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NGO Discussion Paper on the Irish OSCE Chairmanship's Proposals for Review of Human Dimension Events¹

*Prepared by the "Civic Solidarity" Platform for Discussions at HDIM-2012²
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General approach to reforms of HD events

We strongly support the Chair's approach to a review of HD events, based on the notion that any new arrangements should not undermine or in any way diminish the importance of the human dimension to the OSCE's comprehensive concept of security.

The OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century, adopted at the 2003 Ministerial Council meeting, makes clear the central role of the Human Dimension and its relation with the two other dimensions of the OSCE. This approach was reiterated in the Astana Commemorative Declaration of 2011.

Being concerned that several participating States have moved further away from implementing their human dimension commitments, we believe that strengthening activities in the sphere of national security should not be done at the expense of human rights, rule of law, and democracy. Systematic violations of human rights and fundamental freedoms in combination with an absence of strong democratic institutions and deviations from the rule of law represent a serious threat to security and stability.

We agree with the Chair's statement that any changes in HD events should strengthen the OSCE human dimension by making the events more focused, more attractive, and more effective. To increase their effectiveness, we believe that the main directions of reform should focus on the following changes:

¹ Proposals by the Irish Chairmanship were presented on August 3, 2012 in the "Perception Paper on the Review of Human Dimension Events", CIO.GAL/112/12, 3 August 2012, OSCE+.

² This discussion paper has been prepared by the "Civic Solidarity" Platform for discussions at HDIM-2013 and is based on deliberations within the Platform and interested parties within the OSCE in 2011-2012 and on several documents produced earlier by the Platform or its members, including *Comments on the Perception Paper on Review of Human Dimension Events Prepared by the Irish Chairmanship and distributed on August 3, 2012, September 4, 2012; Reform of OSCE Human Dimension Events. NGO Position Paper, 30 June 2012; Proposals on the OSCE Reform by the Civic Solidarity Platform submitted to the OSCE Parliamentary Assembly Annual Session, Monaco, 4-10 July, 2012; Making Commitments Come True: Outcome Document of the Parallel OSCE Civil Society Conference, Vilnius, December 2011; Outcome Document of the Parallel OSCE Civil Society Conference, Astana, November 2012, Recommendations on the Effectiveness of OSCE Structures by the International Civic Initiative for OSCE, October 2010.*

- a more logical annual cycle of HD events should be established, starting early in the year with HDIM and continuing with strong follow-up activities throughout the year, including SHDMs, HDC meetings, PC meetings, and Ministerial Council meetings, with these activities focusing on issues raised, concerns expressed, and recommendations made at HDIM;
- activities throughout this annual cycle of HD events should focus on adopting concrete recommendations, decisions and action plans aimed at improving participating States' implementation of human dimension commitments and on the assessment of implementation of decisions adopted in the past;
- the role of independent OSCE institutions in the HD events cycle should be strengthened;
- the role of independent experts in preparing HD events, holding them, and developing follow-up actions should be increased; independent experts should be tasked with developing recommendations for action rather than "observations"; and
- civil society participation in HD activities should be secured and civil society organizations' substantive input should be increased at all stages of the HD events cycle throughout the year.

Timing of HDIM. Establishing a standard annual cycle of HD events. Focusing on follow-up to HDIM, including recommendations arising from HDIM. Supplementary HDIMs.

We strongly support the Chair's proposal to move HDIM from autumn to spring. We agree that this would help avoid overlap with relevant meetings of other international organizations and provide sufficient time for work to be taken forward on the recommendations emerging from HDIM, particularly those that might be the subject of Ministerial decisions at the following Ministerial Council.

Shifting the timing of HDIM would help strengthen follow-up mechanisms through the Permanent Council, Human Dimension Committee, and Ministerial Council meetings and set up the agenda for Supplementary HD meetings and PC actions. However, we suggest moving HDIM to an even earlier time – mid-March, as opposed to the third week of May as proposed by the Chair. This would allow all three Supplementary HDIMs to be held after the HDIM. This change of timing would help to establish a logical year-long cycle of review and follow-up action on HD commitments, including leading to a possible assessment meeting of all the year's activities at the end of the year. It would also require more systematic engagement by a new Chairmanship from the very start of the year, and give sufficient time for a new Chairmanship to develop follow-up plans for the rest of the year.

We support the Chair's proposal to organize a reinforced Permanent Council meeting in Vienna a few weeks after HDIM with the participation of Human Rights Directors and relevant senior officials, specifically devoted to the implementation of human dimension commitments. Heads of OSCE institutions would also participate and present their priorities for the future as well as their preliminary assessment of recommendations made during the HDIM.

