

**MEETING OF THE NATIONAL POINTS OF CONTACT ON COMBATING
HATE CRIMES
HELSINKI 16-17 JUNE 2008**

Side Event: Roundtable for Civil Society

RECOMMENDATIONS

On 15 June 2008 the Finnish Chairmanship and the Office for Democratic Institutions and Human Rights of the OSCE (OSCE/ODIHR) invited civil society representatives from across the OSCE region to meet in Helsinki in advance of the meeting of the OSCE's National Points of Contact on combating hate crimes. The participants discussed the role of governments in combating hate crimes, exchanged information on best practices and considered means to facilitate and enhance coalition-building across diverse communities and civil society groups throughout the OSCE region. Participants of the Roundtable discussed prospects for partnerships between National Points of Contact and civil society as well as the challenges National Points of Contact face in ensuring that their respective governments meet the commitments undertaken within the OSCE framework to combat hate crimes and other forms of intolerance and discrimination.

Introduction

- We are grateful to the Chairmanship and the ODIHR for initiating a Civil Society Roundtable to prepare recommendations for the Meeting of the National Points of Contact on Combating Hate Crimes.
- We welcome the opportunity for civil society representatives to present the conclusions and the recommendations of the Civil Society Roundtable during the opening session of the Meeting.
- We recommend that this meeting explore ways for the National Points of Contact to involve civil society representatives as an essential component of their ongoing work.
- We recommend that the Chairmanship and the ODIHR convene meetings of the National Points of Contact on Combating Hate Crimes on a regular basis, and strongly recommend that Participating States, as well as the ODIHR, reach out to civil society representatives to invite them to attend and participate in future meetings in their entirety, in accordance with the usual practice of OSCE meetings concerning the human dimension; ODIHR should assist states to facilitate the participation at such meetings of civil society groups from throughout the OSCE region.
- We welcome the appointment by many OSCE participating States of National Points of Contact on Combating Hate Crimes, and recommend that any participating State that has not done so already should make such an appointment.
- We recommend that states appoint National Points of Contact from bodies with responsibility for law enforcement, such as the interior or justice ministries, and include individuals who have

a direct role in responding to hate crimes in their respective countries. We also urge that the states ensure that the National Points of Contact are equipped with adequate resources to carry out their functions.

- We encourage National Points of Contact to work on an interagency basis and to coordinate closely with national specialized antidiscrimination bodies regarding their work to combat hate crimes.
- We urge National Points of Contact to cooperate closely and fully with the ODIHR, especially as concerns providing timely and accurate data on hate crimes, and in particular violent hate crimes, and in facilitating law enforcement, civil society, education and other training programs. National Points of Contact should ensure that all relevant parts of the government respond to OSCE/ODIHR requests for information on racist and xenophobic violence and crimes, and on initiatives to combat them. This should include, but not be limited to, data and information on violent hate crimes and incidents collected and compiled in the criminal justice and national security systems (including the status of cases within the judicial system), in the sphere of education, and concerning all migrants, regardless of their status. The information that ODIHR has requested on hate crimes in 2007 should be delivered with sufficient time in advance of the 2008 Human Dimension Implementation Meeting to be included in the ODIHR annual report on hate crimes incidents and responses.
- ODIHR should regularly inform National Points of Contact of its own and other international initiatives and “best practices” in combating violent hate crimes. National Points of Contact should ensure that information provided by ODIHR is directed further to the appropriate authorities and agencies of government.

Recommendations for Governments of Participating States

- Keeping in mind the comments of ODIHR Director Ambassador Christian Strohal to the Permanent Council on 12 June 2008 that poor state compliance with OSCE commitments remains a serious challenge, we recommend that governments of participating States should implement fully their OSCE commitments on tolerance and non-discrimination, including all commitments concerning combating hate crimes, i.e. Copenhagen Human Dimension Document of 29 June 1990; Ministerial Council’s Decisions on Tolerance and Non-Discrimination adopted in Maastricht (No.4/03), Sofia (No.12/04), Ljubljana (No.10/05), Brussels (13/06), Madrid (No.10/07) and Permanent Council Decisions 621 on Tolerance and the Fight against Racism, Xenophobia and Discrimination, 607 on Combating Anti-Semitism, 633 on Promoting Tolerance and Media Freedom on the Internet. In connection with their treaty obligations, governments should implement the conclusions and recommendations concerning hate crimes made by United Nations and other treaty bodies, special procedures and other international human rights mechanisms.
- National Points of Contact should share with relevant government agencies and ministries, and the broader society the compilation of all relevant OSCE commitments concerning combating hate crimes.
- We recommend that governments adopt a vigorous and flexible approach to combating violent hate crimes, by taking the following steps:

