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To: Nicolas Sarkozy,
the President of the French Republic and
the President of the Council of the European Union

CC: Dr. Javier Solana de Madariaga,
Secretary General of the Council of the European Union and
High Representative for the Common Foreign and Security Policy

August 19, 2008

Dear President Sarkozy:

We are writing in advance of the EU – Ukraine Summit, scheduled for September 9, 2008, to respectfully request that the leaders of the EU delegation discuss with their Ukrainian counterparts the increasingly serious problem of violent manifestations of racism and xenophobia and encourage them to take the important steps that we have outlined below.

There has been a sharp rise in the number of racially-motivated violent hate crimes in Ukraine in the past two years. In one recent example, on May 29, a Nigerian national was found dead in Kyiv with multiple stab wounds in what local monitors believe may have been a racially-motivated murder. Overall, one NGO monitor there reported on 86 violent hate crimes in 2007, including 5 racist murders, which constituted a sharp rise in comparison to figures from 2006. Already in the first six months of 2008, there have been at least four murders of foreigners and numerous serious attacks in which there is a suspected racist or other bias motivation. This is likely only the tip of the iceberg as there are many cases that go unreported and/or undocumented. The government does not currently collect statistics or publicly report on violent hate

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crimes. Incidents, when they are reported, are most often registered as hooliganism rather than as bias-motivated crimes.

President Yushchenko as well as a number of other senior government officials have spoken out against such violence. They have shown a willingness to recognize the concerns of the international community and to work with representatives of international and domestic organizations toward developing solutions to this problem.

In the last year, the Ukrainian authorities have taken several steps, including by adopting an action plan on combating racism within the Interior Ministry and by creating special units in the Interior Ministry and the State Security Service on combating racism and xenophobia. The Foreign Ministry likewise appointed a special envoy, Ambassador Oleksandr Gorin, to address racism, xenophobia, and discrimination. Also, in the last several months, prosecutors have successfully litigated three hate crime cases – the October 2006 murder of a Nigerian citizen, the April 2007 murder of a Korean citizen, and the October 2007 assault of a Japanese tourist.

Nonetheless, the overall government response has been inconsistent and insufficient and there is much more the government can and should be doing. We urge the EU delegation to make the following recommendations – which we have shared with the Ukrainian authorities – for concrete, practical steps that can be taken to strengthen the government’s response to escalating hate crimes in Ukraine:

- Law-enforcement agencies should publicly commit to investigate allegations of bias motives in specific violent crimes committed against people of other races and creeds, including foreigners and migrants, and to provide regular public updates into the investigation and prosecution of such crimes. A list of some of the murders committed in 2007 and 2008 with a suspected xenophobic motive is included below.
- The Interior Minister should ensure that the ministry’s special unit responsible for combating racism has clear guidelines to address crimes – including those committed against foreigners – that are motivated by racism and xenophobia. If the ministry deems necessary to specifically monitor crimes committed by foreigners (as this unit also does), this should be undertaken by a separate unit.
- While the adoption by the Interior Ministry of an action plan on combating racism constitutes a positive step, the authorities should work – together with civil society – to adopt a comprehensive national plan that incorporates and coordinates the efforts of

various related ministries, including the justice, education, and family and youth ministries.

- The Interior Ministry should develop an internal protocol mandating police officers and investigators to record bias motives in the commission of a crime. The Interior Ministry should commit to making data on the incidence of violent hate crimes public – an important step toward improved public policy on combating hate crime.
- The Ukrainian authorities should provide training for police and prosecutors in identifying and recording bias motivations, and in bringing evidence of bias motivations before the courts. They should commit to take advantage of training opportunities available by international organizations, e.g., the OSCE’s Law Enforcement Officer Program on Combating Hate Crimes as well as through other international and local nongovernmental organizations working in Ukraine.
- Law enforcement officials should take steps – including by reaching out to community and other nongovernmental groups – to increase the confidence of hate crime victims to report crimes to the police. The authorities should ensure thorough investigation and prosecution of any reports of police harassment of hate crime victims.

As a follow-up to steps already taken by the government, we further recommend the following:

- The Ukrainian authorities should reach an agreement with the OSCE's Office for Democratic Institutions and Human Rights (ODIHR), identifying specific areas in which ODIHR would provide technical support and assistance to combat violent hate crimes, including through expanded law enforcement training.
- The Ukrainian authorities should ensure regular public reporting of the concrete actions, achievements, and shortcomings of the special units on combating racism and xenophobia created in the Interior Ministry and the State Security Service, State Committee for Nationalities and Religion, the Foreign Ministry’s special envoy and the recently created Inter-Ministerial Commission on combating racism, xenophobia, and discrimination. The Inter-Ministerial Commission should be entrusted with adequate authority and sufficient resources to address the problem.
- These bodies should formalize outreach to civil society, including by meeting on a regular basis with nongovernmental organizations in the framework of the Diversity Initiative, a coordination group of organizations based in Ukraine and dealing with the

problem of hate crimes.