We agree with the Chair's proposal that in order to prepare for the discussion at the Reinforced Permanent Council, the Chairmanship should prepare a perception paper that would be circulated in advance. We suggest that the Chair involve independent experts in preparing the follow-up perception paper. Civil society should also be given a role in this process. It is important to ensure that the Reinforced PC meeting

is open to civil society representatives as a matter of a standard procedure rather than on an ad hoc basis by invitation of the Chair.

The Reinforced PC meeting would then summarize the main findings and recommendations of the HDIM and identify key issues and topics requiring follow-up and possible action, including by the Permanent Council and the Ministerial Council. The Reinforced PC meeting would be devoted to forward-looking discussions with a view to fostering implementation of, as well as refining recommendations as necessary to meet new risks and challenges. The PC would seek to provide direction with regard to follow-up on recommendations presented at the HDIM and with regard to preparations for the next OSCE Ministerial Council Meeting.

Indeed, a regular review of shortcomings in the implementation of human dimension commitments is an indispensable part of a process stimulating compliance with human dimension commitments. In our view, HDIMs should not be stand-alone events but should be embedded in an ongoing process of review, generation and realization of plans for improved implementation of commitments and feedback on steps taken to follow-up on such plans. We strongly believe that HDIM outcomes must lead to tangible follow-up by participating States, OSCE institutions, the Permanent Council and the Ministerial Council as the main decision-making bodies of the organization. The special Reinforced PC meeting proposed by the Chair, with a review of a perception paper prepared by the Chair based on discussions at HDIM, and elaboration of follow-up measures and action plans, can serve this role well.

We believe that plans and reports adopted during HDIM should be less vague and more specific, identifying countries concerned and requiring that they report on improvements in the course of the year at the subsequent HDIM meeting, at the PC, or other possible multi-lateral meetings. Further on, participating States could be required to present Implementation Plans on how they intend to address shortcomings in human dimension implementation identified during HDIM discussions.

In addition, we believe that reviews of the implementation of human dimension commitments should include regular special meetings of the Permanent Council and/or the Human Dimension Committee focusing on specific human dimension issues. These meetings should be open to civil society representatives and the media, beyond what is foreseen by the current Rules of Procedure. Given that the HDC has a plan of work for the year, addressing various human dimension issues and commitments, it may be a good entry point for more systematic NGO involvement in the work of PC.

We agree with the Chair's proposal to abolish the Human Dimension Seminar but to retain three Supplementary HDIMs. We also agree that the selection of topics for the SHDIMs should remain a prerogative of the CiO and that, as a general rule, topics for each of the three SHDIMs should be taken each from one of the three pillars of the human dimension. As we indicated earlier, we believe all three SHDIMs should be held after HDIM, and that their topics should be chosen on the basis of issues raised at HDIM.

We support the Chair's proposal that NGOs should be invited to submit in writing their recommendations and suggestions with regard to the structure and concept of the SHDIMs. A prominent NGO representative might address the opening session of the SHDIMs. In order to prepare the SHDIMs, the OSCE institutions

should provide well in advance food-for-thought papers on the topics to be discussed. In accordance with their mandates and depending on the topic, OSCE field structures would contribute actively to the preparation process. Delegations and NGOs would be encouraged to circulate written statements in advance in order to stimulate a more lively debate during sessions. ODIHR should be tasked with producing written reports on the outcome of SHDMs, including statements made, and distributing them prior to the next HDIM or Review Conference.

In addition, we believe that it makes sense to organize SHDMs outside of Vienna and Warsaw: it will help to raise the OSCE's public profile and ownership in different OSCE participating states.

A special assessment meeting at the end of each Chairmanship should also be held to assess progress made during the year in addressing the problems identified at HDIM in the spring.

A procedure should be devised for civil society organizations to provide input to all these meetings throughout the human dimension events annual cycle and to follow the discussions as they unfold.

Length of HDIM

The Chair proposes to shorten HDIM to 7.5 days from the current 9.5 days by omitting the "special days" and dispensing with the final Plenary session which has not, in recent years, succeeded in attracting more than a small number of national Human Rights Directors or other senior officials for whom it was intended. In the Chair's view, the shorter duration, combined with a standing agenda, would make HDIM a more attractive event.