1. **Forge institutionalized cooperation with communities and civil society groups as partners in hate crime response efforts.** Governments and police officials should, as a matter of urgent priority, conduct outreach and education efforts to community-based organizations and NGO's to reduce fear and assist victims, advance police-community relations, enhance ethnic relations and encourage improved reporting. Governments should take steps to increase the sense of security of minority communities by demonstrating a willingness to work more closely with human rights and community-based organizations in the reporting and registration of hate crimes and on measures to provide equal protection for all under the law. NGOs can act as an important resource for law enforcement officials, particularly during the initial phases of implementing data collection and training programs. NGOs may be in the best position to encourage individuals – especially their own constituents – to report incidents to the police, as well as to raise awareness of hate crime issues among their constituents and the society at large. Although it is the responsibility of the government to collect data on hate crimes, implementing such data collection efforts in partnership with community-based groups can greatly improve the quality of data collection.

2. **Support ODIHR efforts to build the capacity of civil society organizations to complement and support government hate crime monitoring, response and prevention efforts.**

National Points of Contact should include in their communications with the ODIHR information on major outreach initiatives between government agencies and civil society with a view to combating violent hate crimes.

National Points of Contact should meet with community and other civil society representatives on a regular basis to discuss government efforts to combat hate crimes, including the information on hate crimes provided to the OSCE/ODIHR; ODIHR should foster cooperation between National Points of Contact and civil society representatives.

3. **Acknowledge and condemn violent hate crimes whenever they occur.** Senior government leaders should send immediate, public, strong and consistent messages that hate crimes constitute a violation of human rights and all violent crimes that appear to be motivated by prejudice and intolerance will be investigated thoroughly and prosecuted to the full extent of the law. National Points of Contact should ensure that these initiatives are reflected in information provided to the ODIHR on initiatives taken to combat hate crimes.

4. **Enact laws that expressly address violent hate crimes.** Governments should enact laws that establish specific offenses or provide enhanced penalties for crimes committed because of the victim's race, religion, ethnicity, gender, sexual orientation, mental and physical disabilities, or other similar status. In adopting new laws or amending already existing laws, states should consult the guidelines on hate crime laws developed by the ODIHR and scheduled to be released in September 2008. National Points of Contact should ensure that these initiatives are reported to the ODIHR in a timely fashion.

5. **Strengthen enforcement and prosecute offenders.** Governments should ensure that those responsible for violent hate crimes are held accountable under the law, that laws on violent hate crimes are fully enforced, and that the record of their enforcement is well documented and publicized. In order for hate crime laws to be an effective tool of law enforcement and a deterrent, governments should make enforcement of hate crime laws a priority within the criminal justice system. Additionally, states should:

