



Mr. Thomas Hammarberg
Commissioner for Human Rights
Council of Europe

June 20, 2008

Dear Commissioner Hammarberg:

Thank you for taking the time to meet with me on Tuesday to discuss Human Rights First's efforts to combat violent hate crimes in Europe and North America.

Further to our discussion about your work on Ukraine, I encourage you to raise with your interlocutors the following steps that the government can immediately take to address the increasingly serious problem of violent manifestations of racism and xenophobia.

Background

There has been a sharp rise in the number of racially-motivated violent hate crimes in the past two years. Recently, 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 Ukrainian NGO has reported on 86 violent hate crimes in 2007, including 5 racist murders, which constituted a sharp rise in comparison to figures from 2006. Already through the first five months of 2008, there have been 5 murders in which there is a suspected racist motivation. There are undoubtedly many other cases that go unreported and/or undocumented. The government does not currently collect statistics or publicly report on violent hate crimes. Incidents, when they are reported, are most often registered as hooliganism rather than as suspected 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

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special envoy, Ambassador Oleksandr Gorin, to address racism, xenophobia, and discrimination. Also, in the last two 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 that the government can and should be doing to address the problem.

Recommendations

We urge you to make the following recommendations 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 that are motivated by racism and xenophobia, including those committed against foreigners. **Monitoring of crimes committed by foreigners, if necessary at all, should be undertaken by a separate unit**, rather than the unit for combating racism, as is the case now.
- The Interior Ministry should **develop an internal protocol mandating police officers and investigators to record suspected bias motives** in the commission of a crime. The Interior Ministry should **commit to make 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 adequate training throughout the country for police and prosecutors** in identifying and recording bias motivations, and in bringing evidence of bias motivations before the courts. In furthering this objective, they should commit to take advantage of training opportunities and other areas of technical assistance that is being offered by international organizations, e.g., the OSCE's Law Enforcement Officer Program on Combating Hate Crimes, as well as through 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 **thoroughly investigate and prosecute any reported incidents 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 activities of and challenges faced by 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.
- 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 action plan that incorporates and coordinates the efforts of various related ministries**, including the justice, education, and family and youth ministries.
- 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.

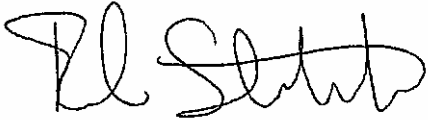
We appreciate the attention you have given to this issue – including in the report following your December 2006 visit to Ukraine. By implementing vigorous policies to combat racial and ethnic hatred, xenophobia and discrimination, the Ukrainian authorities will be able demonstrate their commitment to the principles of the Council of Europe.

We would also recommend that you be in contact with representatives of the UNHCR, the IOM, and other members of the “Diversity Initiative,” a group of some 30 international and

domestic organizations who have worked in coalition to combat hate crimes. A list of such organizations, with contact information, is attached.

We look forward to continuing to work with you and your staff on combating violent hate crimes.

Sincerely,

A handwritten signature in black ink, appearing to read "Tad Stahnke". The signature is written in a cursive, flowing style.

Tad Stahnke
Director
Fighting Discrimination Program

A list of select murders of foreigners in 2007 and 2008 with a suspected xenophobic motivation

- On May 29, 2008, in Kyiv, Baie Olubaiode, a Nigerian national was found in the Solomenskiy district of the city with numerous 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).