

**Statement by Human Rights First
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OSCE governments are failing to keep pace with a wave of violent hate crime that continues to rise across the region. Racism, xenophobia, antisemitism, anti-Muslim and anti-Roma hatred, religious intolerance, homophobia: the list of biases that fuel these crimes is a long one. It is a problem that is shared across the entire OSCE region.

Last week, Human Rights First released its *2008 Hate Crime Survey* in which we reported that violent hate crime is occurring at historically high levels in many OSCE countries. Indeed, the violence increased in 2007 in many areas for several types of hate crime. Among the findings of our Survey:

- There were moderate to high rises in the overall recorded numbers of violent hate crimes motivated by racism and xenophobia in 2006 and 2007 in Finland, Ireland, the Slovak Republic, Sweden, the United Kingdom, and the United States. In the absence of official data, information from nongovernmental monitors show rising levels of racist violence in Greece, Italy, the Russian Federation, Switzerland, and Ukraine. Individuals of African origin and Roma were particularly targeted in acts of racist and xenophobic violence in 2007 and in the first half of 2008.
- Antisemitic attacks have become increasingly violent in many places. In 2007, overall levels of violent antisemitic attacks against persons increased in Canada, Germany, the Russian Federation, Ukraine, and the United Kingdom according to official statistics and reports of nongovernmental monitors.
- Violence based on sexual orientation and gender identity bias is a significant portion of violent hate crimes overall and this represents one of the core challenges to the overall hate crime problem. Available data indicates that these crimes are characterized by levels of physical violence that in some cases exceed those present in other hate crimes.
- Although there is ample evidence of violence targeting Muslims and those perceived to be Muslims across Europe and North America, only five governments—Austria, Canada, Sweden, the United Kingdom, and the United States—publicly report on violent incidents motivated by this form of bias.

This is certainly only the tip of the iceberg as victim surveys and other data suggest that only a small portion of violent hate incidents are even reported to the police.

Despite the rising toll of violence, many governments have had a weak response to violent hate crime. Most fail to systematically monitor and collect data. Many have not adopted laws that provide enhanced penalties for bias-motivated crimes; even among those that do, only a few have laws that cover bias based on sexual orientation and disability. Victims are forced to depend on the work of chronically underfunded and overworked civil society organizations to try to make up for the weaknesses of the government's response.

OSCE participating states have committed to combat violent hate crimes and fundamental to this is the commitment to monitor and publicly report on the incidence of hate crimes and the response of the police and the courts. However, barely more than a dozen countries are doing this adequately. In some countries where no official monitoring is conducted, there is mounting evidence that hate crimes are occurring, in some cases at frightening rates. We call on all governments to improve monitoring, data collection, and public reporting of all forms of bias-motivated violence. For example, Canada, Sweden, the United Kingdom, and the United States are among the only countries to specifically monitor crimes motivated by antisemitism, homophobia, and anti-Muslim bias.

Among the other key recommendations in our Ten-Point Plan (see below) for all OSCE governments to strengthen their response to violent hate crime are the following:

- condemn attacks when they occur and make clear that there is zero tolerance for violent hate crimes;
- instruct and adequately train police and prosecutors to investigate and prosecute cases, working in partnership with victims, their communities and civil society groups, and;
- adopt and implement criminal laws to cover all forms of bias-motivated violence.

The OSCE as an institution has an important role to play in each of these areas. We recommend that participating states do the following:

1. Support the reappointment of the three personal representatives on combating intolerance by the Greek Chairmanship in 2009.
2. Undertake immediate preparations for a high-level conference on combating hate crimes in 2009 in order to generate political support for the implementation of tolerance and nondiscrimination commitments as well as to reinforce the activities of the personal representatives on tolerance and the ODIHR. Action must be taken immediately to identify a host country, develop an agenda and proposed outcomes, and take steps to ensure high-level participation, with the goal of developing a common program of action to respond to hate crime while recognizing the unique factors that characterize different types of bias motivation.
3. Share their expertise in monitoring hate crime and support the ODIHR in efforts to help states improve monitoring as a priority concern.
4. Support the ODIHR's civil society training program and encourage the ODIHR to convene a meeting of the National Points of Contact on Combating Hate Crimes on the

building of trust and cooperation between law enforcement agencies and victims, their communities and civil society groups.

5. Ensure that the Law Enforcement Officer Program on Combating Hate Crime (LEOP) has the support it needs and that participating states are taking part in this program.
6. Reinforce their commitment to guarantee to all persons equal and effective protection against discrimination on any ground by unambiguously stating their intention to combat all hate crimes, including those motivated by bias based on race, religion, ethnicity, national origin, sexual orientation, gender, gender identity, disability, or other similar attributes.

In conclusion, let me reiterate that violent hate crime stalks the lives of millions across the OSCE region. It can ruin lives, or end them. It can terrorize whole communities, driving away vulnerable minorities or forcing them to stay out of sight. Violent hate crime, especially when the official response to it is weak or nonexistent, also attacks the society at large, undermining the very notions of equality and the equal protection of the law. Governments must ensure that impunity for bias-motivated violence – or complacency in the face of it – has no place in today's OSCE.

