

Remarks of Rabbi Andrew Baker
Personal Representative of the OSCE Chair-in-Office on Combating Anti-Semitism
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In 2004 the Lithuanian Publisher Vitas Tomkus ran a series of articles in his newspaper, *Respublika*, entitled, “Who Rules the World.” Accompanied by Nazi-like cartoons of hooked-nosed Jews, the text was largely an updated version of the notorious “Protocols.” An international outcry immediately followed. Like some other European countries, Lithuanian law does provide for the prosecution of those who incite racial or religious hatred, and the public prosecutor opened an investigation. Nearly a year passed before the case came to trial. While Lithuanian Government leaders privately expressed their disgust with the publication, they said very little in public. This was, after all, to be handled by the courts. If Mr. Tomkus was chastened by the prospect of a court rebuke he did not show it. Perhaps he knew there was little to worry about. He was not required to appear in court. And even though he was eventually found guilty, the fine of about 800 Euro was of little consequence to this multi-millionaire.

These days anti-Semitism is frequently spread through public discourse—in newspapers, on the internet, at public demonstrations. Countries may have legislation that allow for the prosecution and punishment of those who foment anti-Semitism through these media, but these laws are rarely employed, and convictions still more rarely achieved. Worse still, the presence of these laws often allows political and civic leaders to keep silent; after all, they say, the matter is being handled in the courts.

Spain also has laws that seek to control incitement of racial or religious hatred. Of special importance to its small Jewish community is legislation that criminalizes the denial of the Holocaust. But in the last twenty years only two cases made their way through the courts and ultimately to conviction, a process which took over seven years. Recently this law was amended so now Holocaust denial per se is not forbidden unless it can be demonstrated that it is being used with the intent to foment religious hatred. This together with the long legal delays is likely to deter most individuals from even filing suit.

In 1979, the Greek Government adopted its own anti-racism legislation, but it has been rarely used. For the first time last year an appeals court upheld the conviction of a right wing newspaper, the only successful conviction of fifty cases that were filed by the Greek Helsinki Monitor. Unfortunately, earlier this year a lower court conviction of the writer Kostas Plevris, who declared the Holocaust to be a “profit-making myth” invented by the Jews, was overturned on appeal. Despite the law’s existence, many judges are reluctant to base their rulings on it.

Three years ago the Jewish Community in Latvia reached an agreement with the Prime Minister to resolve Holocaust-era property claims, but opposition to the legislation—much of it anti-Semitic in nature—spread rapidly through the Internet. Despite the agreement, Members of Parliament were clearly unnerved by this populist reaction and

the bill was defeated. Now whenever the subject of Jewish property restitution is raised in public discussion, there will be an increase in anti-Semitic discourse.

Earlier this fall a Swedish reporter writing from Gaza, claimed that Israeli soldiers had killed Palestinians and were “harvesting organs” from their bodies. The story is widely viewed as a modern day retelling of the anti-Semitic blood libel charges of medieval times. But Swedish officials say the country’s press freedom laws prohibit them from voicing any public criticism. Meanwhile, the one Government agency with the power to investigate and bring charges inexplicably determined that this did not fall within their operative definition of racial hatred.

Most countries of the OSCE region have witnessed physical attacks on Jewish targets in recent years, and many recorded an increase in the first months of 2009 during the Gaza conflict. As we heard at our OSCE Roundtable in March, events in the Middle East frequently trigger these attacks. In 2004, the OSCE recognized this in adopting the “Berlin Declaration” which reads, in part, “[We] declare unambiguously that international developments or political issues, including those in Israel or elsewhere in the Middle East, never justify anti-Semitism.” But sadly, while they may never justify anti-Semitism, they frequently contribute to it. And that negative, hostile, virulently anti-Israel rhetoric—rhetoric that is far beyond any normal criticism—is culpable.

Anti-Semitism in public discourse is pernicious and offensive in its own right, but left unchecked and absent strong rebukes from political leaders it endangers the security of Jewish communities. The Working Definition of the EU Fundamental Rights Agency provides clear explanations and guidelines for identifying this anti-Semitism. Among the examples it offers with particular relevance to what we see today:

- Holding Jews collectively responsible for actions of the state of Israel
- Using the symbols and images associated with classic anti-Semitism (e.g., claims of...blood libel) to characterize Israel or Israelis
- Accusing the Jews...of inventing or exaggerating the Holocaust

Among the recommendations from civil society in the Roundtable report is a call to make better use of this working definition. Certainly it should be employed by police, prosecutors and judges in those countries which have legislation governing hate speech. And in countries where legal remedies do not exist, it must influence political and civic leaders to speak out strongly, quickly and clearly in response.

However, because such anti-Semitic discourse is frequently not punishable by law or is seldom prosecuted we must find new ways to address the problem. In the first instance there should be a comprehensive monitoring of these incidents, which despite Government commitments, is frequently lacking. In the interim, the OSCE and ODIHR should provide practical support to NGOs and national Jewish communities to establish their own monitoring centers. By way of example, Jewish leaders from six Balkan nations are ready to carry out this work in a uniform and unified way if they receive the necessary guidance.

We must address the general problem of anti-Semitism in the media, without undermining the free press. One hopeful example may come from Spain where opinion surveys show highly negative views about Jews and Judaism even though Jews are less likely to be targeted through the media. The Office of Human Rights in the Ministry of Foreign Affairs has proposed convening a conference for the national press that would focus on the depiction of minorities in the media and its impact on society. They are open to organizing this with the advice and participation of ODIHR and the OSCE Representative on Freedom of the Media. This may be one way of tackling a difficult but critical problem.

In light of these issues and recognizing the value in devoting a concentrated period to examining the problem of anti-Semitism throughout the OSCE region with the benefit of experts in the field of law enforcement and legislation and practitioners in civil society, I would like to recommend to the OSCE—and in particular to the present and incoming Chairs-in-Office—that a decision be taken in the coming weeks to convene a supplemental human dimension meeting on anti-Semitism during the first quarter of 2010. I am sure that ODIHR is ready and willing to provide the necessary organizational support, and I know that our partners in the NGO community are ready to help as well.