



**Statement by
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Plenary Session 4: Legislation in the field of tolerance and non-discrimination; the role of law enforcement in combating hate crimes; data collection on hate crimes

**OSCE Conference on Combating Discrimination and
Promoting Mutual Respect and Understanding**

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Excellencies, Distinguished Delegates, Ladies and Gentlemen,

It is my pleasure to participate in this OSCE Conference on Combating Discrimination and Promoting Mutual Respect and Understanding, and to moderate one of its sessions that will be considering three correlated aspects of the combat against hatred and intolerance, namely the legislation, its enforcement and hate crime data.

Various manifestations of hate pose threats to the security and stability in the OSCE region. Every year, thousands of persons become victims of hate-motivated incidents and crimes. It is well-known that the impact of these crimes is always broader than the actual victim or the damaged property. By their nature, hate crimes are committed not only and not so much against their immediate victims, but against the entire community – often communities – to which the victims belong. Instigating fear against one community ultimately raises the feeling of insecurity among other communities. Therefore, crimes motivated by hate are particularly aggravating and potentially much more dangerous. And these crimes, unfortunately, have a tendency to grow and become more violent and more sophisticated.

In response to these trends, the OSCE participating States made a number of commitments which addressed the importance of adequate legislation to

combat hate crime, the need for accurate and comprehensive hate crime data, and increased training for police and the judiciary in order to strengthen their response to hate crimes. In the 2003 Ministerial Council Decision, the importance of legislation to combat hate crimes was recognised and participating States were called upon to inform the ODIHR about the existence of such legislation, and, where appropriate, to seek the ODIHR's assistance in the drafting and review of such legislation. The Council also encouraged all participating States to collect and keep records on reliable information and statistics on hate crimes. Under the 2004 Ministerial Council Decision, OSCE participating States were called upon to establish training programmes for law enforcement and judicial officials on legislation and enforcement of legislation relating to hate crimes. These important decisions and commitments were reiterated and further strengthened in other OSCE documents, and ultimately formed the basis of the ODIHR's work.

In order to treat hate crime properly, three elements must be in place:

- the ability on the part of investigators and prosecutors to recognize when a case is a hate crime;
- a legal framework that enables hate crimes to be treated seriously;
- and reliable and comprehensive data collection which reveals the true patterns of hate motivated crimes and incidents, and enables proper allocation of training and resources.

The absence of one of these three can cause the whole thing to collapse. The ODIHR's Tolerance and Non-Discrimination Programme therefore is working on all three areas.

Concerning data collection the ODIHR collects information and has so far produced two reports, namely *'Combating Hate Crimes in the OSCE Region: An Overview of Statistics, Legislation, and National Initiatives'* and *'Challenges and Responses to Hate-Motivated Incidents in the OSCE Region'* (covering the first half of 2006). Both reports show that there is a consistent and widespread information deficit on hate crimes, and therefore recommend to strengthen the data collection. There can be no effective combat against hate crimes without the evaluation of the trends, types, scope and extent of the problem, without identification of actual and potential targets, without prediction and prevention. To do so, one needs reliable statistics. As a follow-up, the ODIHR has dedicated one of its Tolerance Implementation Meetings in 2006 to the deficit in hate crime data and is now considering the establishment of an informal expert group to discuss guidelines and templates for hate crime data reporting.

Hate-motivated crimes in the OSCE region are not always investigated and prosecuted as such, which is why the ODIHR also developed a special Law Enforcement Officer Programme in order to train the police to be able to recognize, respond, report and record hate-motivated incidents and crimes. The programme is unique in its police-to-police approach which provides law enforcement experts with strategies and resources to better tackle specific situations. Another added value of this Programme is that it is a flexible

training tool that is being re-evaluated and applied to the specific national context. The transborder nature of hate crimes requires co-operation at a regional level in order to effectively combat cross-border cooperation among organized hate groups. Therefore this Programme also envisages networking between law-enforcement experts, partnership and intelligence-sharing between relevant agencies. The ODIHR's LEOP expert team is present at this Conference and can provide more detailed information.

As a next step, the ODIHR will build upon the LEOP by providing similar training and expert-exchange opportunities between prosecutors and judges. Such training opportunities will provide the opportunity to discuss how to differentiate hate crime from other sorts of crime, why charges of 'hooliganism' are not appropriate for such cases, and common evidential problems in applying hate crime legislation.

In terms of legislation, the ODIHR provides support by conducting legislative reviews when invited to do so by States. Building upon the ODIHR's Guidelines for the Review of Legislation pertaining to Freedom of Religion or Belief and with the support of the Advisory Panel of Experts on Freedom of Religion or Belief, the ODIHR will also develop guidelines for the review of hate crime legislation to be used by legislators and policy makers.

The ODIHR also acts as a collection point for information regarding hate crime legislation and initiatives via the special 'corners' on the TANDIS website. The ODIHR through its legislationline facility provides a record of all the relevant legislation enacted in OSCE States which might be used to combat hate crime (ranging from constitutional guarantees for minorities, to specific hate crime laws).

Today, there is a clear consensus among the OSCE participating States that:

- adequate legislative framework is crucial for addressing discrimination and crimes committed with hate motivation;
- equally important is the collection of accurate and comprehensive data on hate crimes, which will enable to identify the trends and the dynamics and develop appropriate policies and strategies to combat these crimes;
- legislation and strategies alone are not enough, and that special emphasis must be put on effective and efficient implementation of these in the practice of law-enforcement and other relevant agencies.

The question has always been how to transform State consensus into practical measures and concrete action. We hope that this session will provide concrete answers.