Ten-Point Plan for Combating Hate Crimes

- 1. Acknowledge and condemn violent hate crimes whenever they occur.** Senior government leaders should send immediate, strong, public, and consistent messages that violent crimes which appear to be motivated by prejudice and intolerance will be investigated thoroughly and prosecuted to the full extent of the law.
- 2. Enact laws that expressly address hate crimes.** Recognizing the particular harm caused by violent hate crimes, governments should enact laws that establish specific offenses or provide enhanced penalties for violent crimes committed because of the victim's race, religion, ethnicity, sexual orientation, gender, gender identity, mental and physical disabilities, or other similar status.
- 3. Strengthen enforcement and prosecute offenders.** Governments should ensure that those responsible for hate crimes are held accountable under the law, that the enforcement of hate crime laws is a priority for the criminal justice system, and that the record of their enforcement is well documented and publicized.
- 4. Provide adequate instructions and resources to law enforcement bodies.** Governments should ensure that police and investigators—as the first responders in cases of violent crime—are specifically instructed and have the necessary procedures, resources and training to identify, investigate and register bias motives before the courts, and that prosecutors have been trained to bring evidence of bias motivations and apply the legal measures required to prosecute hate crimes.
- 5. Undertake parliamentary, interagency or other special inquiries into the problem of hate crimes.** Such public, official inquiries should encourage public debate, investigate ways to better respond to hate crimes, and seek creative ways to address the roots of intolerance and discrimination through education and other means.
- 6. Monitor and report on hate crimes.** Governments should maintain official systems of monitoring and public reporting to provide accurate data for informed policy decisions to combat violent hate crimes. Such systems should include anonymous and disaggregated information on bias motivations and/or victim groups, and should monitor incidents and offenses, as well as prosecutions. Governments should consider establishing third party complaint procedures to encourage greater reporting of hate crimes and conducting periodic hate crime victimization surveys to monitor underreporting by victims and underrecording by police.
- 7. Create and strengthen antidiscrimination bodies.** Official antidiscrimination and human rights bodies should have the authority to address hate crimes through monitoring, reporting, and assistance to victims.
- 8. Reach out to community groups.** Governments should conduct outreach and education efforts to communities and civil society groups to reduce fear and assist victims, advance police-community relations, encourage improved reporting of hate crimes to the police and improve the quality of data collection by law enforcement bodies.
- 9. Speak out against official intolerance and bigotry.** Freedom of speech allows considerable latitude for offensive and hateful speech, but public figures should be held to a higher standard. Members of parliament and local government leaders should be held politically accountable for bigoted words that encourage discrimination and violence and create a climate of fear for minorities.
- 10. Encourage international cooperation on hate crimes.** Governments should support and strengthen the mandates of intergovernmental organizations that are addressing discrimination—like the Organization for Security and Cooperation in Europe, the European Commission against Racism and Intolerance, and the Fundamental Rights Agency—including by encouraging such organizations to raise the capacity of and train police, prosecutors, and judges, as well as other official bodies and civil society groups to combat violent hate crimes. Governments should also provide a detailed accounting on the incidence and nature of hate crimes to these bodies in accordance with relevant commitments.

Excerpts from Human Rights First's *2008 Hate Crime Survey*

Systems of Monitoring and Reporting

Within the European Union, the Fundamental Rights Agency (FRA), the E.U.'s antiracism and human rights body, has determined that only 11 of the 27 member states have criminal justice data collection systems that can be considered "good" or "comprehensive" in their coverage of hate crimes. Outside of the E.U., only Canada and the United States have well-developed reporting systems. Thus, only 13 of the 56 participating states of the OSCE are fulfilling their basic commitments to monitor hate crimes: **Austria, Canada, the Czech Republic, Denmark, Germany, Finland, France, Ireland, Poland, Slovakia, Sweden, the United Kingdom, and the United States.**

Over 40 states collect and publish either limited or no information specifically on the incidence of violent hate crimes. Those states include: **Albania, Andorra, Armenia, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Estonia, Georgia, Greece, Holy See, Hungary, Iceland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Moldova, Monaco, Montenegro, the Netherlands, Norway, Portugal, Romania, the Russian Federation, San Marino, Serbia, Slovenia, Spain, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, and Uzbekistan.** Several countries that publish limited information do so more frequently on nonviolent violations of hate speech laws than on violent hate crimes.

Only seven countries collect data on antisemitic violence in a way that allows for a trend analysis over time. Those countries are: **Austria, Canada, France, Germany, Sweden, the United Kingdom, and the United States.**

Only six countries track and provide official statistics on crimes motivated by sexual orientation bias. **Canada, Sweden, the United Kingdom, and the United States** are the countries where such monitoring is most developed. The **Netherlands** and **Norway** have also recently undertaken to monitor homophobic hate crimes.

Only five countries monitor and report on anti-Muslim crimes: **Austria, Canada, Sweden, the United Kingdom, and the United States.**

The Framework of Criminal Law

A growing number of the 56 countries in the OSCE are adopting criminal laws to expressly address violent hate crimes, largely in the form of penalty enhancement provisions. At present, there are over 30 countries in which legislation treats at least some bias-motivated violent crime as a separate crime or in which one or more forms of bias is regarded as an aggravating circumstance that can result in enhanced penalties.

However, 23 OSCE countries still have no express provisions defining bias as an aggravating circumstance in the commission of a range of violent crimes against persons. They are: **Albania, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Germany, Greece, Holy See, Hungary, Iceland, Ireland, Luxembourg, Lithuania, Macedonia, Monaco, Montenegro, the Netherlands, Poland, San Marino, Serbia, Slovenia, Switzerland, and Turkey.**

Of the 39 countries where legislation addresses bias-motivated violence as a separate crime or as an aggravating circumstance, those provisions all cover bias founded on race, ethnicity, and/or national origin, while 32 also cover religious bias. However, hate crime legislation extends to bias motivated by animus based on sexual orientation in only twelve countries (**Andorra, Belgium, Canada, Croatia, Denmark, France, Portugal, Romania, Spain, Sweden, the United Kingdom, and the United States**) and disability in only seven (**Andorra, Belgium, Canada, Romania, Spain, the United Kingdom, and the United States**).