

Combating Hate Crimes and Bias-Motivated Incidents



The OSCE Mission to Bosnia and Herzegovina (Mission) monitors and reports on hate crimes and bias-motivated incidents, advocates for the effective application of legal provisions on hate crimes, raises awareness amongst institutions and the public, and builds the capacity of domestic institutions to prevent and process such cases.

What is a hate crime?

A hate crime is a crime that is motivated by intolerance towards a specific group.

To qualify as a hate crime, a criminal act must meet two criteria:

1. the act itself must be a crime under the criminal code, and

2. the crime must have been committed with a bias motivation.

Bias motivation exists when the perpetrator chose the target of the crime on the basis of real or perceived protected characteristics. A protected characteristic is a fundamental characteristic that is shared by a group, such as race, religion, ethnicity, language or sexual orientation. A hate crime does not require that the perpetrator feels hate; rather, it only requires that the crime was committed out of a bias motivation. While hate crimes commonly take the form of property damage, assault or murder, if both of the aforementioned criteria are met, any crime can be considered a hate crime.

By contrast, a bias-motivated incident is an act of hostility

motivated by bias that does not necessarily reach the threshold of a criminal offence, or is an act the criminal nature of which is yet to be determined.

$$\begin{array}{c} \text{crime + bias motivation} \\ = \\ \text{HATE CRIME} \end{array}$$

Why is it important to respond to hate crimes?

Hate crimes send powerful messages of intolerance to both the targeted victim and the wider group sharing the protected characteristic to which they belong. This may further trigger a sense of insecurity and distrust within the community. Individual hate crimes require special and expedient attention because, even if seemingly minor in nature, they carry the seeds of potential conflict,

and they can escalate and give rise to increased tensions.

When a suspected hate crime occurs, effective responses by local authorities reassure communities that appropriate action is being taken and that the impact of the incident is understood. In particular, the effective processing of hate crimes by the justice sector reinforces this message that such crimes will not be tolerated.

Hate crimes in Bosnia and Herzegovina

Hate crimes in Bosnia and Herzegovina (BiH) often target:

- The three largest ethnic groups in BiH when they represent a demographic minority, such as in returnee communities, which are often isolated and vulnerable. Hate crimes against these communities, against both people and their property, communicate a sense of intolerance that creates fear and tension.
- Religious leaders and religious and sacred objects, such as churches, mosques and graveyards.
- Members of sexual minorities. Members of this group are extremely vulnerable to hate crimes, and these attacks frequently occur in public places.
- Roma and other ethnic minorities.

While every society must address hate crimes, they are even more problematic in societies recovering from violent conflict. In light of this, the Mission works closely with the police, judiciary, local government, civil society organizations and other international organizations in

BiH to ensure the prevention of and effective judicial responses to hate crimes as well as appropriate and proportional reactions, including public condemnation.

Legislative framework

In 2010, important amendments to provisions of the respective criminal codes of Republika Srpska (RS) and Brčko District BiH related to hate crimes were adopted. In 2013 and 2017, the RS further improved the relevant provisions of its criminal code, while amendments to the Criminal Code of the Federation of BiH were adopted in 2016. These amendments strengthened the legal basis for law enforcement agencies and the judiciary to investigate and process such crimes by specifically recognizing bias as the motivation for the commission of the crime. This includes providing the definition of a hate crime and introducing several aggravated forms of certain criminal acts, such as murder, rape and causing grievous bodily injury, when committed with a bias motivation. Finally, per these amendments, bias motivation should be taken into account as an aggravating circumstance in sentencing decisions for any crime for which the aggravated form was not already provided.

Responding to hate crimes effectively requires a commitment by law enforcement and the judiciary and the appropriate legal framework. The Mission has, in co-operation with the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the National Point of Contact on Combating Hate Crimes within the BiH Ministry of Security, supported the process of strengthening legislation and continues to assist authorities in its implementation.

The role of the Mission

The Mission assists domestic authorities and civil society in combating bias-motivated incidents and hate crimes in a number of ways, including:

- Monitoring and reporting on bias-motivated incidents and hate crimes across BiH, as well as on the responses by local authorities and civil society to such acts. For instance, the Mission's monthly Hate Monitor helps to fill the gap left by a lack of official data collection or analysis.
- Advocating for legal reform, including by facilitating discussions in the legal community, to strengthen provisions on hate crimes and promote their effective implementation.
- Building the institutional capacities of law enforcement agencies and the judiciary. The Mission has been regularly organizing capacity-building activities for law enforcement, prosecutors and judges since 2014.
- Raising the public and municipal authorities' awareness about hate crimes and appropriate responses to them. Local events and activities conducted by the Mission provide forums for discussion within communities.
- Advocating for the establishment of an official system of data collection on bias-motivated incidents and hate crimes in BiH to fill the current information gap. This system would inform policy decisions and official actions to tackle bias-motivated incidents and hate crimes in BiH.

• Promoting the engagement of civil society in tackling hate crimes.

• Working to improve understanding of both the scope and drivers of the underreporting bias-motivated incidents and hate crimes.

Relevant Mission publications

- [Understanding Hate Crimes: A Handbook for Bosnia and Herzegovina](#)
- [Hate Monitor](#)
- [Tackling Hate Crimes Report](#)
- [Hate Crimes and Bias-Motivated Incidents in BiH, 2015 monitoring findings](#)
- [Hate Crimes Legal Commentary](#)
- [Report Hate Crimes Leaflet](#)

For more information, scan the QR code.

