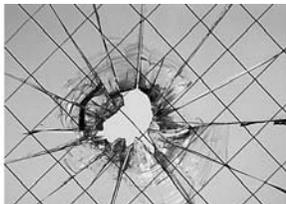


Violence Based on Sexual Orientation and Gender Identity Bias



2008 Hate Crime Survey

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Human Rights First believes that building respect for human rights and the rule of law will help ensure the dignity to which every individual is entitled and will stem tyranny, extremism, intolerance, and violence.

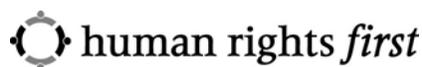
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Human Rights First is a non-profit, nonpartisan international human rights organization based in New York and Washington D.C. To maintain our independence, we accept no government funding.

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HRF's Fighting Discrimination Program

The Fighting Discrimination Program has been working since 2002 to reverse the rising tide of antisemitic, racist, anti-Muslim, anti-immigrant, and homophobic violence and other bias crime in Europe, the Russian Federation, and North America. We report on the reality of violence driven by discrimination, and work to strengthen the response of governments to combat this violence. We advance concrete, practical recommendations to improve hate crimes legislation and its implementation, monitoring and public reporting, the training of police and prosecutors, the work of official anti-discrimination bodies, and the capacity of civil society organizations and international institutions to combat violent hate crimes. For more information on the program, visit www.humanrightsfirst.org/discrimination or email FD@humanrightsfirst.org.

2008 Hate Crime Survey

Violence Based on Sexual Orientation and Gender Identity Bias is an excerpt from Human Rights First's *2008 Hate Crime Survey*, which includes sections examining six facets of violent hate crime in the 56 countries that comprise the Organization for Security and Cooperation in Europe (OSCE): *Violence Based on Racism and Xenophobia*, *Antisemitic Violence*, *Violence Against Muslims*, *Violence Based on Religious Intolerance*, *Violence Against Roma*, and *Violence Based on Sexual Orientation and Gender Identity Bias*. The Survey also examines government responses to violent hate crimes in sections on *Systems of Monitoring and Reporting* and *The Framework of Criminal Law* and includes a Ten-Point Plan for governments to strengthen their responses. The Survey also includes an in-depth look at the *Russian Federation*, *Ukraine*, and the *United States* and contains a *Country Panorama* section that profiles individual hate crime cases from more than 30 countries within the OSCE.

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Violence Based on Sexual Orientation and Gender Identity Bias

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Executive Summary

Continuing violence motivated by hatred and prejudice based on sexual orientation and gender identity, though still largely unseen, is an intimidating day-to-day reality for people across Europe and North America. The limited official statistics available suggest that these crimes represent a significant portion of violent hate crimes overall and are characterized by levels of serious physical violence that in some cases exceed those present in other types of hate crimes. None of the official reports suggest that incidents are decreasing; government data in some countries, as well as credible nongovernmental reports, suggest an increase. The victims include 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. The victims of violence also include LGBT rights activists and organizations, openly gay commercial establishments, and those attending gay pride parades and other gay related public events. Bias crimes of this kind are often called “homophobic” crimes.

Nongovernmental monitoring, combined with incident reports available from the media, have reinforced official findings that homophobic violence is both frequent and of particular brutality. Annual reports by organizations in **France** and the **United States**, as well as new surveys and reports on **Germany**, **Turkey**, and the **United Kingdom** shed light onto the extent of harassment and violence in those countries, as well as the problem of underreporting to the police.

Few of the participating states of the Organization for Security and Cooperation in Europe (OSCE) track and provide official statistics on crimes motivated by sexual orientation bias. **Canada**, **Sweden**, the **United Kingdom**, and the **United States** are the countries where such monitoring is most developed. Other

countries, like the **Netherlands** and **Norway**, have also recently undertaken to monitor homophobic hate crimes. Even in those countries where data is collected, however, the number of incidents is generally thought to be highly underreported. The lack of data on sexual orientation bias crimes for the vast majority of OSCE participating states makes it very difficult to assess the law enforcement response to violent incidents.

Only 12 of the 56 OSCE states have legislation that allows for bias based on sexual orientation to be treated as an aggravating circumstance in the commission of a crime. These are: **Andorra**, **Belgium**, **Canada**, **Croatia**, **Denmark**, **France**, **Portugal**, **Romania**, **Spain**, **Sweden**, the **United Kingdom**, and the **United States**. In the **United States**, although federal hate crime legislation does not make violence motivated by sexual orientation a crime, state legislation in 30 states and the District of Columbia provides enhanced penalties for offenses motivated by sexual orientation bias.

As in the past, the years 2007 and 2008 saw the greatest public visibility for LGBT persons in the form of gay pride parades, although that visibility triggered violence and other manifestations of intolerance in several countries. In a number of cases documented in this report, gay pride parades and events in Eastern Europe resulted in political diatribes attacking people of minority sexual orientations from political and other leaders, inadequate police protection, and acts of harassment and violence against the participants.

The way in which recent gay pride events transpired in some countries—including **Croatia**, **Estonia**, **Latvia**, **Poland**, and **Romania**—suggest that the authorities took additional precautions against violent disruption in comparison to previous years. In other countries—such as **Moldova** and the **Russian Federation**—the authorities themselves continued to contribute to the danger

faced by the participants in gay pride parades. In another group of countries—notably **Bulgaria**, the **Czech Republic**, **Hungary** and **Slovenia**—incidents of violence occurred despite apparently significant police preparations to protect the marchers. In a number of cases, the police were able to identify the violent protestors as being affiliated with organized extremist groups.

The international response to hate crimes against people because of their sexual orientation or gender identity is hindered by the fact that these forms of discrimination are not well integrated into international human rights and antidiscrimination bodies and mechanisms. Indeed, there is no convention or treaty specifically focusing on the human rights of LGBT persons. Within the framework of the United Nations, the problem of bias-motivated violence against LGBT persons is only just beginning to gain recognition and has remained largely outside of the framework of the general human rights treaty bodies, as well as those special mechanisms that deal with related issues of discrimination and intolerance. The nonbinding Yogyakarta Principles, developed by human rights experts, offer a way forward by reflecting state obligations under international law to address human rights violations—including violent hate crimes—based on sexual orientation and gender identity.

Within Europe, several institutions of regional intergovernmental organizations and other bodies have incorporated the problem of homophobic hate crimes into their mandates and/or their activities, although challenges remain to a more integrated and comprehensive approach.

I. Violence Based on Sexual Orientation and Gender Identity Bias

Continuing violence motivated by hatred and prejudice based on sexual orientation and gender identity, though largely unseen, is an intimidating day-to-day reality for people across Europe and North America.

