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Via email: office@odihhr.pl

Dear Director Sólrún:

As the Organization for Security and Cooperation in Europe (OSCE)'s September 10-21, 2018 Human Dimension Implementation Meeting (HDIM) approaches, a serious concern has arisen on which we the undersigned civil society groups request that you take immediate action.

For the last decade, a civil society delegation has attended HDIMs to express concerns with respect to OSCE Participating States' migration policies, terrorism, and free speech. Those concerns align virtually identically with the policies of the current governments of many OSCE Participating States, including *inter alia* the United States, Hungary, Slovakia, the Czech Republic, Poland, Austria, and Italy.

However, over that time, the Office of Democratic Institutions and Human Rights (ODIHR) has grown increasingly hostile to allowing that delegation to participate.

For instance, in 2016, on the second day of the HDIM plenary session, the General Secretary of the European Muslim Initiative for Social Cohesion (EMISCO), Bashy Qurayshi, charged that 'Islamophobes' who had been permitted to speak at the OSCE were "lying, ranting and attempting to spread hatred at this conference," even smearing them as "Nazis."¹ In spite of EMISCO's well-documented ties to anti-Semitism,² placing bounties on heads of state,³ calls for jailing Jews,⁴ homicide,⁵ and even terrorism,⁶ not

¹ See "Free Speech Champions Fight Back Against OSCE 'Islamophobia' Industry," October 11, 2016, available at <https://www.centerforsecuritypolicy.org/2016/10/11/free-speech-champions-fight-back-against-osce-islamophobia-industry/>, retrieved August 3, 2018.

² Asher Zieger, "British lord blames 'Zionists' for ban of Iranian TV," *The Times of Israel*, available at <http://www.timesofisrael.com/british-lord-blames-zionists-for-ban-of-iranian-tv/>, retrieved August 3, 2018.

³ See Nick Allen and Tim Ross, "Lord Ahmed suspended from Labour Party after 'offering £10m bounty for capture of Obama and Bush'" *The Telegraph (UK)*, April 16, 2012, available at <https://www.telegraph.co.uk/news/worldnews/asia/pakistan/9206078/Lord-Ahmed-suspended-from-Labour-Party-after-offering-10m-bounty-for-capture-of-Obama-and-Bush.html>, retrieved August 3, 2018.

⁴ "MP: Arrest British Jews fighting for IDF," *Press TV*, February 3, 2009, available at <https://web.archive.org/web/20100205131635/http://www.presstv.com/detail.aspx?id=84530§ionid=3510302>, retrieved August 3, 2018.

⁵ Martin Wainwright, "Lord Ahmed jailed for sending texts while driving before fatal crash," *The Guardian (UK)*, February 25, 2009, available at <https://www.theguardian.com/uk/2009/feb/25/lord-ahmed-dangerous-driving>, retrieved August 3, 2018.

⁶ See Jonny Paul, "British lord joins UK Islamists in praising Erdogan," *Jerusalem Post*, February 11, 2009, available at <http://web.archive.org/web/20090215131755/http://www.jpost.com/servlet/Satellite?cid=1233304755031&pagenam e=JPost/JPArticle/ShowFull>, retrieved August 3, 2018.

only was it allowed to participate, but senior ODIHR representatives at the head table actually broke into applause at Qurayshi's charges,⁷ then reportedly afterwards had to apologize for the outburst.

At the 2017 annual HDIM, the situation deteriorated further. The ODIHR moderator first "reminded" each of the free speech delegation members after they spoke "of commitments Participating States have taken with respect to tolerance and non-discrimination," then ultimately "requested" after each of them spoke that they "abide by [those] commitments."⁸ Note that there is no rule which requires members of civil society to abide by Participating States' commitments. The point of human dimension meetings is the reverse: for members of civil society to report on whether Participating States are themselves abiding by those commitments.

At the end of the 2017 HDIM, in response to interventions by the free speech delegation, Director Sólrún complained that Participating States had "unfortunately witnessed discourse which does not belong in a forum set on how we can further tolerance. In fact, it does not belong anywhere."⁹

By contrast, privately a senior US official at the meeting expressed support for the participation of all organizations that did not advocate violence. He also expressed opposition to "telling people what they can and cannot say," while stressing the view that security is strengthened with adequate respect for human rights, with which members of the free speech delegation agreed.¹⁰

Finally, in February, 2018, at the OSCE Parliamentary Assembly Winter meeting, a senior ODIHR official called for support of civil society organizations, but again asserted those organizations needed to adhere to OSCE commitments.¹¹ This position is nowhere reflected in OSCE ODIHR agreements, and if implemented it would simultaneously violate commitments Participating States have taken with respect to freedom of expression.

