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UNITED STATES COMMISSION ON SECURITY AND COOPERATION IN EUROPE  
(HELSINKI COMMISSION) HOLDS HEARING:  
THE ROLE OF OSCE INSTITUTIONS IN ADVANCING HUMAN RIGHTS AND DEMOCRACY

SEPTEMBER 17, 2008

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WITNESSES/PANELISTS:

AMBASSADOR JANEZ LENARCIC,  
DIRECTOR,  
OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS

R. SPENCER OLIVER,  
SECRETARY GENERAL,

OSCE PARLIAMENTARY ASSEMBLY

The hearing was held at 3:00 a.m. in Room 2325 Rayburn House Office Building, Washington, D.C., Rep. Alcee L. Hastings, Chairman, Helsinki Commission, moderating.

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HASTINGS: I don't think I've ever seen Tina in a hearing. And so, I kind of like have to take special note of the fact that Tina is Spencer's wife and long-standing friend of mine. I'm delighted that you're here with us. It's really a warm feeling.

Today we are having a hearing on the role of OSCE institutions in advancing human rights and democracy. So as I call this hearing to order, being mindful of the extraordinary constraints of time and the likelihood of a vote being called at some point, I'm going to allow my remarks to be put into the record and cut straight to my two friends that are here and welcome both of them.

Ambassador Lenarcic -- he chaired the OSCE's permanent council in Vienna during Slovenia's chairmanship of the Vienna-based organization in '05 coinciding with my service as president of the parliamentary assembly. And then he was appointed director of the office of democratic institutions and human rights effective as of July 1.

And my long-standing friend that got me into all this stuff to begin with, Spencer Oliver, joins us in his capacity as secretary general of the OSCE parliamentary assembly, a position he's held since 1992. And his lengthy service on Capital Hill included eight years as this commission's chief of staff.

And, Spencer, I don't know whether you recognize this, but this is the OSCE tie from Washington, D.C. when we were here. I don't know how I found it this morning. I really was not looking for it. But, you know, welcome again to be here with us. And the full resumes of both our witnesses at the table outside are for purposes of others. And all and any of our comments will be placed on our Web site, and I encourage you to look at that for added information.

So let's begin with Mr. Lenarcic.

And, sir, you have the floor.

LENARCIC: Thank you very much, Mr. Chairman. It's indeed a great pleasure to be here. It's also a great honor to be invited to testify before this commission so early in my tenure. I would like to say at the very beginning that I am very much grateful for the support of this commission to the work of the OSCE in general and to my office, office for democratic institutions and human rights. In particular, I'm looking forward to our continuous cooperation.

Let me just try to make a couple of remarks in my introduction that would revolve around three main points. First is the place of the OSCE in the global architecture, global security architecture, especially in light of the recent developments. I would also like to share with you some of the practical examples, examples of practical work that my office is working on and

contributing to the Helsinki spirit, which was the spirit underlying the establishment of this very commission. And finally, I will, with your permission, expand a little bit on the democracy promotion in the OSCE area.

So we all recall that in Paris almost two decades ago the participating states declared that the era of confrontation is over and the new era of democracy, peace and unity in Europe has begun. Today I think that if we look back at that statement, we may have an impression that that optimism was a little bit premature.

Recently there appear to be new divisions occurring in the OSCE area. There is a new atmosphere of confrontation in the meeting rooms, in particular where OSCE borders meet. There is some mistrust. There is some suspicion around. And this has, of course, affected the work of the OSCE and also our office, ODIHR.

Nevertheless, I wish to underline my firm conviction that OSCE continues to be relevant. It continues to be relevant in our efforts to achieve the goals that I mentioned were set in Paris. It has a number of unique features, this organization of ours. In particular, it is the organization when all participating states are equal. It is also the organization which I think has kept the promise of democracy, peace and unity alive.

That promise has contributed to the momentous changes that took place in the beginning of the '90s in Europe. And that promise lives on, and the peoples of the OSCE throughout the region expect this promise to become a reality.