Although the full extent of the problem is not known because few governments collect and publish data on such incidents, violent hate crimes based on sexual orientation and gender identity occur in many parts of Europe and North America. Incident reports provide a basis to establish that homophobic violence is both frequent and particularly brutal. Indeed, as discussed below, the few official statistics available suggest that bias motivated violence against LGBT persons is a significant portion of violent hate crimes overall and is characterized by levels of physical violence that in many cases exceed those of other forms of reported hate crime. Although there is not enough data available to document trends in violence based on sexual orientation and gender identity bias, none of the official reports suggest that incidents are decreasing; reports in some countries suggest an increase.

The victims of violence include openly gay individuals and commercial establishments, gay rights activists and organizations, transsexuals and transgender individuals, and those attending gay pride parades and other gay related public events. Those targeted in what is often called homophobic violence include people who describe themselves as lesbian, gay, bisexual, or transgender (together, “LGBT”), as well as others who are victimized because they do not conform to stereotypes of gender identity, or are perceived to belong to the aforementioned groups.

A. Reporting from Nongovernmental Organizations

Credible studies by nongovernmental organizations report that homophobic violence is either on the increase or remains at historically high levels.

For example, in **France**, SOS Homophobie has been reporting on homophobia for more than a decade. In the annual report covering 2007, the organization documented 1,263 incidents of homophobia in France. Although this represents a 5 percent decrease over 2006, it is nonetheless the second highest figure in the history of reporting. The number of violent incidents (132) also decreased—by 14 percent over 2006 figures. The percentage of violent attacks in relation to overall incidents—11 percent in 2007—has remained steady at between 11 and 13 percent since 2003.¹

In the **United States**, the National Coalition of Anti-Violence Programs (NCAVP) and more than thirty of its member organizations across the country released an annual report in May 2008, showing a 24 percent increase in incidents of violence against LGBT people in 2007, compared to 2006. They noted that 2007 also had the third-highest murder rate in the ten years that NCAVP has been compiling the report, with murders more than doubling from 10 in 2006 to 21 in 2007.

The report examines data based on incidents involving 2,430 LGBT persons who reported experiencing bias-motivated violence in major metropolitan areas, including Chicago, Columbus, Houston, Kansas City, Los Angeles, the New York City area, and the San Francisco Bay area; and in seven states in which monitoring was

carried out: Colorado, Massachusetts, Michigan, Minnesota, Pennsylvania, Vermont, and Wisconsin.

NCAVP officials said their report was the most complete examination of antigay violence in the U.S., noting that the annual hate crime reports published by the Federal Bureau of Investigation (FBI) consistently contain information on far fewer cases than the NCAVP publication. The National Coalition noted that the FBI reports rely solely on law enforcement reports rather than victim service organization data.

In Michigan, for instance, hate crimes on the basis of sexual orientation more than doubled in 2007 from the previous year's total, according to NCAVP findings, which draw upon monitoring by Michigan's Triangle Foundation. The annual findings showed that Michigan led the nation in the increase of hate crime reports. 226 incidents were reported and documented in 2007, compared to 97 in 2006, constituting an increase of 133 percent.²

In other countries, NGO reports and surveys indicate that homophobic violence affects a substantial percentage of LGBT persons and is widely underreported to the police.

In **Germany**, a nationwide victim survey was conducted among gay and bisexual youths and adults on their experiences with violence. Almost twenty-four thousand people participated in the survey which was conducted between December 1, 2006, and January 31, 2007, by Maneo, a nongovernmental gay rights organization. The survey found that 35 percent of all respondents said they experienced bias-motivated violence in the past year, while almost two-thirds (63 percent) of young gay and bisexual men under the age of 18 reported being victims of such violence. Only 10 percent of the victims filed reports with the police.³ A second survey was conducted one year later with 17,500 participants, and preliminary data showed that almost 40 percent reported having experienced bias-motivated violence.

Maneo expects to release more detailed results from the second survey in late 2008.⁴

With regard to **Turkey**, Human Rights Watch released a new report on May 22, 2008—*We Need a Law for Liberation: Gender, Sexuality, and Human Rights in a Changing Turkey*. The report highlighted the violence experienced by the LGBT community in Turkey, using victims' testimonies and case studies which spanned over a three year period.

The report found that “every transgender person and many of the gay men Human Rights Watch spoke to report having been a victim of a violent crime—sometimes multiple crimes—based on their sexual orientation or gender identity. Beatings in cruising areas, robberies by men or gangs who arranged to meet their victims over the internet and attempted murder were among the documented abuses.” The vulnerable social position of gay men and transgender people was characterized as “living in fear” and “a social hell.”

The interviewed lesbian and bisexual women “reported pressure, often extreme, from their families. Some were constrained to undergo psychological or psychiatric ‘help’ to ‘change’ their sexual orientation. Many faced physical violence.” This situation has been referred to as a balance between “silence and violence.”⁵

In the **United Kingdom**, on June 26, 2008, a UK-based NGO Stonewall published *Homophobic Hate Crime: The Gay British Crime Survey*. This report surveyed 1,721 members of the LGBT community across Great Britain. It exposed incidences of verbal abuse and violent hate crimes experienced by individuals who identify as LGBT throughout England, Scotland, and Wales. The report concluded that:

- nearly 13 percent of lesbian, gay and bisexual people have experienced a homophobic hate crime or incident in the last year;

- 20 percent of lesbian and gay people have experienced a homophobic hate crime or incident in the last three years;
- 4 percent of the respondents reported a violent bias-motivated physical assault;
- 14 percent of victims of homophobic hate crimes or incidents did not report them to anyone because they happened too frequently to report;
- a third of lesbian and gay people alter their behavior so they are not perceived as being gay, specifically to prevent being a victim of hate crime.⁶

B. Violent Attacks on Individuals and Property

Incidents of bias-motivated violence include attacks on people who described themselves as openly gay, as well as incidents in which attackers wrongly identified the victims as gay. The fact that incidents listed below come from a limited number of countries does not necessarily mean that the problem of homophobic violence is more alarming there. More likely it reflects the fact that NGOs and media are more active in bringing exposure to such cases. Examples of violent attacks from among the incidents reported in the media and by NGOs in 2007 and early 2008 include the following:

In **Belarus**, on May 21, 2008, at about 11:00 p.m., Edward Tarletski, an openly gay Belarusian man and the founder of Lambda Belarus, the first gay rights organization in Belarus, was badly beaten upon arriving to his apartment building in Minsk. He was attacked by three young people between 20 and 25 years old. According to Tarletski: "I was approaching the entrance when I saw young people smoking nearby. ... One of them called me by my surname—to make it clear that it was me, I think. Another one unexpectedly hit me in the face, and I fell down. They kicked me many times, mostly in the head. Then they ran away. I lost con-

sciousness. A neighbor then helped me to reach my apartment. The attackers took nothing: in my bag I had money and a camera." Tarletski revealed that this was the third such assault on him. He added that he did not intend to report the incident to the police, as that "would be a waste of time."⁷