We regard this proposal with skepticism. We believe that growing problems with the implementation of many OSCE human dimension commitments call for more, rather than less, attention to compliance issues. The primary focus of discussion about efficiency of HDIM at this stage should therefore not be on the duration of HDIM but on how preparations for HDIM and the format of HDIM sessions can be changed to ensure that the time at HDIM is used for more intensive, more persistent and higher quality discussions, and how the outcome of discussions at HDIM can be transferred effectively and transparently to the Permanent Council and the Ministerial Council in the follow-up to HDIM.

Once this has been achieved the issue of shortening the duration of HDIM can be considered later. We also strongly believe that the Chair's proposal to shorten HDIM should not be used as an opening to negotiate for an even shorter event.

HDIM agenda

We strongly support the Chair's proposal to establish a standing agenda for the HDIM, which would obviate the need for annual decisions. The standing agenda should be based on the existing provision contained in PC Decision 476, with some minor amendments. We also strongly support the Chair's proposal to allocate a dedicated working session to each of the fundamental freedoms. In the current agenda fundamental freedoms are squeezed together into too short a time, thus preventing the kind of meaningful discussion

that these commitments require given increasing problems in a number of OSCE participating States. The idea of conducting full half-day sessions for each fundamental freedom has, therefore, our full support. Lastly, we support the proposal to revise the human dimension activities session to focus more on the role of civil society.

However, we suggest three amendments to the standard agenda proposed by the Chair:

- a) Allocate separate half-day sessions for freedom of assembly and freedom of association instead of discussing them together. They are equally important freedoms in their own right, each requiring proper attention, as much as other vital freedoms such as freedom of expression, freedom of movement, and freedom of thought, conscience, religion or belief. Fundamental freedoms are all important and should not compete with each other. Time for this additional session may be found either at the expense of “special days”, or by merging together some sessions in the tolerance/non-discrimination/minority protection pillar, for example, merging Protection of Persons Belonging to National Minorities with Tolerance and Non-Discrimination. Recent experience at HDIMs demonstrates a certain repetitiveness of statements and issues discussed under these items. Also, these sessions may be organized concurrently.
- b) Add an agenda item on “security of human rights defenders.” This growing problem has been reflected in the work of the UN and the Council of Europe but not so much at the OSCE. This item could be discussed separately or added to freedom of association or the role of civil society in protecting human rights.
- c) Move items under the third pillar (Democratic Institutions, Rule of Law I and Rule of Law II) up in the agenda so that they come immediately after items under the first pillar of fundamental freedoms. These two pillars are closely related, and this change in scheduling would make it easier for specialized NGOs and experts to stay at HDIM for sessions on these items.

New format of HDIM sessions. Speaking order at HDIM. Use of new technologies.

We have mixed feelings about the Chair’s proposal that some HDIM working sessions would commence with a strongly moderated discussion among a panel of no more than four experts. We are concerned that a panel discussion would take time from interventions by and discussion among HDIM participants.

However, we agree with the idea of holding strongly moderated discussions. We like the proposal to have national delegations and NGOs circulate prepared statements in writing instead of reading them out. Indeed, in the current format of working sessions at HDIM there is little time for genuine debate and interaction after lengthy introductions followed by pre-prepared interventions, often limited to three or fewer minutes in duration. Therefore, we support the Chair proposal for moderators of the HDIM sessions to adopt a proactive attitude to help ensure that the participants engage in a constructive debate aimed at improving the implementation of OSCE commitments and formulating recommendations, thereby reinforcing the relevance of the human dimension meetings.

We believe that at HDIM the focus should be less on presenting information and recommendations by reading prepared statements and more on discussion of these recommendations and on how to remove obstacles to their implementation. Going further, on the basis of the Chair's proposal we suggest that NGOs and governments could be asked to submit their information and recommendations as much as four weeks in advance of HDIM to allow for a shift of focus at HDIM.

This would ensure better preparation for HDIM sessions. Discussions could be prepared by independent experts who would make a presentation on key issues and recommendations raised in participating States' and NGOs' preliminary submissions and ensure that discussion focused on recommendations and follow-up actions. These experts could be recruited from academia, National Human Rights Institutes, or from civil society, as do the current presenters at HDIM, whose contributions currently are rarely taken up for further discussion. Their proposals could be made either in the form of a presentation or of a panel discussion of more than one expert, as suggested by the Chair. Information from ODIHR and other specialized OSCE agencies could also be taken up in such presentations and discussions, as could relevant information from the human rights mechanisms of the United Nations or the Council of Europe. An approach similar to that used in framework of the Universal Periodic Review mechanism of the UN Human Rights Council where the Office of the UN High Commissioner for Human Rights is responsible for producing a compilation of reports and submissions from the UN Treaty Bodies, UN Special Procedures, National Human Rights Institutions and NGOs, submitted in advance of the UPR session, could be used. This would require developing certain guidelines and requirements for reports and submissions prior to HDIM.

