

Address by Anastasia Crickley



Personal Representative of the Chair in Office of the OSCE on Combating Racism, Xenophobia and Discrimination also focusing on Intolerance and Discrimination against Christians and members of other religions.

1. Introduction

As Personal Representative of the Chair in Office of the Organisation of Security and Cooperation in Europe (OSCE) I am honoured to have the opportunity to address this important conference – and I thank the organisers for having invited me.

2. OSCE - general

The OSCE, as the world's largest regional security organization whose 56 participating States span the geographical area from Vancouver to Vladivostok, offers a unique framework within which to address Racism, Xenophobia, Discrimination and Intolerance. Of particular importance to the OSCE, since its origins in the Helsinki process 31 years ago, is dialogue and consensus. The OSCE places special emphasis on engagement and involvement of all stakeholders, including civil society organisations and NGO's and seeks to find ways to incorporate their views.

My position as Personal Representative of the Chair in Office of the OSCE on Combating Racism, Xenophobia and Discrimination enables me to play a particular role in our international efforts to combat all forms of discrimination. I am very aware that violations of human rights and fundamental freedoms and manifestations of hate and intolerance continue to endanger stability and threaten security in the OSCE region as we are speaking.

In order to tackle these phenomena it is important to adopt a holistic and integrated approach to our work. Indeed, the themes this conference has addressed could be put in the wider context of fighting racism in all its forms, as well as discrimination and intolerance. The mechanisms that are at the roots of these phenomena should be targeted – and the commonalities as well as the differences in the various forms of oppression and discrimination should be acknowledged.

3. Human rights and Intolerance based on sexual orientation in the OSCE area

That does not refrain us from the duty to look at the specific forms of discrimination and address the specific forms intolerance takes. The themes of your discussions this week at the conference are therefore crucial and they focus on a core value and feature of the mandate of the OSCE: **security**. Security not only understood as

military-political concerns, but also in the field of human security – the security and safety for each human being to be free of discrimination, oppression and intolerance. Or, more concretely for this conference, to live life as you want, without fearing the threat of violence, intolerance and discrimination because you are lesbian, bisexual, gay or transgender.

It is exactly this angle that the OSCE in its ‘Tolerance and Non Discrimination’ programme has taken. Other organisations and Agencies such as the European Monitoring Centre on Racism and Xenophobia (EUMC) - which I currently have the honour to Chair - take a different approach. In the case of the EUMC, striving to collect data and undertake research to build awareness and inform European Union policy regarding racism.

Since 2003 the OSCE has held several high level conferences and participating States have adopted many Commitments in the field of Tolerance and Non Discrimination. Indeed, the participating States have committed themselves to

- strengthen their responses to hate crimes and hate-motivated incidents,
- to strengthen efforts to collect and maintain reliable information and statistics on hate crimes and legislation,
- to strengthen efforts to provide government officials, law enforcement officers with appropriate training on responding to and preventing hate crimes
- set up educational programmes that promote tolerance and non-discrimination

In this context, the Office of Democratic Institutions and Human Rights (ODIHR), OSCE’s ‘human dimension’ office in Warsaw (Poland) was tasked to closely follow hate motivated incidents.

In a forthcoming report of the ODIHR we can see that the reality in the OSCE area is far from a hate crime/hate motivated incidents free world. Apart from the fact that in two OSCE participating States same-sex acts are penalised (Uzbekistan and Turkmenistan), hate motivated incidents against lesbians, gays, bisexuals and transgendered people (LGBT) are taking place in the OSCE region on numerous occasions. Whereas only a fraction of all homo-, bi- and trans- phobic incidents and crimes are reported or documented, those incidents that *are* documented “*tend to be among the most brutal acts of hatred. They often involve severe beatings, torture, mutilation, castration, even sexual assault. They are also very likely to result in death.*” [1]

I give you a few examples though I am sure you are familiar with some of them:

In **France**, in April, two gay men who were waiting at a bus stop, hand in hand, were beaten up by two other men who passed by in a car. Upon their arrest, the attackers told the police that: “These are not men. They deserve the bomb” and “If nobody had come in between us, we would have terminated them”. The two attackers were sentenced for a one year prison sentence. The victims were assigned a 3,000 Euro compensation sum.