In **Croatia**, police investigated the 2006 attack by a dozen people on two gay British tourists in a bar, in which one of the tourists sustained a concussion, ear injury, and loss of teeth. Police also investigated a similar attack on two German gay tourists in Split, where they were attacked while walking on the waterfront holding hands; one of the victims sustained a nose fracture and the other a slight chest injury. No arrests were made in either case.⁸

In **France**, on February 24, 2008, six attackers, who ranged in ages of 17 to 28, tormented 19-year-old Mathieu Roumi in the Paris suburb of Bagneux, in what appeared to have begun as an argument over stolen goods. Prosecutors said the six held the victim for about nine and a half hours and "tortur[ed] him by punching him, sexually humiliating him and writing 'dirty Jew' and 'dirty faggot' on his forehead." They allegedly forced him to eat cigarette butts and forced a stick covered by a condom into his throat. The six alleged attackers were detained, and investigators filed preliminary charges against them. The charges included "group violence motivated by a person's real or supposed race, religion or sexual orientation, acts of torture, blackmail and theft." The Bagneux City Hall issued a statement, noting that officials were "shocked and outraged" by the attack.⁹

In **Germany**, five victims were hospitalized in June 2007 after eight right-wing extremists attacked a group of actors still costumed from their performance of *The Rocky Horror Picture Show* in Halberstadt (Saxony-Anhalt). Four previously convicted right-wing extremists went on trial for this attack on October 9, 2007, in Magdeburg. On December 5, the four men

were released from custody on the basis of insufficient evidence. One suspect, who made a partial confession, was obliged to report his whereabouts periodically to the police.¹⁰

In **Hungary**, within a one week period, two different gay establishments in Budapest were attacked. On June 27, 2008 at 3 a.m., unknown perpetrators threw a petrol bomb at Action, a gay bar. The front room of this small bar burst into flames. The fire was extinguished, and no one was injured. It was reported that “shortly before the attack, someone called the bar and inquired if there were any guests and how long the bar would be open. Then the caller went on to threaten to attack the bar.” The police department was reportedly investigating this incident as an act of vandalism. Several LGBT rights organizations, including the Patent Association, assert that the fire should be investigated as an act of attempted murder.¹¹

On July 3, 2008, Magnum (a gay bath house, or sauna), was targeted in the early morning hours. As in the attack at Action, the perpetrators allegedly called Magnum prior to the attack. Then four petrol bombs were thrown into the sauna. The fire was promptly extinguished, although one person reported suffering from smoke inhalation.¹² Both attacks occurred in the run-up to Budapest’s 2008 Gay Pride Week 2008.

In **Ireland**, on the night of June 4, 2008, 27-year-old Stephen Scott was walking home near Ballyduff Brae in Newtownabbey when he was attacked. Three youths, thought to be in their late teens, knocked him to the ground and continued kicking and punching him as they shouted homophobic insults. Scott was treated at a local hospital for a head injury, a leg injury and broken ribs. Scott stated that the attack was “enough to take a life—there were three of them on me and I was left for dead.”¹³

In **Italy**, on May 24, 2008, openly gay Christian Floris, a radio personality for the popular radio station known for its LGBT-related content, *DeeGay*, was physically

attacked late at night outside his home in Rome. There were allegedly two attackers who awaited his return underneath his porch. They smashed his head against a wall and taunted him to stop advocating for the LGBT community. As a result of the injuries sustained, Floris spent seven days in the hospital.¹⁴ In response to these and other incidents, Aurelio Mancuso, president of Arcigay, an LGBT rights organization, said Italy had been gripped by “a fit of homophobia.”¹⁵

A Rome-based gay rights organization was also the subject of a violent attack. On April 17, 2008, a mob of youths burst into the Mario Mieli Homosexual Cultural Circle, ransacking the building while members of the center were still inside. The gang shouted antigay and antisemitic epithets when confronted by members of the center. Police were apparently investigating whether or not this group was linked to a neo-Nazi gang whose members had been arrested earlier that week.¹⁶

In **Kyrgyzstan**, on November 26, 2007, around 10 p.m., a transgender male was attacked in the streets of Bishkek. Kyrgyzstan’s LGBT advocacy group, Labrys, reported on the incident, in which the victim recounted that two drunken men approached him and began to harass and threaten him. The victim went into a nearby supermarket to ask a security guard for assistance. The men followed him into the shop, and the guard refused to help. The assaulters continued to follow the victim through the streets, shouting obscenities and grabbing him. The victim was eventually able to escape. Labrys reported that “this situation is unfortunately very common for many LGBT people in Kyrgyzstan.”¹⁷

In **Portugal**, in February 2008, a transgender woman was murdered in Lisbon. The victim, Luna, was 42 years old, partially deaf, and of Brazilian origin.

According to the Panteras Rosa, an organization combating hatred against LGBT persons, “Luna was a woman who fought against many obstacles and died the victim of great violence, possibly fed by hatred, prejudice and ignorance. Her body was left in a

dumpster, hidden by rubble and dust, as if it was garbage, as if her life had not been worth living.”¹⁸

In the **Russian Federation**, on June 17, 2007, several right-wing groups organized “antigay patrolling” of the Ilyinsky square in Moscow. One of the participants in the patrol, a member of the neo-Nazi Slavic Union, was seen hitting a man in the face and declaring that such people should be beaten. The victim ran away.¹⁹

Also in the Russian Federation, on February 14, 2008, a group of LGBT activists in collaboration with young antifascist activists organized a manifestation on the occasion of St. Valentine’s Day. The peaceful event was targeted by a large group of neo-Nazis. Several people were attacked and one was severely wounded and hospitalized.²⁰

In **Sweden**, on July 27, 2008, two gay men, aged 25 and 30, were attacked by three men at a park in Stockholm. Allegedly, the couple was stopped after the attackers saw them kissing. The attackers asked for directions, then asked about the couple’s sexuality. The three offenders drew knives and robbed them of mobile phones and money. They stabbed one man in the stomach, resulting in a serious injury. Police have investigated this attack as a hate crime due to hostile slurs and the unprovoked stabbing of one of the gay men. No arrests had been made as of the end of July 2008.²¹

In **Turkey**, on July 2008, 26-year-old Ahmet Yıldız was shot while leaving a cafe in Istanbul. The victim nonetheless managed to reach his car and attempted to escape the attackers. But he lost control of the car and crashed it on the side of the road. He died shortly after being brought to a local hospital. Friends of Yıldız believe that he was shot because of his sexual orientation. Yıldız had previously received death threats because of his sexuality and had on an earlier occasion filed a complaint with the police. Sedef Çakmak, an activist for Lambda Istanbul and a friend of the victim, commented: “I feel helpless: we are trying to raise

awareness of gay rights in this country, but the more visible we become, the more we open ourselves up to this sort of attack.”²²

