



Mr. Mario Mauro  
Personal Representative of the OSCE Chairman-in-Office on Combating Racism,  
Xenophobia and Discrimination, also focusing on Intolerance and Discrimination  
against Christians and Members of Other Religions

March 2, 2009

Dear Mr. Mauro,

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 separate sections on Violence Based on Racism and Xenophobia, Violence Based on Religious Intolerance, Violence Against Roma, and Violence Based on Sexual Orientation and Gender Identity Bias. While our reporting looks broadly across the OSCE region, we also included separate sections on hate crime in

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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:

- Racist and xenophobic violence rose in several of the 56 countries of the OSCE in 2007. Although comprehensive and systematic data collection systems are unavailable in most OSCE states, government monitoring systems in a number of countries showed moderate to high rises in the overall numbers of hate crimes in 2006 and 2007. These include **Finland**, **Ireland**, the **Slovak Republic**, **Sweden**, the **United Kingdom**, and the **United States**.

Information from nongovernmental monitors provided evidence of rising levels of racist violence in 2007 in **Greece**, **Italy**, the **Russian Federation**, **Switzerland**, and **Ukraine**. Available figures may only be the tip of the iceberg, however. Media and NGO surveys suggest that in many cases violence was not being reported to or recorded by police. This assertion is bolstered by the *2007 European Crime and Safety Survey*, which revealed high levels of hate crimes reported in 2007 by respondents of immigrant background in **Greece**, **Italy**, **Spain**, and **Portugal**, while there was no relevant official criminal justice data on racist violence and crime from these countries.

- Violence motivated by religious intolerance continued to be increasing in many countries in Europe and North America in 2007 and 2008. Members of religious minorities throughout the region were subjected to numerous physical assaults causing serious injury or death. Violent manifestations of religious hatred toward individuals impede entire communities from manifesting their religion or belief in teaching, practice, worship, and observance. In some cases, official government policies often create a hostile atmosphere conducive to private acts of violence motivated by religious hatred.
- Roma and Sinti face violent hate crimes and a myriad of other forms of public and private discrimination throughout Europe. A pattern of violence is directed at causing immediate harm to Roma and physically eradicating the presence of Roma in towns and communities in many parts of Europe. Racist violence against Roma remains gravely underreported. The most widely reported incidents occurred in **Italy**, where thousands of Roma were driven from their homes in 2007 when mobs attacked, beating residents and burning Roma settlements to the ground. Violent incidents have also been reported in **Bulgaria**, the **Czech Republic**, **Hungary**, the **Russian Federation**, **Serbia**, and **Slovakia**.
- Continuing violence based on sexual orientation and gender identity bias, though still largely unseen, is an intimidating day-to-day reality for people who describe themselves as lesbian, gay, bisexual, or transgender (together, “LGBT”), as well as others who are targeted because they do not conform to stereotypes of gender identity or simply advocate for LGBT rights. None of the official reports suggest that incidents are decreasing; government data in some countries, as well as credible nongovernmental reports, suggest an increase. Very few countries collect and publish data on the issue or even list LGBT as a form of hate crime in their criminal law provisions. Gay pride parades and events in Eastern Europe continue to

result in political diatribes attacking people of minority sexual orientations from political leaders, inadequate police protection, and acts of harassment and violence against the participants. Homosexuality remains criminalized in two OSCE Member States, Turkmenistan and Uzbekistan.

## **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.**

These shortcomings are particularly problematic in countries where NGO monitors have documented an increasing number of cases of hate crimes. For example, in the **Russian Federation**, where we view the situation as particularly problematic, a leading nongovernmental monitor of hate crimes documented nearly 100 racist and other bias-motivated murders in 2008, while official Russian data largely ignores this problem. In **Ukraine**, non-governmental organizations reported on a six-fold increase in racist attacks between 2006-2008. The government there does not yet report publicly on these crimes in line with their OSCE commitments, although has taken the first steps in establishing a hate crime registration system for police officers and prosecutors. **Greece, Italy, and Spain** are among those countries where the authorities do not produce any reliable data on violent hate crimes, but where unofficial reports suggest an increasing number of such cases. In **Cyprus**, officials justified the fact that they did not submit any data on racist crimes to the E.U.’s Fundamental Rights Agency on the grounds that there is no racism there. The authorities in **Turkey** have similarly not reported on any cases of hate crimes – despite evidence to the contrary.

### 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.