In the lead up to the OSCE supplementary human dimension meeting, "Countering Violence against Women – Everyone's Responsibility," the staff circulated a document describing it that contained a radical policy change with no legal basis taken ostensibly without the knowledge or consent of OSCE's 57 Participating States, including the United States.¹²

⁷ See "Free Speech Champions Fight Back Against OSCE 'Islamophobia' Industry," October 11, 2016, available at <https://www.centerforsecuritypolicy.org/2016/10/11/free-speech-champions-fight-back-against-osce-islamophobia-industry/>, retrieved August 3, 2018.

⁸ See "European Confab Pushes Censorship, Shelters Sharia," September 29, 2017, available at <https://www.breitbart.com/national-security/2017/09/29/hull-european-confab-pushes-censorship-shelters-sharia/>, retrieved August 3, 2018.

⁹ See "2017 HDIM: Working Session 8," The Organization for Security and Co-operation in Europe (OSCE), published on Sep 20, 2017, available at <https://www.youtube.com/watch?v=fPGe4CRTGp0&feature=youtu.be&t=66>, retrieved August 3, 2018.

¹⁰ According to meeting participants.

¹¹ According to meeting participants.

¹² OSCE, Supplementary Human Dimension Meeting, Countering Violence against Women – Everyone's Responsibility, 2 – 3 July 2018, Hofburg, Vienna, available at <https://www.osce.org/odihr/384282?download=true>, retrieved August 3, 2018.

Specifically, the document stated: “Participants have a right to express their opinions freely, while respecting human rights & the principle of non-discrimination. Thus, **the moderator will interrupt any speech** that attacks a person or group on the basis of, e.g., race, religion, gender, sex or any other status.”¹³ (Emphasis added.)

This new policy was a blatant violation of both ODIHR and OSCE policy on allowing civil society participation. It is also itself a violation of commitments OSCE Participating States have taken with respect to fundamental rights, including freedom of speech.

Just last December, the International Partnership for Human Rights (IPHR) wrote:

We, members of the Civic Solidarity Platform (CSP), believe that restricting civil society participation in the work of the OSCE would be a tremendous setback for the Helsinki process and a betrayal of the spirit and founding values of this unique peace advancement initiative.¹⁴

ODIHR’s new policy restricted civil society participation in the work of the OSCE, and is indeed a tremendous setback for the Helsinki process and a betrayal of the spirit and founding values of this unique peace advancement initiative.

In response, our understanding is the U.S. OSCE delegation communicated to ODIHR that:

1. ODIHR cannot simply insert new rules outside of the consensus process without receiving approval for them;
2. Regardless, this particular new policy would violate OSCE modalities about civil society participation; and finally
3. CSOs are in fact under not the slightest obligation to follow OSCE Participating State commitments, given that they are not themselves Participating States.

In addition to that:

1. Ironically, this new policy was a violation of OSCE commitments with respect to freedom of expression, which means it is a violation of the OSCE Code of Conduct for Staff/Mission Members, which states that they “shall comply with the principles, norms and commitments of the OSCE and adhere to the mandate of their respective Institution or Mission in performing their duties”¹⁵; and
2. Because it is aimed at those attempting to raise concerns with respect to migration and terrorism, the policy is in practice in direct conflict with the positions on terrorism and migration taken by

¹³ OSCE, Supplementary Human Dimension Meeting, Countering Violence against Women – Everyone’s Responsibility, 2 – 3 July 2018, Hofburg, Vienna, available at <https://www.osce.org/odihr/384282?download=true>, retrieved August 3, 2018.

¹⁴ International Partnership for Human Rights, “Safeguarding civil society participation in the Helsinki process – a matter of the OSCE’s raison d’être”, December 11, 2017, <http://iphronline.org/safeguarding-civil-society-participation-helsinki-process.html>, retrieved August 3, 2018.

¹⁵ “OSCE CODE OF CONDUCT FOR STAFF/MISSION MEMBERS: Appendix 1 to the OSCE Staff Regulations and Staff Rules,” Permanent Council Decision 550/Corr.1, 27 June 2003, available at <https://www.osce.org/secretariat/31781?download=true>, retrieved August 30, 2018.

current governments of OSCE Participating States including not only the United States, but also Hungary, Slovakia, the Czech Republic, Poland, Austria, and Italy.