In the **United Kingdom**, Stonewall’s *Homophobic Hate Crime: The Gay British Crime Survey* included some of the following testimonies of harassment and violence:

- “My son was constantly teased and bullied because his mum likes girls... It is the kids in the area where you live that are the problem and if it is out of school hours the schools cannot do anything. One time my son was chased up a tree and four kids stood at the bottom throwing rocks and even an open pen knife at him yelling things like ‘gay lord’ and ‘faggot.’”
- “My partner was attacked before Christmas receiving a cut to the top of his head and a broken wrist. He told the nurse at the hospital he was drunk and fell over the night before. He was in truth struck twice with a cricket bat, once from behind on his head and the second hit his arm.”
- “He was not drunk! We had just left a gay club, he was on call so could not drink. The attacker called him a fag and queer. He was chased off by a taxi driver. My partner will not report it and most of us don’t!”
- “Unfortunately I think that when it is known that someone is gay/lesbian this does put them at a higher risk. I have experienced this myself when I lived in a different area and I was seeing a girl at the time and some louts saw us walking home together. This was not in terms of very serious crimes but shouting, harassment and throwing stones, apples, etc. at us or any visitors to my house.”²³

In the **United States**, a number of cases were marked by particular brutality and lead to death.

On February 13, 2007, in Detroit, Michigan, 72-year-old Andrew Anthos was riding a bus home, and a stranger asked Anthos if he was gay, followed him off a bus, and beat him with a pipe. Anthos spent the next ten days in a coma, paralyzed from the neck down, before dying on February 23. Witnesses say the assailant, who has not been apprehended as of mid-July 2008, spewed antigay expletives in the process of attacking the senior citizen victim.²⁴

On March 14, 2007, in Wahneta, Florida, 25-year-old Ryan Keith Skipper was brutally murdered. Skipper's body—with 20 stab wounds and a slit throat—was found on a dark, rural road in Wahneta less than 2 miles from his home. William David Brown, Jr., 20, and Joseph Eli Bearden, 21, were later indicted on robbery and first degree murder charges. Their trial, originally set for August 2008 was pushed to February 2009. The accused killers allegedly drove Ryan's blood-soaked car around the county and bragged of killing him. According to a sheriff's department affidavit, Ryan's murder should be considered a hate crime since one of the men stated that Ryan was targeted because "he was a faggot."²⁵

On February 12, 2008, in Oxnard, California, 15-year-old Lawrence King was shot twice in the head while sitting in his classroom at E.O. Green Junior High School. He was pronounced brain-dead the following afternoon and was subsequently taken off life support.²⁶ According to his classmates, King was considered a social outcast and often wore makeup, jewelry and high heels to school, making him the subject of ridicule among other boys. Brandon McInerney, 14, was charged with the premeditated murder of King.²⁷

II. The Response of Governments to Violence on the Basis of Sexual Orientation and Gender Identity

A. Official Statistics

Although essential to an effective strategy to combat hate crime, very few of the 56 European and North American governments that constitute the Organization for Security and Cooperation in Europe (OSCE) collect and publish data on crimes motivated by bias based on sexual orientation and gender identity. **Canada**, **Sweden**, the **United Kingdom**, and the **United States** are the countries where such monitoring is most developed. Other countries, like the **Netherlands** and **Norway**, have also undertaken more recently to monitor homophobic hate crimes. As discussed earlier, even in those countries where data is collected, the number of incidents is generally thought to be highly underreported.

In **Canada**, on June 9, 2008, the government released national hate crime statistics for the first time. This report is based upon data on 892 hate-motivated cases from 2006. Police-reported data found that approximately eighty incidents (10 percent) represented hate crimes motivated by sexual orientation. Homophobic hate crimes were the third most frequent hate crime after race/ethnicity (61 percent) and religion (27 percent). Incidents motivated by sexual orientation were primarily of a violent nature, thereby standing out from other hate crimes. The report showed that 56 percent of the documented homophobic hate crimes were of a violent nature. In comparison, 38 percent of all racially motivated offenses were of a violent nature.²⁸

In addition to these national figures, a number of Canadian police agencies in metropolitan areas report on hate crimes, including those motivated by sexual orientation. In Toronto, the police's 2006 report showed an increase of sexual orientation-based hate crimes over 2005. 18 cases of LGBT victimization represented 11 percent of the 162 reported hate crimes. In 2007, even though there was a sharply reduced number of recorded hate crimes (130), the number of those motivated by sexual orientation bias was similar (17), representing a higher percentage (13 percent) of the overall number.²⁹

In **Sweden**, the Swedish Security Service began publishing statistics on hate crimes with xenophobic, antisemitic, or homophobic motives in 1997; in 2006, the National Council for Crime Prevention was commissioned to produce hate crime statistics. Data from this source revealed that 3,536 hate crimes were reported in 2007. 723 cases had a homophobic motive (20.4 percent of total reported hate crimes).³⁰ The Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights (RFSL) expressed deep concern that "the report clearly indicates an increase of 21 percent in hate crimes with homophobic motives compared with 2005. In addition, the statistics show that an alarmingly large number of perpetrators are under the age of 20 (53 percent)."³¹

There are national hate crime figures in the **United Kingdom**, but these do not track crimes motivated by bias based on sexual orientation and gender identity. Within the country, London's Metropolitan Police produces the most consistent and comprehensive

monitoring and reporting on sexual orientation bias crimes. Although hate crimes overall in London have been on the decline over the past two years, the number of crimes motivated by sexual orientation has remained steady, with 1,294 in 2005/2006 (representing 8.3 percent of overall hate crime), and 1,260 from 2006/2007 (representing 10.1 percent).³²

The Police Services of Northern Ireland, in statistical reporting for the period of April 1, 2007, through March 31, 2008, reported details on 160 “homophobic” incidents and 7 “transphobic” incidents.³³ 68.4 percent of those incidents were reported to be violent crimes against persons (as opposed to property crimes), significantly higher than for any other bias category. By contrast, as concerns racially motivated crimes, the percentage of violent crimes (37.4 percent) is much lower. Compared with the previous year, there were 5 more homophobic incidents reported (+3.2 percent) and a decrease by 25 transphobic incidents (-78.1 percent).³⁴

In the **United States**, the Uniform Crime Reporting Program of the Federal Bureau of Investigation reported that in 2006 there were 9,076 hate crime offenses. Of those, 1,415 hate crime offenses (15.5 percent) were motivated by sexual orientation bias.³⁵ This constitutes an increase of 17.2 percent over the 1,171 incidents reported to the FBI from state and local law enforcement jurisdictions in 2005. As in previous years, FBI hate crime data shows that attacks founded on sexual orientation continue to be characterized by a high level of violence, with a higher proportion of personal assaults than in other categories of hate crime.³⁶

In two other countries, police have also recently begun to record and report on violence motivated by animus based on sexual orientation. In the **Netherlands**, the Amsterdam police for the first time in 2007 registered antigay incidents separately, recording 234 such incidents. Most of them involved verbal abuse, but in 79 cases violence was used.³⁷ Moreover, the Amsterdam

City Council asked the University of Amsterdam to do a study on perpetrators of antigay violence. The main aim of the study is to get more insight into the motives behind homophobic hate crimes. In-depth interviews with about thirty perpetrators will provide the core data for analysis. Results are expected in autumn 2008.

