



Rabbi Andrew Baker  
Personal Representative of the OSCE Chairman-in-Office on Combating  
Antisemitism

March 2, 2009

Dear Rabbi Baker,

Congratulations on your new appointment!

Since 2002, Human Rights First has fought discrimination by seeking to reverse the tide of racist, antisemitic, anti-immigrant, anti-Muslim, homophobic and other violent hate crimes across North America, Europe and the former Soviet Union. In our efforts to encourage a robust government response to hate crimes, we have long supported the efforts of the OSCE to address issues of tolerance and non-discrimination through periodic high-level meetings and the creation of a tolerance and non-discrimination unit within the ODIHR, among other initiatives.

Human Rights First has also fully supported the creation and subsequent continuation of the mandates of the Chairman-in-Office's personal representatives on combating intolerance. You have an important role in furthering the OSCE states' implementation of commitments on tolerance issues. In particular, OSCE states have recognized bias-motivated violence as a concern and have committed to responding to incidents of such violence. States have also taken on commitments to collect data and establish adequate legislative frameworks for combating hate crime.

Please allow me to outline some of our concerns related to the substance of your mandate as well as concrete recommendations.

### **The Reality of Hate Crime**

In September 2008, we released our *2008 Hate Crime Survey*, which documented a rise in hate crimes across many parts of Europe and North America. The Survey contained a separate section on Antisemitic Violence. While our reporting looks broadly across the OSCE region, we also included separate sections on hate crime in the Russian Federation, Ukraine and the United States. Those sections contain specific recommendations to those governments. The full report is available at: <http://www.humanrightsfirst.org/discrimination/pages.aspx?id=157>. Among our findings were that:

**HEADQUARTERS**  
333 Seventh Avenue  
13th Floor  
New York, NY 10001  
Tel: 212.845.5200  
Fax: 212.845.5299

**WASHINGTON D.C. OFFICE**  
100 Maryland Avenue, N.E.  
Suite 500  
Washington, DC 20002  
Tel: 202.547.5692  
Fax: 202.543.5999

[www.humanrightsfirst.org](http://www.humanrightsfirst.org)

- Violence against Jewish people and places of worship, community centers, schools, and communities serves as an indicator of the revival of antisemitism in recent years. Antisemitic violence continued to rise across many parts of Europe and North America in 2007, despite improvements in some countries where there nevertheless remain historically high levels of violence motivated by anti-Jewish prejudice. 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. There are undoubtedly a number of other European countries where antisemitic violence is also problematic, but where information on attacks—either from official or unofficial sources—is much less readily available.

More recently, Human Rights First has been concerned about the wave of incidents of antisemitic violence in a number of European countries targeting Jews and Jewish property in apparent backlash to Israeli military action in Gaza. In a statement we released on January 23, we urged European governments to speak out against any acts of bias-motivated violence targeting Jewish and other communities, conduct thorough investigations, and hold the perpetrators accountable. We also called on governments to reach out to targeted communities to better ensure the security of individuals and property and to encourage victims to report incidents.

## **Government Responses**

We have also monitored government responses to violent hate crime, which vary considerably across the 56 OSCE countries. While several governments have responded in significant ways to hate crime, every government can do more to combat violent hate crime. In particular, we have examined two necessary aspects of a comprehensive government response that are grounded in OSCE commitments.

### Systems of Monitoring and Reporting

The OSCE states have committed on numerous occasions to collect data, most recently at the Madrid Ministerial Council meeting when Ministers “underline[d] the continued need for participating States to collect and maintain reliable data and statistics on hate crimes and incidents, to train relevant law enforcement officers and to strengthen cooperation with civil society.” Yet, 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 are “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.**

As concerns official statistics specifically on antisemitic hate crimes, the “data deficit” in Europe is considerably more evident. The E.U.’s Fundamental Rights Agency (FRA) has regularly reported on the response of E.U. states to antisemitic crime and has paid special attention to the importance of

data collection to those efforts. In its 2008 annual report (for the year 2007) the FRA reported that only five countries—**Austria, France, Germany, Sweden, and the United Kingdom**—collect data on antisemitic crime in such a way that allows for a trend analysis over time. Of those that do, **France, Sweden, and the United Kingdom** experienced a general upward trend in recorded antisemitic crime between 2001—2006.

### The Framework of Criminal Law

Criminal law is another important tool and OSCE states have committed to developing adequate legislation to respond to hate crime. The ODIHR is preparing to release “Hate Crime Laws: A Practical Guide” – a guide developed with Human Rights First’s participation. The Greek Chairmanship has also highlighted the implementation of legislation on hate crime as a priority for its chairmanship.

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.**

### **Recommendations**

The OSCE has adopted a unique approach to combating hate crime that focuses on responding to individual incidents as well as developing longer-term mechanisms – such as data collection systems – to better measure the nature of the problem as well as criminal justice response. As the ODIHR provides essential technical assistance to states, the personal representatives are in a position to use their prestige to engage with political leaders regarding their OSCE commitments. Below are a few recommendations that we believe will help you to ensure that states are taking concrete steps toward ensuring real progress in combating hate crime.

### Engagement with OSCE states

We urge you to engage with OSCE participating states in the following ways:

- Make regular country visits to investigate the problem of hate crime and the government response. Make your findings public.
- Establish relationships with senior government officials, as well as with those in interior and justice ministries and elsewhere who are responsible for combating hate crimes.

- Follow-up on cases that have resonated with the public to ensure an adequate political and criminal justice response.
- Encourage governments to make their monitoring and reporting on violent hate crimes public.
- Raise Human Rights First's Ten-Point Plan for Combating Hate Crime (below) – which are grounded in OSCE commitments – as good practices in your contacts with government officials from OSCE states.

### Strengthening OSCE Institutions

We have worked with the ODIHR's Tolerance and Non-Discrimination (TnD) Unit since its inception and have supported and contributed to its important work on documenting and combating hate crimes. We call on you to use your mandate to ensure continued political and financial support for the ODIHR's Tolerance and Nondiscrimination Unit (TnD) and for use by states of their technical assistance programs, in particular to encourage:

- Efforts to 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.
- The active participation of relevant law enforcement and criminal justice officials from participating States in meetings of the National Points of Contact on Combating Hate Crimes.
- Wide dissemination of the ODIHR's forthcoming legislative guidelines on hate crimes.
- Support for the program to train civil society representatives in documenting and combating hate crime.

### Outreach to Civil Society

We encourage you to engage – during your in-country visits and on the sidelines of official OSCE events – on a regular basis with representatives of civil society who are working to combat hate crimes.

We look forward to working with you in the coming year and would be pleased to provide further information on any of the issues raised above.

Sincerely,



Paul LeGendre  
Director, Fighting Discrimination Program  
Human Rights First

## 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.