We suggest that those State delegations and NGOs which have submitted papers in advance should have priority in signing up to the speakers' list at each working session. However, a certain amount of time should be also allocated for shorter statements addressing issues that have arisen after the deadline for submission of advance written statements, and for statements within the moderated discussion.

We support in principle the Chair's proposal that when registering their participation at HDIM and other human dimension events, participating States and NGOs would be invited to indicate at which sessions they propose to speak, in order of preference. This would assist moderators in establishing time limits for interventions from the start of each session. As in the current system, all participants, representatives of States and NGOs alike, would have equal access to the list of speakers in order to provide their contributions to each working session.

We conditionally support the Chair's proposal to encourage greater use of new technologies such as streaming Internet video and Twitter feeds to allow more openness of the working sessions and participation from afar. Indeed, establishing remote access (by video link) to open the event to people who cannot come to HDIM would expand the circle of participants. On the other hand, new technologies should not substitute for physical participation. Adding these new tools should not serve as an argument to limit direct NGO participation at HDIM. Ultimately, we strongly believe that any changes in the HDIM modalities should not create obstacles to NGO engagement or be used as an excuse to take away time from statements by NGOs.

NGO participation at HDIMs and other HD events

We fully support the Chair's position that the provisions of Chapter VI, paragraph (9), of the Helsinki Document 1992, continue to be a sound basis for NGO access to OSCE meetings. We are encouraged by the Chair's disagreement with proposals by some delegations for "optimizing" NGO participation in human dimension events.

We strongly believe that there is no need for any change in the criteria for NGO access. The only criterion for excluding organizations from participation should continue to be their promotion of violence or terrorism. Situations of great shortcomings in the implementation of human dimension commitments may lead civil society organizations to express strong criticism of positions taken and actions carried out by participating States. This is inherent in human rights protection and promotion and should not lead to organizations being excluded by the participating State they criticize or by any other State from the process of review and improvement of the implementation of participating States' commitments. Therefore, participation by NGOs in HDIMs, PC meetings and other OSCE human dimension implementation mechanisms should not be subject to prior approval by participating States.

"NGO days" before HDIM

The Chair believes that prior consultations among NGOs could enhance the effectiveness of their participation at HDIM by enabling them to develop coordinated positions should they wish to do so. The reduction in the length of HDIM proposed by the Chair would allow the time and space for such coordination to take place. The Chair proposes therefore that OSCE/ODIHR would make available venues and facilities for civil society meetings in the two-and-a-half days immediately prior to the start of HDIM. Any such meetings would be organized by NGOs and civil society organizations themselves and the Chair would encourage interested parties to consult with one another on this matter. The Chair indicates that civil society days in advance of HDIM would not in any way limit NGOs' entitlement to attend and speak at HDIM but consideration could, for example, be given to prioritizing the speakers' lists and interventions which have been coordinated at such meetings.

We have mixed feelings about this proposal. On the one hand, preliminary NGO consultations and preparations may be quite useful and allow for better coordination of positions and prioritization of interventions at HDIM sessions. This model is somewhat similar to parallel civil society conferences prior to the OSCE Ministerial Council meetings and Summits as well as parallel civil society meetings before events of other international organizations.

However, there are a number of potential pitfalls:

- this meeting should not in any way become an argument at a later point in time for limiting robust NGO participation in HDIM;

- it is unclear who will have the right and responsibility to organize such a meeting, select participants and make decisions on financial support; the issue of legitimacy is important and sensitive; we suggest that this meeting (or rather these meetings) should take place only if NGOs so wish;
- the Chair does not propose a plan to prevent the infiltration, compromise or hijacking of this NGO meeting by government-affiliated NGOs (GONGOs); the difficult experience of the Parallel Conference in Astana is just one example of this danger;
- finally, elaboration of coordinated positions and priorities at such meetings cannot and should not prevent NGOs from expressing individual positions and dissenting views; civil society is pluralistic and decentralized by its nature, and no one should expect the emergence of a single position; the meeting should rather serve as a coordination exercise.