In **Norway**, according to the Equality and Antidiscrimination Ombudsman, the government took new steps in March 2007 to combat hate crime, with a decision by the Department of Justice and Police that all incidents of hate crime are henceforth to be registered by the police. The Ombudsman’s Office further informed Human Rights First that it has been cooperating with the police in this matter, that registration of hate crimes has been discussed, and that police will begin recording bias motivations based on ethnic origin, sexual orientation, and religion.³⁸ In September 2007, Justice Minister Knut Storberget told the press that “Norwegian police have begun registering all episodes of so-called ‘hate crimes,’ involving violence against certain groups of people,” and cited findings of a recent survey conducted by the ministry indicating a rise in violence of this kind. This survey identified people targeted because of racial differences, gay men, and the elderly as particularly vulnerable to bias attacks.³⁹

In 2007, the Norwegian police, together with the National Association for Lesbian and Homosexual Emancipation (LLH), introduced a hate crime campaign on violence against lesbians and gay men. The goal is to prevent homophobic violence, increase reporting, and make sure that crimes are registered correctly.⁴⁰

B. Law Enforcement and the Framework of Criminal Law

The lack of data on sexual orientation bias crimes for the vast majority of OSCE participating states makes it very difficult to assess the law enforcement response to violent incidents. Even where such statistics are

recorded, underreporting is a major problem with regard to the LGBT community.

Victims of hate crimes driven by homophobia often face cultural or social obstacles to reporting attacks and threats. Attacks on LGBT people sometimes go unreported because to do so would bring into light an individual's sexual orientation, possibly resulting in further abuse. LGBT persons may fear additional victimization and have little confidence that the criminal justice system will act appropriately in response to criminal complaints.

Compounding the problems of underreporting and police intolerance is the reality that homosexuality remains socially unacceptable in broad social sectors in many countries of the OSCE. Antigay rhetoric of some political and community leaders have strongly reinforced that message, as have failures of the police to protect participants in gay pride parades (discussed below).

In addition, legislation on bias as an aggravating circumstance extends to sexual orientation in only 12 of the 56 OSCE participating countries. These are: **Andorra, Belgium, Canada, Croatia, Denmark, France, Portugal, Romania, Spain, Sweden, the United Kingdom, and the United States** (in some of the states, but not the national law). Bias based on gender identity is explicitly mentioned in criminal law only in the **United States**—and even there only at the state level in eleven states and the District of Columbia.⁴¹

In the absence of national legislation expressly identifying sexual orientation bias as an aggravating factor, at least one country has sentencing instructions or guidelines acknowledging these bias elements as aggravating circumstances. In the **Netherlands**, a Discrimination Directive, issued every four years by the Board of Procurators General, while falling short of a legislative act, instructs prosecutors to request a 25 percent penalty enhancement in the sentencing of common crimes motivated by discrimination, including on the grounds of sexual orientation.

In the **United States**, although federal hate crime legislation does not make violence motivated by sexual orientation a crime, state legislation in thirty states and the District of Columbia provides enhanced penalties for offenses motivated by sexual orientation bias.⁴² Efforts in 2007 to expand federal hate crime legislation through the adoption of the Local Law Enforcement Hate Crime Prevention Act of 2007 (LLEHCPA) were unsuccessful. The LLEHCPA was passed by the House of Representatives on May 3, 2007, and the Senate on September 27, 2007, but was not finally enacted into law. The proposed legislation sought to eliminate the requirement that prosecutors must demonstrate that a victim was targeted expressly because of that person's participation in one of the six federally protected categories, one of the current requirements for application of the federal law.⁴³ The bill also would have extended the bias categories under federal protection to include gender identity, sexual orientation, and disability. On December 10, 2007, the bill was detached from the Department of Defense Authorization Bill (FY2009). President George W. Bush indicated he would veto the bill if it was sent to his desk as a stand-alone bill, and Congressional leadership decided to suspend any further action until 2008 at the earliest.

In the **United Kingdom**, where bias based on sexual orientation is an aggravating factor in the criminal law in England, Wales, and Northern Ireland, efforts have been made by the Crown Prosecution Service to enhance the prosecution of homophobic hate crimes. In November 2007, the CPS released a report to provide guidance on the prosecution of hate crimes motivated by bias based on sexual orientation. The report—*Guidance on Prosecuting Cases of Homophobic and Transphobic Crime*—reiterates the importance of thorough investigation and prosecution of such cases, stating that

prejudice, discrimination or hatred of members of any part of our community based on their sexual orientation or gender identity have no place in a civilized society; any such prejudice, discrimination or hate that shows itself in the commission of crime must be thoroughly and properly

investigated and firmly and rigorously prosecuted in the courts. A clear message must be sent so that those who commit such crimes realize that they will be dealt with firmly under the criminal law: the CPS has a vital role to play in delivering this aim, not only in terms of its own role but also in terms of advising its partners in the criminal justice system—the police, the courts, magistrates, judges and those in the voluntary sector—that this sort of crime must no longer be tolerated.⁴⁴

C. Assaults on Gay Pride Parades and Events and the Response of Police

As in the past, the year 2007 and early 2008 saw the greatest public visibility for the LGBT community in the form of gay pride parades, although that visibility triggered incidents of intolerance and violence in several countries. In some cases, gay pride parades and events in Eastern Europe resulted in homophobic diatribes from political and other leaders, poor police protection, and acts of harassment and violence against the participants. The way in which recent events transpired in some countries—including **Croatia, Estonia, Latvia, Poland, and Romania**—suggest that the authorities took additional precautions to prevent violence in comparison to previous years. In other countries—particularly **Moldova** and the **Russian Federation**—the authorities themselves continued to contribute to the danger faced by the participants in gay pride parades. In another group of countries—notably **Bulgaria, the Czech Republic, Hungary, and Slovenia**—incidents of violence occurred despite apparently significant police preparations to protect the marchers. In a number of cases, police authorities were able to identify the violent protestors as being affiliated with an organized neofascist or other extremist groups operating within that particular country.

Both legal guidance and political concern have been expressed in the last two years by several European

institutions regarding the duty of the state to protect people in their exercise of freedom of assembly.