In short, the world may be changing, but the commitments, the OSCE commitments included, remain. And they remain as relevant today as they were when they were adopted.

How does my office contribute to a realization of this commitment? I will, instead of talking about our mandate, try to offer a set of examples of what we do. Before doing so, let me just say that in my view OSCE is not about one-way transfer of values. It's about joint work, joint setting of standards and commitments. It's about dialogue that more often than not makes progress only in incremental steps. But ultimately that is the way that so far allowed OSCE to succeed. And I am confident that we can continue.

Now, these examples that I wish to share with you. Human rights defense - we see a lot of threats to human right defenders throughout, throughout OSCE region. We will soon publish our second annual report on the situation of human rights defenders, which will contain good practices, and it will assess the situation. Let me recall that there is a very strong commitment by all participating states dating back to Budapest, 1994 where we agreed that the human rights defenders need protection.

Second example -- Armenia. You will recall the tragic events in Yerevan following the elections. And there was the issue of the amendment that was quite hurriedly made in their law on the freedom of assembly. I can say that our experts in ODIHR were able in the dialogue with Armenian authorities to convince them that they should bring these amendments back into line or more into line with international standards. And it has happened.

Roma and Sinti -- you will recall that this year there was a serious situation involving Roma and Sinti in Italy. We dispatched a field visit, but at the same time, our office had started to work on status report on

implementation by all participating states concerned of the Roma and Sinti action plan, which, as you recall, was adopted almost five years ago in Maastricht. We believe that this is a very important area of our work. We know we are talking about group which is a subject of discrimination and racism and where participating states so far have failed to live up to their commitments.

Trafficking in human beings -- this year our office has focused on an aspect of trafficking which so far, in our view, was overlooked somewhat. It is about access to justice for those that are victims of trafficking and exploitation. We published this year, earlier this year, a study on compensation for trafficked and exploited persons in OSCE regions. And I can say here with satisfaction that also the United States contributed to this. And the study is already being put into use, including by the American Bar Association.

Hate crimes -- we have developed many tools to assist participating states and civil society in their efforts to deal with hate crimes, guidelines for legislators, training, seminars for law enforcement officials and so on. In particular, I would like to mention that we developed a set of teaching materials on combating anti-Semitism that has proved very successful. We had developed this already for 10 states. There are new versions for other states. And we are also using this very positive experience for developing teaching materials for other areas of combating tolerance (ph) and non-discrimination.

Finally, election observation -- an area where our office is quite well-known, an area where we have close cooperation with parliamentary assembly. I am very glad to see here Secretary General Spencer Oliver. We have a mandate by the participating states to undertake election observation together as a common endeavor, my office and the OSCE parliamentary assembly and to do it in the spirit of partnership. And I can say that I am fully ready to further strengthen this cooperation and build this true spirit of partnership.

This year in the past 12 months let me just say that our office has followed elections in the following countries: Armenia, Croatia, Georgia, Kyrgyzstan, former Soviet Republic of Macedonia, Italy, Montenegro, Poland, Serbia, Spain, Switzerland and Uzbekistan. Currently we have long-term observers already deployed in Belarus for elections later this month and Azerbaijan for presidential elections next month. And we plan also to deploy long-term observation mission, (inaudible) observation mission for the U.S. elections in November. And we hope also there in particular for a good cooperation with parliamentary assembly.

Finally, allow me to say a couple of words on democracy promotion, which has been one of the main tasks entrusted to our office and is also one of the main areas of activities for the parliamentary assembly. We all recall that the Helsinki process set in motion a process that has recognized human rights, the rule of law and democracy as essential prerequisites for security and lasting peace. It is set in several of our documents that accountable and transparent democratic government is the only system of government for our countries. And moreover, that the protection of human rights is one of the basic purposes of the government.

I believe that these standards today are as relevant as they were at the time of their adoption. However, we still refer to individual areas of oversee region as East and West. In my view, now almost 20 years after the fall of the Berlin Wall, these references like that do sound a little bit stale and obsolete. I think that we should drop these kind of labels as we should also

drop categorizing countries into longer established or mature democracies and others like transitional democracies.

