xenophobia and anti-Semitism.

The Brexit campaign gave way to a storm of racial and xenophobic abuse, often targeting Muslims and Eastern Europeans.

The second challenge is the Labour party's existential struggle with itself over widespread anti-Semitism in the grassroots and upper echelons, with leader Jeremy Corbyn branded an anti-Semite by one of his own MPs, as well as Jewish community leaders.

Corbyn has had a long career on the fringes of British politics, and his past actions and associations are slowly being brought to light – many of which consist of associating with, praising, funding, and defending anti-Semites, including Holocaust deniers, in addition to holding stridently anti-Zionist double standards himself which themselves cross the line into anti-Semitism.

Corbyn's supporters are in the midst of attempting to rid the party of opponents, and have been accused of making the party a hostile environment for Jews who do not completely reject Zionism and reflexively defend Labour members accused of anti-Semitism.

Even with thousands of cases of Labour anti-Semitism compiled by groups such as Campaign Against anti-Semitism, supporters online and in the media will accuse Jewish groups of politicizing anti-Semitism in order to attack Corbyn, and that anti-Semitism is either a smear, a fringe problem, or "mood music".

**Even after the party ratified the IHRA working definition of anti-Semitism in 2018, there is an ongoing pattern of readmitting anti-Semites to the party, promoting anti-Semitism deniers to influential positions, and refusing to engage with the Jewish community in preference to promoting the voices of fringe far-left Jewish groups which only represent a small fragment of the UK's Jewish community.**

**In 2017, 76,804 hate crimes were recorded under the categories of racism, xenophobia, anti-Semitism and Islamophobia in England and Wales, with Scottish and Northern Irish data not undergoing the same disaggregation procedures currently.**

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<sup>282</sup> FRA (2018), Fundamental Rights Report, Chapter 5: Roma Integration

<sup>283</sup> ECRI (2018)

The Police and several civil society organizations involved in monitoring hate incidents (including Community Security Trust (CST) and Tell MAMA) are on a regular basis exchanging data about the recorded incidents.

This data sharing is governed by the Information Sharing Agreements signed between the Police and each of the civil society organizations. In this way, England and Wales, and the UK as a whole, are in good standing with OSCE regulations and standards.<sup>284</sup>

According to the CST, 1,382 anti-Semitic crimes were recorded in the UK entire in 2017, this constitutes the second year of the highest number of incidents recorded between 2007 and 2017, and contributes to the overall increasing trend in the country.

**The CST also publishes data on the category of recorded incidents.**

In 2017, the most common anti-Semitic incidents were directed at random Jewish people in public (356), out of which at least 283 were visibly Jewish individuals, followed by incidents targeting Jewish organisations, companies and events (141), and homes, including people and vehicles at their homes (89).

The available data further show a number of incidents targeting synagogues (76).

**In addition, 88 anti-Semitic incidents in 2017 took place at schools or involved Jewish schoolchildren or teaching staff, 31 took place at Jewish schools, 17 at non-faith schools and 40 affected Jewish schoolchildren on their journeys to and from school.**

21 of these were in the category of assault, five involved damage and desecration of Jewish property, five were in the category of threats, 56 in the category of abusive behaviour and one was in the category of literature. Assaults were up by over 40 on 2016 figures.<sup>285</sup>

In detailing the described perpetrators of anti-Semitism, in the 30% of cases in which a background profile could be made, over 50% of incidents were perpetrated by a White-North European, 84% were male. Arab or North Africans constituted only 7% of recorded offenses with a background profile.<sup>286</sup>

**The CST recorded 247 anti-Semitic incidents that involved the use of internet-based social media in 2017 (18 % of the 1,382 incidents), a 17 % decrease from 289 in 2016 (21 % of the 1,309 incidents).**

According to CST, despite these numbers being only indicative, the social media incidents' decline may be a positive consequence of preventive measures taken by social media companies or of CST's efforts to establish the location of the offenders when compiling the statistics.<sup>287</sup>

Nevertheless, "it is likely that there is significant under-reporting of anti-Semitic incidents to both CST and the Police, and that the number of anti-Semitic incidents that took place is significantly higher than the number recorded in this report.