In a May 3, 2007, decision in *Baczkowski and Others v. Poland*—a case brought in response to the decision of the Polish authorities to ban a gay pride march in Warsaw in June 2005—the European Court of Human Rights held that “a genuine and effective respect for freedom of association and assembly cannot be reduced to a mere duty on the part of the State not to interfere; a purely negative conception would not be compatible with the purpose of Article 11 nor with that of the Convention in general. There may thus be positive obligations to secure the effective enjoyment of these freedoms.” This could be interpreted as a duty on the government to protect the participants of gay pride marches from hate motivated acts committed against them while enjoying freedom of assembly.⁴⁵

On April 26, 2007, the European Parliament adopted a resolution on *Homophobia in Europe*, addressing many concerns related to the discrimination and violence experienced by the LGBT community in Europe. The resolution was prompted by a “series of worrying events, such as the prohibition imposed by local authorities on holding equality and gay pride marches, the use by leading politicians and religious leaders of inflammatory or threatening language or hate speech, the failure by the police to provide adequate protection against violent demonstrations by homophobic groups, even while breaking up peaceful demonstrations.”⁴⁶

What follows is a chronicle of some of the incidents of violence that occurred in a wide range of countries—largely in Eastern and Southeastern Europe—since 2007.

Bulgaria

On June 28, 2008, in the country’s first gay pride parade in Sofia, protestors threw Molotov cocktails, stones, bottles, and gasoline bombs at 150 participants. The police—present in numbers that nearly

equaled the number of participants—were largely able to provide protection to the marchers, arresting 88 people for their involvement in attacks against the parade.

Various extremist groups were identified as contributing to the attacks. Among those arrested was Boyan Rasate, head of the Bulgarian National Union, an extreme right party. The group organized a “week of intolerance” right before the gay pride march with the motto “Be normal, Be intolerant.” The group held seminars on restricting “homosexual ideas” from spreading in Bulgaria.⁴⁷

Croatia

On July 7, 2007, violence broke out during the Zagreb Pride march. Skinheads threw eggs, ashtrays, and glass bottles, disrupting the parade. Some five hundred police officers provided a barrier, shielding participants from much of the harassment and violence. Roughly twenty participants were targeted individually in the parade, and ten people were harmed, two of whom required medical treatment.⁴⁸

The Zagreb Pride march ended in Cvijetni Trg (Flowers Square), where a group of young people began throwing petrol bombs and tear gas canisters at the participants. Two women and one man were held for questioning in connection with those acts.

Josip Šitum, one of the protestors against the march, was held accountable for the petrol bombs and charged with a misdemeanor. The prosecutor’s office subsequently initiated a criminal procedure.⁴⁹ On February 25, 2008, Šitum, 25, was found guilty of a hate crime, endangering lives, and property. He was sentenced to 14 months in jail and mandatory psychiatric treatment. He is the first person convicted of a hate crime in the country since hate crimes became an offence under the country’s Penal Code in 2006.⁵⁰

On June 28, 2008, Zagreb celebrated the seventh annual gay pride parade. Unlike the prior year, there were no reported incidences of violence. The only

disruption reported came from one protester who yelled into the crowd of marchers: “This is Croatia! Remember Vukovar! Shame on you! Remember the generals!” The protester was ultimately removed from the area by the police. There were reports of some parade participants being targets of harassment and violence after the conclusion of the parade.⁵¹

Czech Republic

On June 28, 2008, in Brno, about five hundred people participated in the country’s first gay pride parade. Several hundred police officials were present at the parade to provide protection to the marchers from an aggressive group of right-wing extremists. The protestors shouted insults and assaulted the marchers with rocks, eggs, fireworks, and tear gas. At least twenty marchers were injured. The tear gas sent two civilian victims to the hospital for emergency care, and one police officer collapsed and was subsequently hospitalized. According to *Agence France-Presse*, fifteen antigay demonstrators were jailed and two were charged with public disturbance.⁵²

Estonia

In 2007, while the gay pride parade in Tallinn was officially sanctioned, authorities attempted to place restrictions on the event by initially forbidding the activists from marching through the Old Town. However, gay rights activists prevailed, and on August 11, 2007, some three hundred people walked through the historic Old Town, in an event that culminated a week-long gay culture festival with the first-ever official Gay Pride Parade in Old Town Tallinn. Thousands of people watched the parade, which was well protected by police and private security. The only challenge came from a small alternative procession that followed the demonstrators and chanted “No Pride!”⁵³

The year before, on August 13, 2006, during Estonia’s Gay Pride, a group of twenty antigay protesters armed with sticks and stones attacked some of the estimated

five hundred gay rights supporters moving through the streets of Tallinn carrying rainbow-colored flags. Parade spokeswoman Lisette Kampus said twelve people were injured; she also criticized the police, noting that “there were too few police present so they could not really handle the violent attack.”⁵⁴

Hungary

On July 7, 2007, despite a police escort, approximately two thousand participants in the annual gay pride march in Budapest encountered a crowd of several hundred antigay protestors who hurled smoke bombs, beer bottles, eggs, and nylon bags filled with sand at them. Later in the evening, after police had departed after observing the dispersal of the antigay demonstrators, witnesses reported a number of physical assaults on persons entering and leaving a nightclub that marked the terminus of the march. Several NGOs criticized police for inaction and for charging the seventeen persons arrested in connection with the parade with “group disorderly conduct,” instead of the more serious charge of incitement against a community or violation of the freedom of assembly.⁵⁵

On July 5, 2008, hundreds of marchers participated in the Budapest Dignity March. Participants and police forces had prepared for potential attacks after two different LGBT-affiliated businesses were victims of violence earlier in the week. As hundreds of far-right demonstrators gathered near the square where the march was taking place, police officials erected high metal barriers on both sides of the road in an effort to restrict access to the march route and protect the participants. In response, the rioters threw petrol bombs and stones at the police. One police van was set on fire and two police officers reported injuries from the event. Other protestors shouted antisemitic slogans while throwing eggs, firecrackers, and Molotov cocktails at the people in the parade. Ambulance personnel reported at least eight marchers were injured in the attacks.⁵⁶ Police spokeswoman Eva Tafferner stated that riot police

detained forty-five people. Observers called this event “the worst violence during the dozen years the Gay Pride Parade has taken place in Budapest.”⁵⁷

Latvia

On June 3, 2007, Latvia’s LGBT community held the first officially sanctioned gay pride celebrations. The parade took place in a park surrounded by two rows of officers cordoning the area.⁵⁸ A small number of protestors shouted verbal abuse and made obscene gestures. Two homemade bombs were set off in the park during the march.⁵⁹ There were no reported injuries. Two people were detained and charged with hooliganism in connection with the bombings.⁶⁰