- The Ukrainian authorities should work to pass legislation to strengthen the criminal law on violent hate crimes. In particular, consideration of racial motivation under Article 67 should be mandatory rather than discretionary. The article, which regrettably has never been invoked, allows for a motive of “racial, national, or religious hatred” to be considered an aggravating circumstance by a judge in determining the sentence. The systematic use of such penalty enhancement provisions in appropriate cases will send a strong message of condemnation of hate crimes.

You are certainly aware based on the experience of France of the need for such measures. The French government responded to a wave of antisemitic hate crimes that began in 2001 by enacting a tough hate crime law in 2003, speaking out forcefully against such violence, and setting up comprehensive monitoring systems. By 2005 there was a marked decline in the incidence of antisemitic hate crimes.

The Joint Statement from the 2007 Summit stated that “further movement of Ukraine towards ... strengthening of the rule of law and respect for human rights” will contribute to deeper relations with the EU. By continuing to stress that progress on these issues is important to its relationship with the EU, Ukraine – as it seeks greater integration into Europe and membership in NATO – can demonstrate its commitment to the rule of law and to implementing vigorous policies to combat racial and ethnic hatred, xenophobia and discrimination.

We would be glad to provide you with additional information or material that may be useful to you in advance of the Summit.

Sincerely,

A handwritten signature in black ink that reads "Elisa Massimino". The signature is written in a cursive, flowing style.

Elisa Massimino

Washington Director

Human Rights First

Murders of foreigners in 2007 and 2008 with a suspected xenophobic motivation

- On June 9, 2008, a Congolese immigrant Atonga Luilu was found dead with visible head injuries and a broken neck on a residential neighborhood street in Kyiv, in what local monitors believe may have been a racially-motivated murder. The police preliminarily concluded however that Luilu's death was accidental, resulting from his falling down after an epileptic fit.
- On May 29, 2008, in Kyiv, a Nigerian national was found dead in the Solomenskiy district of the city with multiple knife wounds. Police initially stated that the motive in the murder was unknown. The UNHCR, the IOM, and some 30 other members of the non-governmental Diversity Initiative urged the authorities to conduct a thorough investigation of the murder, including the possibility that it was racially-motivated.
- On March 8, 2008, in Kyiv, Gbenda-Charles Victor Tator, a 39-year-old refugee from Sierra Leone, was walking with his wife near the “Obolon” market when he was set upon by two youths who stabbed him some ten times. He died on the spot. Four days after the incident Interior Minister Yuriy Lutsenko announced that police detained a minor in connection to the murder. The youth was reportedly a member of a skinhead group.

Tator’s funeral turned into a march against racism. In an act of protest over the worsening conditions for foreigners in Ukraine, friends and family of the victim as well as antiracist activists – as many as 100 people – walked in procession through the streets of Kyiv from the morgue to the cemetery. Victor Tator was a graduate (with honors) of the Kyiv State University and planned to marry his longtime Ukrainian girlfriend, with whom he was raising a child from her previous marriage.

- On January 27, 2008, in Kyiv, the body of Joseph Bunte, a 19-year old asylum seeker from the Democratic Republic of the Congo, was found with 17 knife wounds in the head, chest, and back. In response, the UNHCR and the IOM expressed grave concern and urged the authorities to investigate the possibility that it was motivated by racism.

The police investigation culminated with arrests of two 16-year-old skinheads suspected of murdering the Congolese immigrant.

- On October 14, 2007, a citizen of Bangladesh died after being severely beaten and stabbed by a group of young men in Kyiv. The law enforcers rounded up four suspects, who turned out to be trade school students. However, the police said nothing about the possibility of a racial motivation of the attackers, who took the victim's jacket and cellular phone.
- On June 3, 2007, in Kyiv, an Iraqi national was found dead near the Nivki metro station with multiple knife wounds. He came to the Ukraine seeking asylum. On June 11, police announced that four suspects were detained in connection with the murder.
- On March 31, 2007, a 36-year-old Bengali national Abu Bakar was assaulted in the Dnipro district of Kyiv. Bakar suffered fatal wounds to head and stomach and died within hours of the attack. Although the charges were filed under article 121 (intentional severe bodily harm), the police made an attempt to investigate racial motives behind this crime.
- On March 17, 2007, Oleksandr Alaveranov, a Ukrainian citizen of Iranian descent, was stabbed six times by an unidentified young man. The witnesses said the attacker was a skinhead, and the victim identified him as a neo-Nazi. Alaveranov never recovered from the injuries sustained during the attack and died a month later.
- On February 16, 2007, a group of Georgian citizens was attacked in Kyiv. As a result, 34-year-old Moris Yugashvili died of wounds suffered in the attack. His brother was hospitalized with serious injuries. While the police acknowledged the possibility of nationalist motivation of the attackers, who were described by the witnesses as skinheads, the investigation was still processed under article 121 part 2 (intentional severe bodily harm that led to the victim's death).