Accordingly, the policy should never have taken effect at this meeting, nor should it be permitted at subsequent OSCE or ODIHR events.

Regardless, ODIHR has now included similar language when one signs up in a so-called code of conduct for HDIM. The content is similarly worrying. Here is a sample:

§ 3. Other provisions

1. Participants shall refrain from presenting or shouting any slogans that might be:
 - a. provoking or urging to disturb order and safety,
 - b. likely to give rise to violence, [or]
 - c. discriminating other persons on the basis of their race, color, sex, language, religion or belief, political or other opinion, national or social origin, property, birth or other status (Maastricht 2003, Ljubljana 2005)...

ODIHR reserves the right to instruct HDIM moderators to **interrupt any Participant who speaks in violation of these principles**. In case of repeated non-compliance ODIHR reserves the right to **void the Participant of the right to speak at the session**, or as a last resort of the **right to further participate at HDIM**. (Emphasis added.)

This is yet another transparent attempt to shut down freedom of expression in the ODIHR's OSCE ambit, specifically with respect to terror and migration policies with which ODIHR staff disagree, but which are central to platforms of ever-increasing numbers of Participating States.

What is more, the two ministerial decisions cited are out of context.

First, Maastricht 2003 includes language "Reaffirming [the Ministerial Council's] commitment to promote tolerance and combat discrimination" and "Affirming its commitment to increase its efforts for the promotion of tolerance", but says nothing with respect to violating fundamental rights with respect to freedom of expression, in OSCE or outside it, in order to do so.¹⁶

Second, Ljubljana 2005 states that the Ministerial Council "Decides that the participating States while implementing their commitments to promote tolerance and non-discrimination will focus their activities in such fields as, *inter alia*, legislation, law enforcement, education, media, data collection, migration and integration, religious freedom, inter-cultural and inter-faith dialogue" - but neither that statement nor the following provisions make any reference with respect to shutting down freedom of speech, in OSCE or beyond.¹⁷

¹⁶ See "Final Document of the Eleventh Meeting of the OSCE Ministerial Council, Maastricht, 1-2 December 2003", available at <https://www.osce.org/mc/40533>, retrieved August 28, 2018.

¹⁷ See "13th OSCE Ministerial Council Ljubljana, 5 December 2005 (All day) - 6 December 2005 (All day)," available at https://www.osce.org/event/mc_2005, retrieved August 28, 2018.

Accordingly, we request that ODIHR immediately:

1. Explicitly rescind the HDIM Code of Conduct § 3(1)(a-c)¹⁸; and
2. Pledge that on the issues of freedom of expression, migration, and terror, it will abide by:
 - a. The Modalities for OSCE Meetings on Human Dimension Issues, 23 May 2002 (OSCE PC Dec.476, Section I paragraph 9), which states that “NGOs, specifically those with relevant experience, are particularly encouraged to participate in the discussion of the selected topics and to provide their suggestions and recommendations;”¹⁹ and
 - b. The OSCE Code of Conduct for Staff/Missions, which states that
 - i. “OSCE officials shall ensure that their own personal views and convictions, including their political and religious convictions do not adversely affect their official duties,” as well as that
 - ii. “OSCE officials shall respect the laws and regulations of the host country, as well as its local customs and traditions,” in this case those of Poland.²⁰

Thank you for your consideration. Please feel free to respond to chris@securefreedom.org or +1 (202) 258-9710.

Cordially,

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¹⁸ See “CODE OF CONDUCT AT THE OSCE HUMAN DIMENSION IMPLEMENTATION MEETING (HDIM),” Organization for Security and Cooperation in Europe, Office of Democratic Institutions and Human Rights, https://meetings.odihr.pl/dl/2943/f85414/CODE_of_CONDUCT_HDIM-1.docx, retrieved August 30, 2018.

¹⁹ Modalities for OSCE Meetings on Human Dimension Issues, 23 May 2002 (OSCE PC Dec.476, Section I paragraph 9), available at <https://www.osce.org/pc/13198?download=true>, retrieved August 28, 2018.

²⁰ “OSCE CODE OF CONDUCT FOR STAFF/MISSION MEMBERS: Appendix 1 to the OSCE Staff Regulations and Staff Rules,” Permanent Council Decision 550/Corr.1, 27 June 2003, available at <https://www.osce.org/secretariat/31781?download=true>, retrieved August 30, 2018.

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