Why? Because I think that democracy does not necessarily improve by itself with the passage of time. There are reversals. There are setbacks. And labels like that only make our work more difficult and expose us to double standards.

So democracy, in short, is not an end state. It has no finality. It's a process. It's a work in progress. And we should always try to work together to maintain it and to improve it.

Here I would like to highlight the role of the United States. The United States has been much of the time leading force of democracy promotion and protection of human rights. However, we know that some recent events -- and I would like to mention them here so as not to be accused of double standards, incidents like Guantanamo, Abu Ghraib, rendition flights, detention centers. These all have damaged the standing of the United States in many quarters of the human rights world as the staunch defender, the leading force in democracy promotion and protection of human rights.

The lesson I think is if we are to engage in real peer review and at the same time assume the leading role we believe we can have like the United States, we should take care of the things also at home. That, I think, is the lesson. It's what is always often referred to as leading by example.

And this leadership is necessary. It is essential. I think that if we would like to move forward in the world of human rights, we will need the leadership of countries like the United States. I would stop here and thank you for your attention.

HASTINGS: Thank you very much. We've been joined by my co-chairman and good friend, Senator Cardin.

And, Senator, if you would just stay on hold. If the senator has any contribution at this time...

CARDIN: I'll withhold until after Spencer's had a chance.

HASTINGS: All right.

Mr. Oliver, you have the floor.

OLIVER: Thank you.

(UNKNOWN): (OFF-MIKE)

OLIVER: Well, I've got Tina behind me, so I feel very strong and secure.

Mr. Chairman, it is a great honor to be here. As you know, I spent a number of years working with this commission. I was its first employee and began to hire the staff and help define the mission with the late Dotty Fisell (ph), who was our mutual friend. And I think the commission, as Ambassador Lenarcic said, made an enormous contribution to the human rights aspects of the CSCE and OSCE process.

In fact, I think had it not been for this commission, many of the events that have occurred over the last 20 years would not have taken place. The visibility and the credibility that the U.S. Congress brings to this endeavor is unmatched in all the world.

I think that I know in the early days of this commission there were a number of people who were deeply concerned about whether or not this commission was encroaching on the -- in the field of diplomacy, which should be left to government and not to independent commissions centered in legislative bodies. And I can recall, Mr. Chairman, after leaving the commission I became chief counsel of the Foreign Affairs Committee.

And at the first implementation review meeting in Belgrade in 1977 we were somewhat outcast because the commission -- Congressman Fisell (ph) with the support of President Carter and with the courage of Arthur Goldberg actually mentioned names in the review meeting, names like Sharansky and Sakharov and charter 77 and others, which was something that had never been done before. And this review of implementation in 1977 of the promises that were made in 1975 was a new occurrence.

And it was the first time that anyone focused on the failure of some countries to fulfill their commitments and the first time that anyone had in a diplomatic international conference actually raised the names of human rights defenders, Helsinki Watch founders and others. The United States was the only delegation at that meeting to mention names. And we mentioned six names. And you would have thought that we had started World War III, according to some of the traditional diplomatic practitioners.

But it was because of that meeting that the implementation and the accountability of implementation became one of the hallmarks of the CSCE process. And I think this commission deserves a great deal of credit for ensuring that that policy was adopted, not only by the United States and Belgrade, but by all of the others in Madrid, in Vienna and in other follow-up meetings. Unfortunately today it's not -- we do not have the visibility and the review process that we had at that time.

You have asked me to comment on a number of things, Mr. Chairman. And I have a prepared statement which has been distributed and which I would like to submit for the record, which primarily deals with election observation, which was one of the areas you asked me to comment upon.

HASTINGS: Without objection.

OLIVER: And so, I won't belabor you with reading the details. But I would like to comment on some of the other aspects of the OSCE process that you have asked me to address. And one of those things is the implementation of the human rights provisions of the Helsinki Final Act.