In addition to their own internal consultations, NGO participants could benefit during this pre-HDIM period from special meetings, based on NGO requests, with interested State delegations, ODIHR representatives and OSCE specialized bodies. Such meetings with OSCE representatives or State delegations could be open for all NGOs present or could be held as private meetings with smaller group of NGOs from a particular country or an issue-based coalition, per their requests. Where implemented by other international organizations, including international financial institutions, such practices have proven very useful for civil society.

We suggest that instead of calling this initiative “the NGO Days”, these meetings, both internal NGO consultations and NGO meetings with State delegations and OSCE representatives, should be called “NGO consultations” and seen as an opportunity provided by ODIHR on the basis of NGO requests, rather than a mandatory part of the official HDIM program. We reiterate that these consultations should not in any way be seen as an NGO “ghetto” and become an argument for limiting active NGO participation in HDIMs. It is much more important to ensure robust NGO participation in all human dimension events throughout the year, including preparation for and follow-up to HDIM.

Appendix

Additional NGO Proposals on Reforms of Human Dimension Mechanisms outside of HD events

1. In general, we propose the following **four main directions of reform** aimed at making the OSCE work in the human dimension field more efficient:

- a) “routine activity”: establishment of a regular annual cycle of human dimension events which should be much more focused on monitoring of implementation of commitments by participating States and a follow-up to discussions at HD events in the form of practical, forward-looking recommendations and plans of actions (described earlier in this paper);
- b) “emergency and crisis response”: developing of a set of mechanisms and tools ensuring the OSCE’s ability to respond to emergency and crisis situations in the area of human dimension or prevent such situations from developing;
- c) strengthening of the role of **autonomous OSCE institutions**, including ODIHR, OSCE PA, the High Commissioner for National Minorities, the Representative on Freedom of the Media, and the Special Representative on Human Trafficking, and increasing the role of **independent experts** in both HD meetings and development of human dimension standards and guidelines;
- d) increasing the **role of civil society** at all levels and in all activities in the field of human dimension.

2. In this context, we believe that **OSCE should ensure that investigations and policy preparation for swift OSCE action** in response to human rights emergencies, situations of persistent, large-scale human rights abuses, or imminent threat of such violations are not held up by a veto by any one participating state. All existing OSCE procedures for dealing with emergency human dimension situations should be applied in cases of clear and gross violations of OSCE commitments, including the Berlin Mechanism, the Prague “consensus minus one” procedure, and the Moscow Mechanism. Instruments for rapid response to human rights crises, including follow-up steps to the release of reports and other documents of these monitoring procedures, should be developed, taking into consideration, inter alia, lessons learned from the past applications of the Moscow Mechanism. We plan to submit a more elaborate proposal on this in our recommendations to the Dublin Ministerial Council meeting.

3. We believe it is important **to increase the openness of the Permanent Council and the Human Dimension Committee to civil society**, for example, by introducing the practice of periodically inviting civil society experts to address these meetings and propose recommendations in the human dimension to participating States and OSCE institutions.

4. We suggest that the OSCE establish at ODIHR or other OSCE institutions **expert groups on fundamental human rights** comprised of experts from civil society modeled after the ODIHR Panel of Experts on Freedom of Assembly. These expert groups could elaborate human dimension standards, guidelines, and recommendations on implementation of human dimension commitments.

5. We believe that a country that holds the **Chairmanship of the OSCE** should expect closer scrutiny of the way it fulfills its OSCE commitments and that they therefore have a particular responsibility to provide a good example with regard to respecting these commitments. We therefore call upon the OSCE to introduce an official review mechanism to assess participating states for a potential Chairmanship role, including evaluating the candidate country's implementation of its OSCE human dimension commitments. This review should be carried out before any decision on the matter of future Chairmanships is made. Initially this could be done on a voluntary basis, in order to strengthen the international standing of the Chairmanship. Civil society monitoring reports should be an important part of this assessment process.

6. We call on the OSCE to **strengthen permanent operational links with the United Nations Human Rights Council and its special procedures and the Council of Europe and its bodies.**

7. We believe that OSCE **Summits of Heads of State and Government** should be held on a regular basis in order to focus the organization's work, increase its political significance and visibility, and promote its unique notion of comprehensive security with the human dimension at its core. We suggest that **a three-year action plan ahead of the 40th anniversary of adoption of the Helsinki Accord** is developed with a view of holding a Helsinki +40 Summit or conference in 2015 aimed at increasing the OSCE visibility, reinvigorating the spirit of Helsinki agreements and making the organization more efficient in the context of new and developing trends and challenges in all three dimensions.