Overall, police were credited with having made a serious effort to protect the marchers, although activists stated that improvements still needed to be made in order to guarantee the right to freedom of assembly of LGBT persons.⁶¹ In contrast, the 2006 gay pride event was marred by intolerance, as antigay protestors hurled feces and eggs at gay rights activists and supporters leaving a church service in the Latvian capital. Police reportedly did little to stop the attacks in 2006.⁶²

In January 2008, the Vidzeme District Court in Riga found 32-year-old Jānis Dzelme guilty of throwing a bag of excrement at a car during the 2006 Riga Gay Pride Parade. He was sentenced to 100 hours of “compulsory labor” due to his actions of “gross public disorderliness as manifested in an obvious lack of respect toward the public by ignoring universally accepted norms of behavior.”⁶³ In appreciation of the district court’s successful prosecution, Kristīne Garina, the chairman of Latvian LGBT organization Mozaika, was quoted as saying “This is an enormously important precedent which will send very strong signals to those people in Latvia who believe that freedom of assembly and freedom of speech should be limited with violence. Let them understand that such behavior will have serious consequences. ... Today we can feel safer and more equal than we did in the summer of 2006.”⁶⁴

Moldova

On April 27, 2007, the LGBT rights organization GenderDoc-M organized the sixth gay pride march in Chisinau, although the event was marred by threats from authorities and protesters. The proposed march had been banned by the authorities, although a small gathering of about twenty LGBT activists did take place. A group of protestors, double their size, encircled them, yelling homophobic slurs and pelting eggs at the group. The activists nonetheless made their way to the Monument to the Victims of Repression, where they intended to lay flowers. A large group of police prevented this from happening on the pretext that they needed permission from the Chisinau City Hall.⁶⁵

On May 11, 2008, GenderDoc-M attempted to organize the seventh gay pride parade in the capital. However, the bus which carried approximately 60 pride participants was met with opposition from extremist neofascist and other groups. Hundreds of protestors surrounded the bus for over an hour. The large mob shouted violent slurs at the bus: “let’s get them out and beat them up,” and “beat them to death, don’t let them escape.”⁶⁶ Eventually, the bus doors were forced open by two men from the angry crowd, who demanded that if the participants wished to leave the bus without being physically harmed, they must destroy the pride parade materials. The overwhelmed and outnumbered LGBT advocates complied and the planned pride march was called off. Moldovan police was reportedly present at the event; however they stood passively about one hundred meters away and made no attempt to help the trapped participants. GenderDoc-M claims that nine calls were made to the police from inside the bus, but the LGBT activists received no assistance from the law enforcers.⁶⁷

Poland

On June 7, 2008, over one thousand participants took part in Warsaw’s annual Equality Parade under the “Live, Love, Be” slogan. More than a hundred protestors from a variety of extremist right-wing groups attended the parade.⁶⁸ Despite the vocal disturbances, there were no incidents of physical violence. Hundreds of Warsaw police officials were present at the parade, successfully blocking the protestors from entering parade route from downtown Warsaw to the prime minister’s office.

The 2008 parade was largely a continuation of the peaceful atmosphere in which the parade transpired the previous year. On May 19, 2007, the second official LGBT Equality March took place in Warsaw. Over five thousand participants took part in the march. An audience watched the parade through a heavy police presence in what was described by observers as a generally peaceful environment.⁶⁹

In 2006, the first officially sanctioned parade brought together several thousand activists, who were countered by a group of egg-throwing protestors. The police responded affirmatively to prevent an escalation of violence. The parade took place in what some gay rights activists called “an atmosphere of hate,” fueled in part by homophobic statements and policies of the country’s leadership. In 2004 and 2005, the parade had been banned, even though it went ahead both years.⁷⁰

Romania

Following an outbreak of violence during the 2006 gay pride march in Bucharest, police reportedly made an effort to upgrade the protection to the 2007 march.⁷¹ On June 9, 2007, the day began with a counter march of approximately three hundred right-wing extremists. Later, there were two separate gay activist marches. The first was a demonstration against discrimination, specifically demanding marriage equality. Some five hundred activists, guarded by seven hundred police officers, marched through the city as antigay demonstra-

tors threw stones into the crowd. Police sprayed tear gas into the group of protesters, and made some arrests.⁷²

The second demonstration was a parade with some four hundred participants. Police trucks and over four hundred officers formed a barricade between the parade and the protestors.⁷³ These barricades, however, did not protect the parade participants from cobblestones, eggs, tomatoes, and garbage thrown by the protestors. By the end of the day, over one hundred protestors were arrested. According to a report by the International Lesbian and Gay Association of Europe (ILGA-Europe), the police response was encouraging, as they were able to provide forceful protection throughout the day. After the parade, police secured many metro stations to protect the parade participants, thus learning from the previous year's mistake, when most attacks were committed in the aftermath of the march.⁷⁴ Following the 2007 march, five young men were charged with violent actions and 50 persons received fines for misconduct.⁷⁵

On May 24, 2008, the fifth annual gay pride festival was held in Bucharest without incident. Despite protests from two extreme-right groups, hundreds of people peacefully marched through the streets of their capital. The participants were under the protection of approximately twelve hundred police officers. Michael Cashman, president of the Intergroup on Gay and Lesbian Rights at the European Parliament, was quoted saying "I want to thank the police here today ... but we should be able to march and be ourselves without the police marching along."⁷⁶

Russian Federation

Efforts to organize a gay pride parade in Moscow have been marred since 2006 by hostility from the city authorities, denunciations by community leaders, violent protests, and poor police protection. Most recently, in 2008, a march originally scheduled for May 31 was banned by the authorities. As a result, the official demonstration planned in front of the city hall was

cancelled due to security concerns. Nevertheless, on June 1, a group of about thirty demonstrators gathered in another location—in front of a monument to Tchaikovsky—where they held a brief picket for LGBT rights before quickly dispersing.⁷⁷

Similarly, in 2007, LGBT activists in Moscow were also denied the right to assemble for a peaceful demonstration. Days before the intended date of the 2007 gathering, organizers had submitted march plans for the Moscow Pride march to Mayor Yury Luzhkov, who banned the march repeatedly over the past years, calling it "satanic."⁷⁸ Participants made plans instead to assemble in front of City Hall to deliver a petition challenging the right of assembly and freedom of expression.

On May 27, 2007, police secured Tverskaya Square around city hall. Skinheads and nationalist extremists had begun occupying the square, yelling "Moscow is not Sodom! No to pederasts!" as thirty participants slowly gathered. The pride organizers were immediately arrested as they entered the square. Even as the organizers were being arrested, protestors attacked other participants while the police reportedly stood by.