I think to a large extent, of course, the whole picture has changed because instead of 35, there are now 56. And among the 56 are the successors of some of those countries who were the least successful in observing human rights and fundamental freedoms and other promises that were made related to the free movement of people and ideas and information across national borders.

One of the things that I think is unfortunate these days is that the OSCE has lost, except for the work of this commission, has lost any public accountability. Occasionally in a ministerial meeting there will be some

foreign ministers who will make speeches in front of the press which will criticize another country or even occasionally even raise a name.

But there is not the confrontational -- and I say that word advisedly -- the confrontational process of calling to account those countries and those governments who have failed to fulfill their commitments and who have trampled on human rights and fundamental freedoms and have treated their own citizens in ways which run counter to the promise of Helsinki. And part of that is because we don't have the review meetings the way that we used to have them.

Now we have the permanent council. And we have the office of democratic institutions and human rights. But when we have the human dimension implementation meeting in Warsaw or in Vienna, it doesn't attract the attention that a high-level ministerial conference would have. It's almost as though they farmed out the human rights accountability to an institution in Warsaw, which although well-intentioned and professional and doing a great job, no one pays any attention to.

If you go to an HDIM, you could throw a rock down a corridor and not hit a journalist. But when Arthur Goldberg or Max Kampelman or others of that level were at review meetings in Belgrade or in Madrid, there would be hundreds of journalists there every day covering what was going on, what was being said, the criticisms that were being directed at those who didn't comply with the provisions of the Helsinki Final Act's provisions related to human rights and fundamental freedoms. And that doesn't really happen any more.

It would seem to me that the permanent council, which was not created by the charter of Paris, but was almost self-created, which meets behind closed doors without any record of what is being said or what is being considered has in a way buried this process so that there is no transparency and no accountability.

And as you know, Mr. Chairman, as a past president, an activist in the parliamentary assembly, probably the most active member of the parliamentary assembly in the last decade, but as you know, there is no transparency or accountability in the OSCE outside of the parliamentary assembly itself. It's the only place where we have all of our meetings are open to the press and to the media, where there's a full dialogue and counter-dialogue.

In Toronto later this week we will have a very, I think, thorough debate on the events in Georgia with the Georgian foreign minister participating and with the Russian ambassador of the United Nations will be representing the Russian government. And there will be quite an open and full discussion. That doesn't take place anywhere else in the OSCE any more. So there's no pressure, you know, on people to be held accountable in the court of public opinion.

The Helsinki Final Act and all of its successor documents are not legal documents. They're not legally binding. So there is no court that you can take your grievances to, except for the court of public opinion, which is what in Belgrade and Madrid the United States and this commission reached out to, the court of public opinion, to hold those accountable who didn't keep their promises. And it's these hearings which you're holding, Mr. Chairman, in this commission who is one of the only courts of public opinion where these matters are actually discussed on a regular basis.

And it is to your credit that you continue to do this in a very public and open way. I think this is probably the only place where all of us, Ambassador

Lenarcic and me, all of the other institutional leaders and representatives in the OSCE regularly come because it's really the only public forum where you have an opportunity to say what you have to say and to talk about grievances. And that goes not only for OSCE officials, but also for human rights defenders and dissidents and human rights activists and the successors to the Helsinki Watch people in Moscow who gave birth to a whole broad array of human rights organizations. And this is something which needs to be done.

In the early days when there were so many governments in Europe who were critical of what we were doing, saying that this was unprecedented to mention names and criticize governments and it's just not done. There were demarches all over Washington from everybody's embassy about Arthur Goldberg actually mentioning names and doing these things, very, very critical. Even the State Department deputy who is a career diplomat wrote an article in, I think it was, Foreign Affairs Quarterly after the Belgrade meeting saying it had been a total failure because we did this.

But about 10 years later, Berndt von Staden, who had been Germany's leading -- like their national security adviser, their leading foreign policy guy, called me one day when I was in the chief counsel of the Foreign Affairs Committee. He was at Georgetown University and had retired and was teaching there.