- **Announce publicly when the bias element is part of the prosecution and sentencing:** Ensure that prosecutors and the courts clearly state when penalties have been enhanced due to aggravating circumstances provisions, so as to reap the full “public advocacy” benefits of those provisions.
 - **Ensure that prosecutors and judges are properly trained:** Prosecutors and judges must be trained to apply the legal measures required to prosecute and decide hate crimes cases, as well as be fully apprised of community and law enforcement strategies for combating hate crimes, so charging and sentencing decisions are consistent.
 - **Consider alternative sentences within the framework of enhanced penalties:** Enhanced penalties may be appropriate for chronic, violent hate crime offenders who pose a significant and continuing risk to community safety. On the other hand, options such as mandatory community service with an organization representing the victim’s social, ethnic, or religious group may be more appropriate in cases of first-time nonviolent offenders. Such punishments can promote healing of victims and change offender attitudes, while restoring the trust of the community.
6. **Ensure that all law enforcement professionals are provided the appropriate direction and supervision, given the necessary resources, and adequately trained to address violent hate crimes:** Police and investigators – as the first responders in cases of violent crime – must have the resources and training to detect bias motives and take into account the perception of the victim. National authorities should provide government training and financial support for measures to overcome obstacles faced by local police in registering and responding to hate crimes. In particular, states should:
- **Ensure that police are properly trained and have procedures for identifying and recording violent hate crimes, for investigating them effectively, and in bringing evidence of bias motivations before the courts.** These procedures need to ensure that evidence of the element of bias motivation is properly collected so that it can be presented in court. Police officers need to be trained so that they follow these procedures, and understand why they are important. Police need to ensure that all individuals, including members of minorities who are disproportionately victims of such crimes, have the confidence to report such crimes, and police should co-operate with NGOs and community groups for this purpose. Police should also compile anonymized, disaggregated statistical information about such crimes, and analyze it so that they can monitor the incidence of such crime and their own effectiveness in responding to it. Such data should be made publicly available so that other public authorities and NGOs, can co-operate with the police in undertaking preventive action.
 - **Take advantage of training opportunities available by international organizations –** such as the OSCE’s Law Enforcement Officer Program on Combating Hate Crimes that helps law enforcement address hate crime, and the civil society capacity building programs that help communities develop strategies to work with and assist police in these efforts.
 - **Create special departments or units in their interior, justice and/or other appropriate ministries.** These units should be tasked to monitor the situation with hate crimes,

coordinate efforts of other ministries to combat racism and xenophobia and elaborate measures for further improvement of existing national anti-discrimination policies. Experts from non-governmental and international organizations should be invited to contribute to the work of these units;

7. **Undertake parliamentary, inter-agency or other special inquiries into the problem of hate crimes.** Such official, public inquiries should encourage public debate. These inquiries should solicit input from civil society and reflect the experiences of relevant communities. They should investigate ways to better respond to hate crimes and creative ways to deal with the roots of intolerance and discrimination through education and other means.
8. **Monitor and publicly report on violent hate crimes.** Governments should maintain official systems of monitoring and reporting to provide accurate data for informed policy decisions to combat violent hate crimes. National Points of Contact should as a priority ensure that information and data on the nature, incidence, and response to violent hate crimes is provided on a timely basis to the ODIHR. In particular, states should:
 - **Ensure that police register claims of bias motivation** in complaints and incident reports, in a form and through procedures that allow for these incidents to be distinguished in statistical analysis from similar crimes without a bias motivation.
 - **Undertake to monitor incidents, offenses, as well as prosecutions.** Complaints should be recorded and registered for statistical purposes even when a criminal charge is unlikely. Statistics should chart the number of hate crime events referred to prosecutors and the outcomes of such case filings.
 - **Establish national standards of data collection and reporting,** even when law enforcement is undertaken through a decentralized system.
 - **Provide statistics on bias motivations and/or victim groups:** In reporting on violent hate crimes, governments should record the real or perceived attributes of the victims of hate crimes and the nature of the apparent bias, while respecting the highest standards of data protection and privacy. Data collection systems should cover incidents and crimes motivated in whole or in part by bias on the basis of the victim's race, religion, ethnicity, gender, sexual orientation, mental and physical disabilities, or other similar forms of discrimination. Data on hate crime should be disaggregated so that police are able to track violent hate crimes against members of different religious, ethnic or other minority groups. In public reporting, governments should assure the anonymity of the individuals who are victims of crime while disaggregating crime victim data by victim group and the nature of the bias underlying the crime.
 - **Report regularly and publicly on hate crimes:** Publish and widely disseminate regular public reports on the incidence of bias-motivated incidents and criminal offenses, as well as on the outcome of prosecutions in such cases.
 - **Explore and establish systems of third-party reporting:** Third-party reporting should include provisions for complaints to be made to the police on behalf of persons who, in a

context of intimidation and possible lack of confidence in the authorities, are either unwilling or unable to make the complaint themselves.