At least eleven women and two men among the march participants were arrested and held for several hours in police vehicles before being taken to a police station. They were left in the heat, denied medical attention, and verbally harassed by police officers. One officer said: "No one needs lesbians, no one will ever get you out of here." When a group of the participants were released from police custody after several hours, protestors pelted eggs and shouted hateful epithets at them.⁷⁹

Slovenia

On June 30, 2007, the seventh annual gay pride parade in Ljubljana took place with the support of local government officials, although there were reports that bystanders shouted homophobic slurs at participants, and antigay graffiti and stickers were seen in various

locations around the city. Organizers reported a satisfactory police presence during the parade. However, at a gay pride event that evening, four persons attacked a gay man who subsequently required hospitalization. Police responded immediately and reported the assault as a homophobic attack, but were unable to locate the attacker.⁸⁰

Similarly, on June 21, 2008, the participants of the Ljubljana gay pride parade were attacked. Five marchers reported being physically assaulted at sites of parade events. In all cases, the attackers allegedly punched their victims in the face or kicked them in the head, while shouting antigay slurs. One of the victims claimed that the attackers kicked him to the point where he began to bleed.⁸¹

III. The Work of Intergovernmental Organizations

The international response to hate crimes against people because of their sexual orientation or gender identity is hindered by the fact that these forms of discrimination are not well integrated into the international human rights and antidiscrimination bodies and mechanisms. Indeed, there is no convention or treaty specifically focusing on the rights of LGBT persons. Within the framework of the United Nations, the problem of bias-motivated violence against LGBT persons is only just beginning to gain recognition and has remained largely outside of the framework of the general human rights treaty bodies as well as those special mechanisms that deal with related issues of discrimination and intolerance. Positive exceptions have included the activities of the United Nations Special Rapporteur for Human Rights Defenders, and some aspects of the work of the Human Rights Committee.

The Yogyakarta Principles, developed by human rights experts in November 2006, offer a way forward, reflecting state obligations under international law to address human rights violations based on sexual orientation and gender identity. The Principles include a recommendation that the UN treaty bodies “vigorously integrate these principles into the implementation of their mandates, including ... general comments or other interpretive texts on the application of human rights law to persons of diverse sexual orientations and gender identities.”⁸² However, the Yogyakarta Principles are a nonbinding document.

Nevertheless, at the time of their launch in November 2007, the High Commissioner for Human Rights Louise Arbour issued the following statement:

Just as it would be unthinkable to deny anyone their human rights because of their race, religion or social status, we must also reject any attempt to do so on the basis of sexual orientation or gender identity. The Princi-

ples are a timely reminder of these basic tenets. States have a legal obligation to investigate and prosecute all instances of violence and abuse with respect to every person under their jurisdiction. Respect for cultural diversity is insufficient to justify the existence of laws that violate the fundamental right to life, security and privacy by criminalizing harmless private relations between consenting adults.⁸³

The Yogyakarta Principles include important provisions related to violence, particularly Principle 5 on the “Right of the Security of the Person,” which reads as follows:

Everyone, regardless of sexual orientation or gender identity, has the right to security of the person and to protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual or group.

States shall:

- a) Take all necessary policing and other measures to prevent and provide protection from all forms of violence and harassment related to sexual orientation and gender identity;
- b) Take all necessary legislative measures to impose appropriate criminal penalties for violence, threats of violence, incitement to violence and related harassment, based on the sexual orientation or gender identity of any person or group of persons, in all spheres of life, including the family;
- c) Take all necessary legislative, administrative and other measures to ensure that the sexual orientation or gender identity of the victim may not be advanced to justify, excuse or mitigate such violence;
- d) Ensure that perpetration of such violence is vigorously investigated, and that, where appropriate evidence is found, those responsible are prosecuted, tried and duly punished, and that victims are provided with appropriate remedies and redress, including compensation;

e) Undertake campaigns of awareness-raising, directed to the general public as well as to actual and potential perpetrators of violence, in order to combat the prejudices that underlie violence related to sexual orientation and gender identity.⁸⁴

Within Europe, a number of regional intergovernmental organizations have addressed the problem of homophobic hate crimes, although this type of violence has been left outside of the official mandates of many European regional antidiscrimination bodies. Thus, challenges remain to apply a more integrated approach to combating discrimination that addresses violence on the basis of sexual orientation along with other forms of violent discrimination.

The OSCE's Office for Democratic Institutions and Human Rights (ODIHR) has been credited with a number of efforts to address the problem of homophobic violence. The ODIHR regularly reports on homophobic violence in the context of its annual reporting on hate crime in the OSCE region. In the 2006 annual report, the ODIHR listed numerous attacks and government responses, noting that "homophobic and transphobic incidents and crimes targeting LGBT people are believed to be among the most underreported and under-documented."⁸⁵ The ODIHR has developed a working definition of hate crimes that includes sexual orientation among the grounds of discrimination. The ODIHR also conducts a number of programs that aim to strengthen the response of law enforcement bodies and civil society organizations to hate crimes, including those motivated by homophobia. Nevertheless, the OSCE as a whole has yet to adopt any commitments or ministerial decisions in which discrimination and intolerance—including cases of violence—on the basis of sexual orientation are explicitly mentioned as an area of concern for the organization to address.

The mandate of the Council of Europe's main antidiscrimination body, the European Commission against Racism and Intolerance (ECRI) does not expressly encompass discrimination on the basis of sexual

orientation or gender identity, despite the space that the term "intolerance" creates to include this type of discrimination. Thus, bias-motivated violence against LGBT persons is largely outside of the framework of ECRI's extensive reporting and recommendations on individual countries, as well as general recommendations.

Another body of the Council of Europe—the Office of the Human Rights Commissioner—has defined LGBT issues, including violence against LGBT persons, as a core priority. Commissioner Thomas Hammarberg has taken up the issue of hate crimes against LGBT persons in his reports and country visits and has criticized political leaders in many countries for failing to rise to the challenge posed by discrimination and harassment based on sexual orientation. In a June 2008 article on hate crimes, the Commissioner highlighted a number of recent cases of homophobic violence, calling them "the tip of the iceberg."⁸⁶ He has recommended that "hate crimes against LGBT persons should be seen as serious crimes."⁸⁷

As concerns the European Union's Fundamental Rights Agency (FRA), the problem of homophobic hate crimes is not expressly mentioned in the agency's mandate. The regulation establishing the FRA states that: "the work of the Agency should continue to cover the phenomena of racism, xenophobia and antisemitism, the protection of rights of persons belonging to minorities, as well as gender equality, as essential elements for the protection of fundamental rights."⁸⁸ The FRA's regular activities related to hate crimes have to date focused on "racist violence and crime," while addressing homophobic hate crime only through a recent study of discrimination on the grounds of sexual orientation.

In June 2008, the FRA released a study on *Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States*. The study examined, among other things, the legal basis for European Union States

to address bias based on sexual orientation as an aggravating circumstance in the commission of violent crimes. A second report detailing social aspects of the problem is planned for release in autumn 2008.⁸⁹

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