He said my name is Berndt Von Staden. Do you know who I am? I said yes. He said I'd like to see you. So he came to see me and said I just wanted to tell you that I was wrong and all of us were wrong. Every country needs a commission like this. And I said Mr. Ambassador, I'm taking you upstairs to see the chairman.

So we went up to see Congressman Fisell (ph). And he told him that if it had not been for this commission, if it had not been for the public and determined way in which this commission pursued implementation of the human rights provisions of the Helsinki Final Act, that the OSCE or the CSCE would have died in Belgrade. So I commend you for the work that you do. And I'm honored to have an opportunity to appear before this commission.

You also have asked me to comment on democratic development. And, of course, we work on election observation, which is an important element of OSCE. But one of the problems is that it doesn't do any good to observe an election if there's not any competition. And what's happening in many states is that democracy is dying because they're becoming one-party states because there's no opposition.

You see the elections in Belarus coming up here in another week or so. And there the Belarusian government, whose last election was terrible, inviting everybody to come, no restrictions. Everybody's going to get to watch the vote. Everybody's going to go wherever they want to go.

But the problem is there's no opposition that has any chance of getting more than a few representative seats in their parliament. And the same thing takes place in many other countries.

Kazakhstan has a one-party parliament. Kyrgyzstan has a one-party parliament. They have a pure list system that they employ which allows only the leadership to decide who's going to be in the parliament. And that's where the weakness is. That's where something needs to be done.



Somehow we need to find a way to build pluralism into these newly developing democracies and to find a way to establish political parties who can be competitive, who can be critical of governments and who can bring new ideas and fresh faces into their government in a period way the way most Western democracies do. So I hope that there will be an opportunity at some point, Mr. Chairman, to discuss further ways and means in which that might be able to be done.

So I will cease and desist at that point, Mr. Chairman, and be happy to take any of your questions. But thank you very much for the opportunity.

HASTINGS: Thank you very much, Mr. Oliver.

If I could ask a couple of the staffers from Helsinki to come up here and then maybe the young ladies can find some seats that just came in. Just two is enough for the moment. Thank you.

I appreciate very much both of your comments. And I think both of you alluded to how we in the Helsinki Commission may be able to help your respective offices. But I'd like for you to elaborate a bit more.

And I thought, Mr. Oliver, you pointed to it with great passion the fact that we are continuing the efforts that were set forth initially. But I'd be curious, both of you travel the 56 countries in the OSCE. And both of you meet and make presentations in all of those countries or as many as your time will permit. And I know, Ambassador Lenarcic, that you're just getting started at ODIHR, but you're not just getting started in this business of dealing with the OSCE.

And as it pertains to just what we do here, from your point of view, what do you think that we might be able to do that would better help what you do at ODIHR?

And the same question to you, Mr. Oliver, with reference to what we do here at the Helsinki Commission. And the attendant question to that is do you receive the same kind of consideration in the respective countries that you visit.

And I'll be curious, especially, Ambassador Lenarcic, since you just were in Russia, just what your observations were and are regarding any potential new approaches or any indications of approaches by the Russians that are different with specifics having to do with your resources since they've addressed ODIHR so frequently on the subject of resources. And then I'll turn to Senator Cardin and Ms. Solis.

We've been joined by my colleague, special representative in the parliamentary assembly and California congresswoman. And we aren't going to permit her to make an opening statement since she was late coming. She'll get a chance a little bit later on, I'm sure.

But if you all would respond to those.

OLIVER: Go ahead, Janez.

LENARCIC: Thank you very much, Mr. Chairman, for this question. And for me it's a pleasure to see Senator Cardin and Representative Solis. And when I

started I said that I was honored to be here, and I would like to repeat now that I'm honored to be here and honored in your presence.