In the **United Kingdom** in February, a gay club was attacked by a five-person strong gang that used weapons, shouted homophobic slogans and destroyed optics behind the bar, pulled off beer pumps and smashed windows. Three individuals who tried to intervene were hurt in the crossfire.

Some of these stories reach the (mass) media, like the cases above and the case of Gilberta, a homeless, HIV+ Brazilian transgender woman living in extreme social exclusion in the Portuguese city of Oporto, who was tortured and raped with sticks by a group of young men and then thrown into a 15 meters deep pit and left to die in an abandoned construction site.

But many other stories remain untold. It is unfortunate that it is more likely that they will be noted only in the States that are already making the important commitment to collect data.

In the same report that will be published in October it is reported that **only nine of the 56 participating States include 'sexual orientation' as a bias ground in hate crimes legislation.** Sexual orientation is thus not acknowledged as a discrimination ground or an aggravating factor by the majority of OSCE's participating States in hate crime legislation – and there is a need for those of you here at the conference to address this issue to your respective governments. However, a growing number of participating States, such as **Croatia**, have recently included sexual orientation as a bias ground in hate crime legislation. Another positive example is **Northern Ireland**, which as of June, started to record hate crimes against transgendered people as a specific category.

Complementary to monitoring hate-motivated violence and closely following anti-Semitic, racist, xenophobic and homophobic incidents the OSCE has also developed the OSCE's *Law Enforcement Officers Programme* (LEOP) which trains law enforcement officers in recognising and investigating hate motivated incidents and hate crimes. Experience shows that LGBT groups are among the most cooperative and eager to collaborate with LEOP experts. In Croatia a LGBT organisation was one of the key NGOs providing training to law enforcement officials.

4. But there is more! How else does the OSCE address these (and other problems) related to LGBT people?

As early as 1995 the Parliamentary Assembly of the OSCE adopted a resolution which called on the participating States "...to ensure that all persons belonging to different segments of their population be accorded equal respect and consideration in their constitutions, legislation and administration and that there be no subordination, explicit or implied, on the basis of ethnicity, race, colour, language, religion, sex, **sexual orientation**, national or social origin or belonging to a minority..."

Issues related to the *Freedom of Assembly and Association* of LGBT organisations have recently been at the forefront of media attention in the OSCE areas. The OSCE is offering its participating States the "Guidelines on Drafting Laws Pertaining to Freedom of Assembly". ILGA Europe was invited by the OSCE to be one of the key note speakers for the SHMD on Human Rights Defenders (Vienna, April 30/31). The ODIHR Human Rights Department closely monitored the events before, during and

after the Gay Pride Parades in Warsaw and Moscow. The events in Riga last weekend demonstrate clearly though, that as well as monitoring, further intervention is required.

I should also point to the work of the 18 OSCE Field Missions in Caucasus, Central Asia and the Balkans. OSCE Missions in Kyrgyzstan and Serbia have convened roundtables bringing together governmental and non-governmental officials, including some of you here in the room (LGBT activists) to discuss how police and justice should respond to violence against LGBT people.

Furthermore, a “ **Human Rights in the armed forces**” project is currently on its way, and it will show good practices of participating States that can improve the human rights situation of LGBTs in the armed forces as well as increase tolerance.

5. Finally

Despite the above, there is still room for improvement. The consensus-based nature of decision making in the OSCE as well as the many different cultural, religious and political traditions among the 56 States sometimes imply that change occurs slowly. Not all participating States regard homophobia to be part of the human rights and ‘tolerance and non discrimination’ discourse.

What is needed is an all-inclusive, consistent approach with the prevailing trend in international human rights law.

[1]Barbara Perry, ‘Hate and Bias Crime’, 2003, p. 172. Refer also to “Pink Blood: homophobic violence in Canada”, V. Janoff, 2005; “Policing, accountability and the LGB community in Northern Ireland”, ICR, 2006; Human Rights First report on Hate Crimes, Human Rights First, 2005.