- **Conduct periodic crime victimization surveys:** In light of the general problem of underreporting of incidents by victims and underrecording of bias by police, national authorities should include questions in crime victimization surveys that seek to assess the incidence and nature of violent hate crimes.
9. **Create and strengthen antidiscrimination bodies.** Governments need to ensure that the mandates of official antidiscrimination and human rights bodies are sufficiently robust and broad in scope to address hate crimes through monitoring, reporting, and assistance to victims. In particular, states should:
- **Mandate such bodies to monitor, report and address the issue of hate motivated violence, as well as to ensure that aid and assistance is provided to victims.** Such bodies should have the authority to track cases through the criminal justice system and to ensure that legal aid is provided and that victims can secure their rights before state institutions and the courts. National Points of Contact should as part of their mandate bring to the attention of the ODIHR the initiatives and findings of these bodies, and in particular information and statistical data on violent hate crimes
 - **Ensure that such bodies encourage harmonization of hate crime data collection and analysis** by different public and private entities with due regard to the highest international standards on privacy and data collection.
 - **Mandate such bodies to address the unique characteristics of manifestations of intolerance and discrimination** against vulnerable groups such as migrants, people of African origin, Roma and Sinti, Muslims, Jews, LGBT persons, disabled persons and other minorities.
10. **Speak out against intolerance and bigotry.** Freedom of speech allows considerable latitude for offensive and hateful speech, but public figures, including members of parliament and local government leaders, should be held politically accountable for bigoted words that encourage any form of intolerance, discrimination and violence, as well as create a climate of fear for minorities.

National Points of Contact should include in their communications with ODIHR information on the government response to bigoted statements attributed to members of parliament, local government figures, and other public figures. This should include statements by national leaders condemning the abuse of public positions to propagate discrimination and hatred.

11. **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 – by encouraging such organizations (a) to raise the capacity of and train NGOs and organizations of people affected

by violent hate crimes in advocacy, monitoring, reporting and documenting cases of such crimes and (b) to increase the capacity of the courts, state prosecution services, and police to address such crimes, as well as for institutions such as ombudsman institutions, anti-discrimination commissions, and specialized social services at the national, regional or municipal level that provide material and legal support to victims. Governments should also provide a detailed accounting on the incidence and nature of hate crimes to these bodies in accordance with political and other commitments.

In particular, as concerns the OSCE, states should:

- **Enhance the capacity of the personal representatives on tolerance:** The Chairmanship's three personal representatives on issues of tolerance have an important role to play in ensuring that states are meeting the commitments they have undertaken. States should encourage support for the current efforts of the Finnish Chairmanship to ensure that they are provided with the political and administrative support necessary to carry out their duties.
- **Ensure continued support for the ODIHR's Tolerance and Nondiscrimination Department (TnD):** The capacity-building and other activities of the TnD are an important complement to the work of the personal representatives at the political level. In particular, states should 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. It is also important to ensure that the 2008 Human Dimension Implementation Meeting (HDIM) includes ample opportunity for states to account for the commitments they have undertaken on combating hate crimes.
- **Begin preparations for a high-level conference on combating hate crimes in 2009:** The activities of the personal representatives and the ODIHR should be reinforced by periodic high-level meetings to generate political support for the implementation of commitments. States should support the organization of such a high-level meeting in 2009. In order for such a meeting to be successful, it is important to proceed expeditiously toward identifying a host country, beginning discussions as to the agenda of the meeting and proposed outcomes, and taking steps to ensure high-level participation. There are advantages to focusing on the theme of violent hate crime, including forms of incitement that may cause such crimes: violent hate crime is a problem that poses serious threats across the region; it is also an issue that cuts across many forms of discrimination and intolerance and could thus bring together governments and a wide range of civil society actors to assess progress on existing commitments and toward developing a common program to strengthen future action.

We ask that the ODIHR translate these recommendations into OSCE languages and distribute them to all National Points of Contact and Heads of the Missions of Participating States to the OSCE with a request to disseminate them widely in the government and civil society.