How is it in other countries? Well, it's not like this. There is no other Helsinki Commission. The Helsinki Commission is a very unique thing. It does not exist elsewhere. (inaudible), which is both houses of parliament and also the executive. Its methods of work, public meetings like this you don't find that.

I would assume that in my future travels I would be able to address a parliamentary committee. But this is not exactly the same thing. So I think this part of your question, how is it elsewhere, well, I may expect to be given the opportunity to address a parliamentary committee, given participating states, but there is nothing like U.S. Helsinki Commission elsewhere.

And I think that one particular feature of this commission is nurturing the Helsinki spirit, which I think is very important because, as I said in my presentation, it remains relevant in today's world. What the Helsinki can do -- there are practical things, and there are some other things.

On the practical aspect, first for what is what you are doing with it. You are helping us enormously by holding public hearings like this one, by drawing the attention of the public to issues relevant for OSCE and our office, human dimension in general and human rights, democracy and rule of law in elections in particular.

Also I am confident that your voice in practical terms like financing carries great weight. It is with regret that I noted when I studied papers upon my assumption of office last July that the United States extra budgetary contribution to our office has steadily declined recently and almost does not exist any more.

I would like to underline that extra budgetary contributions remain an important source for our activities. And I would hope that you would add your voice to those who favor or advocate contributions to our office.

Even more importantly is the budget, the unified budget of the OSCE and the part that is appropriated for my office. There also there is a tendency to reduce the financing of OSCE in general and including our office. Here I have to say that with less money we can only do less from election observation to every other field of activity. So again, I would appeal to you to lend your voice in favor of increasing the funding through unified budgets of the OSCE for our office.

And final point on what the Helsinki Commission can do in general within the OSCE, I believe in parliamentary diplomacy. I believe that it is a very useful and precious complement to intergovernmental diplomacy, classic diplomacy. Diplomats and officials of international organizations, including myself, are officials. We are not free to say everything we think or believe at every occasion.

We are in the service, in my case, of the 56 governments. Parliamentarians answer to their constituencies. You enjoy greater freedom of what you can say. And you can always say what you believe and what your constituencies ask you to say. And in that sense, I think this is an extremely useful and important complement to classic intergovernmental diplomacy. Your

freedom and ability to say things that we, civil servants, international civil servants, officials are not always able to. Thank you.

OLIVER: Well, Mr. Chairman, I would certainly say first of all that what you can do is to keep doing what you're doing. The Helsinki Commission has certainly been, I think, the strongest parliamentary institution in this field, practically the only parliamentary institution in this field which exists. And you can participate more actively and bring your parliamentarians to participate in the OSCE parliamentary assembly, which you do.

I mean, all of you are officers of the parliamentary assembly. All of you come to the meetings. All of you are here today. And you bring many others along.

I will never forget in the annual session in St. Petersburg as we wound down in the final hour of after four and-a-half days looking out from the podium and seeing the room almost half-empty. But all 17 members of the U.S. delegation, including congressmen and senators, were in their seats actively to the very last gavel.

And I think it's very important for parliamentarians from other countries, particularly those farther to the east, to have an opportunity to interact with American members of Congress. Some of them never meet American members of Congress. And to have an opportunity to engage with them in dialogue and discussion, not only in the formal debates and committees, but also in the corridors and in the coffee shops is an extremely valuable commodity and one that I hope you will expand and continue to do.

One of the other things that you can do is to continue to push the government to do what the commission has done for so many years. And that is to help improve the OSCE, to reform the OSCE, to make it more open and more transparent, to make it more democratic.

As you know, Mr. Chairman, the parliamentary assembly passes resolutions by majority vote, as Ambassador Lenarcic has pointed out. There is an opportunity for them to speak out and speak up. And they have done on many occasions.

One of your predecessors and your friend, the majority leader, Steny Hoyer, chaired a colloquium, or participated in a colloquium. He chaired the committee on transparency and accountability. And you chaired the Washington colloquium, which I think had some very sound recommendations to improve the OSCE, particularly its transparency and accountability.