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<sup>284</sup> OSCE (2018)

<sup>285</sup> FRA (2018), Antisemitism - Overview of data available in the European Union 2007–2017

<sup>286</sup> FRA

<sup>287</sup> FRA

**A 2013 survey of Jewish experiences and perceptions of anti-Semitism in the EU found that 72 per cent of British Jews who had experienced anti-Semitic harassment over the previous five years had not reported it to the Police or to any other organisation;**

**57 per cent of British Jews who had experienced anti-Semitic violence or the threat of violence had not reported it;**

**and 46 per cent of British Jews who had suffered anti-Semitic vandalism to their home or car had not reported it (despite this, UK reporting rates were the highest of the eight countries polled).<sup>288</sup>**

**Anti-Semitism attitudes in the UK were measured in 2015 by the ADL, which found that 12% of the population self-aligned with a majority of anti-Semitic statements.**

While the relative percentage is low compared to most other European countries, there is a significant difference when comparing the attitudes of the Muslim population, which was polled at 56% having anti-Semitic views.<sup>289</sup>

The United Kingdom commemorates Holocaust Memorial Day on January 27<sup>th</sup> with official participation of government and opposition leaders as well as civil society groups.

### **Legislative**

**The UK has ratified the IHRA definition of anti-Semitism, and is described by the 2016 ECRI monitoring report to have “generally strong legislation against racism and racial discrimination.... A new policy 2020 Vision has been developed to improve opportunity for people from ‘Black and minority ethnic’ communities.”**

According to the FRA review of the United Kingdom’s legislative standards, “The national hate crime laws consist of substantive offences and general penalty-enhancement provisions.

Section 145 of the Criminal Justice Act imposes a duty upon courts to increase the sentence for any offence committed that either involves the demonstration of hostility based on the victim’s membership (or presumed membership) of a group defined by reference to race, colour, nationality (including citizenship), ethnic or national origin, religious belief or lack thereof, or is wholly or partly motivated by hostility towards the victim on these grounds.

For cases where the hostility is directed towards a characteristic not covered by Section 145, the courts may consider the targeted nature of the crime when calculating the seriousness of the offence under Section 143 of the Criminal Justice Act 2003. The Sentencing Guidelines Council specifically includes the motivation by hostility towards a minority group, or a member or members of it among the ‘factors indicating higher culpability’ when calculating the seriousness of an offence.

Sections 29-32 of the Crime and Disorder Act identify a number of offences which, if motivated by hostility or where the offender demonstrates hostility, can be treated as racially or religiously aggravated and lead to enhanced penalties: assaults (Section 29), criminal damage (Section 30), public order offences (Section 31) and harassment

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<sup>288</sup> Kantor Center (2018)

<sup>289</sup> ADL

(Section 32). In this sense, the term ‘racially aggravated’ includes race, colour, nationality (including citizenship) and ethnic or national origin characteristics, while the term “religiously aggravated” refers to both religious belief and lack thereof.

Parts III and 3A of the Public Order Act make it a criminal offence to stir up hatred on the grounds of colour, race, nationality (including citizenship), ethnic or national origins, religious beliefs or lack thereof or sexual orientation.

Section 3 of the Football Offences Act makes it an offence to engage or take part in chanting of an indecent or racist nature at a designated football match. According to this act, the term “of a racist nature” means consisting of, or including, matter which is threatening, abusive or insulting to a person by reason of their colour, race, nationality (including citizenship), ethnic or national origins.”

### **Challenges**

**According to the UNESCO study on Holocaust education, Scotland is one of very few EU countries without the top standard (direct reference) in their education syllabus, and in Northern Ireland the Holocaust is only directly studied in History A-Level exams for 17-18-year olds,<sup>290</sup> a subject which a minority of students take at that level. Contrastingly, English and Welsh syllabi contain robust Holocaust education, providing a potential model for revisions in Scotland and Northern Ireland.**

In Northern Ireland, there is still no equality act covering all equality grounds, and in the UK in general the specific incitement to hatred provisions are almost never applied. The significant difference between hate crime recorded by the police and offences referred for prosecution indicate that a large amount of hate crime goes unpunished, and there is no data available on the application of enhanced sentencing and the racially-motivated aspects of cases are often filtered out or dropped through the process of accepting guilty pleas.<sup>291</sup>

**ECRI also found that “there continues to be considerable intolerant political discourse focusing on immigration and contributing to an increase in xenophobic sentiments. Muslims are portrayed in a negative light by certain politicians and as a result of some policies. Their alleged lack of integration and opposition to ‘fundamental British values’ is a common theme adding to a climate of mistrust and fear of Muslims.”<sup>292</sup>**

Anti-Semitism is a significant problem in the Labour party, and despite some moves to reconcile, the current status is one where progress can only begin when sincere accountability is taken to come to terms with the anti-Semitic rhetoric and ideological positions taken by Jeremy Corbyn.

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<sup>290</sup> UNESCO (2015), The International Status of Education About the Holocaust

<sup>291</sup> ECRI (2016)

<sup>292</sup> ECRI