

OSCE HIGH-LEVEL CONFERENCE ON TOLERANCE AND NON-DISCRIMINATION
Astana, 29 – 30 June 2010

Distinguished guests

Ladies and Gentlemen

My name is Beth Fernandez from ILGA-Europe and I make this intervention on behalf of :

ILGA-Europe, Labrys, Amulet and COC Netherlands,

ILGA-Europe
High-level Conference on Tolerance and non-Discrimination
Astana 29-30 June 2010*

Session 4: The role of legislation, law enforcement, data collection, and civil society in combating and preventing intolerance and discrimination, including hate crimes

On the need to undertake further legislative and non-legislative action to combat intolerance and discrimination

At the December 2009 Ministerial Council, the 56 OSCE participating States adopted the groundbreaking Decision N°9/09 on combating hate crime. They agreed on an inclusive definition of its scope: *“acknowledging that hate crimes are criminal offences committed with a bias motive”*.

In 2009 too, the ODIHR published a guide: *“Hate Crime Laws: A Practical Guide”*. In this document, it is written that *“a legislature must make an independent judgement about what should be included in a hate crime law”*, and that *“contemporary social problems; and the incidence of particular kinds of crime”* are among the factors to be considered for inclusion.

The incidence of hatred against the LGBT community is a huge social problem, as acknowledged by the ODIHR’s annual report. ILGA-Europe and its partners believe:

- that the OSCE and its participating States should take a new step by explicitly addressing all manifestations of intolerance on the ground of *aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism, as well as discrimination based, inter alia, on race, color, sex, language, religion or belief, political or other opinion, national or social origin, property, birth or other status, including sexual orientation and gender identity.*
- that doing so is a way to better promote the *non hierarchical* approach adopted by Ministerial Decision N°9/09 as regards combating discrimination and intolerance.

ILGA-Europe welcomes the fact that some delegations, including the Presidency of the European Union, insisted that “*sexual orientation and gender identity*” should be mentioned as such.

To address discrimination and intolerance as the roots of hate violence, ILGA-Europe calls on the participating States to:

- adopt tailored and comprehensive legislation against discrimination and bias violence, providing effective penalties. This also includes verbal attacks and public incitement to violence or hatred;
- undertake appropriate training efforts to increase the capacities of law enforcement officers to correctly implement hate crime and anti-discrimination legislation;
- promote cooperation and partnership between public authorities and the civil society, building on the latter’s knowledge and expertise in the field of support to victims and prevention.
- make sure that crimes and intolerance are publicly condemned by the relevant authorities and by political leaders, regardless of the existence of specific legal provisions against homophobia and transphobia.

ILGA-Europe believes that combating intolerance requires a firm political will, and calls on all participating States to fully implement Ministerial Decision N° 9/09 and the [Yogyakarta Principles on the application of International Human Rights Law in relation to Sexual Orientation and Gender Identity](#).