And not a single one of those recommendations has been adopted and the United States delegation to the OSCE in Vienna has never even mentioned it, never even pushed it in any way, shape or fashion. So it would be, I think, very useful -- and I say this with some trepidation -- but I think to push the government a little harder to take into account what this commission is recommending and saying and doing about OSCE. Because there are more -- this commission has a history of involvement in the OSCE that goes much farther back than most of the diplomats and bureaucrats who are dealing with this organization in the capitals or in the various foreign ministries.

I also think that the hearings and reports that you do are extremely valuable. You have a very competent, professional staff who probably know more about the OSCE, they're the repository of more knowledge about this process than

you'll find anywhere else in the world. And to continue to grind out those reports and continue to hold these hearings and to do this research and to spread your knowledge and your participation throughout the OSCE, I think, would be extremely valuable, knowing, of course, the constraints on the time that you have, it's amazing to me how many of you have participated so often and so vigorously in the OSCE parliamentary assemblies.

So doing more of that would be important. And as Ambassador Lenarcic said, I think trying to ensure that the OSCE contributions and budgetary considerations are given high priority in the U.S. government would be very helpful, not only to the ODIHR, but also to us and to other OSCE activities, particularly the field missions.

HASTINGS: Right. I'm reminded that our bipartisan leadership at the commission has written to Secretary Rice on these funding issues. And many of us feel that the rhetoric must be matched by resources. And I for one, along with my colleagues here, I believe, will continue to push in that regard.

Senator Cardin?

CARDIN: Well, thank you, Mr. Chairman.

Mr. Ambassador, it's a pleasure to have you before our committee. We thank you very much for your continued service. And we look forward to your leadership at ODIHR and working with you. It is our highest priority. So we welcome you.

And, Spencer, welcome back to Washington. It's a pleasure to have both of you before our committee.

I agree with your assessment of the importance of the Helsinki Commission here in the United States. I'm very proud of the role that it's played over its many years, initiating a lot of the agenda items that became priorities for OSCE. I think that the commission has played a very, very important role.

But I want to agree with you, Mr. Ambassador, that the United States influence has been damaged because of the issues that you raised on the handling of detainees, the manner in which we dealt with bringing people to our country or to Guantanamo Bay, the failure to grant rights to those who were detained, the use, techniques, interrogation techniques that do not stand up to international scrutiny and I might say don't stand up to U.S. law. And I appreciate you mentioning that because we very much believe that it's appropriate to raise those issues.

And we obviously are going to continue in this commission to raise those issues as we have during these past two years. And I think you'll see opportunities for new leadership in the United States. And I think we will get back on track in that regard.

I also want to just give you my own observations. I've been now involved with the Helsinki process for about 22 years. And I remember when I first started how much respected and how much attention the OSCE received in European countries. And it wasn't well-known in the United States. And I would still say today most Americans probably don't know OSCE. But it didn't get a lot of attention in our country from the point of view of our political establishment.

I think in the last 10 years that's changed. The United States has put more confidence in OSCE I think mainly because of it's made significant progress in achieving its goals. Its goals is to hold the member states to their commitments, their human rights commitments and the economic and environmental front and on security issues, best known for its human rights, which is your portfolio.

We saw that the OSCE was very effective in dealing with the problems in the Soviet Union. And it's interesting, the Soviet Union was very much instrumental in creating OSCE. Now we see that Russia is trying to dismantle OSCE, at least some of us think they are. They certainly are making it more difficult for the OSCE to be effective.

My own observations is that it's become more relevant in the United States and a little bit less relevant in Europe in that the other international organizations have expanded their memberships and there are other opportunities for countries that did not have that opportunity 30 years ago in which OSCE provided an avenue. So I want to make an observation. I agree with you that we need to support OSCE. We need to stand up to our budgetary commitments.

But I agree with the assessment that Mr. Oliver made about reform. Now, he's talking about transparency and some of the other issues and what's happening in Vienna, which a lot of us find to be a bureaucratic nightmare without accountability.

But I think you might find a reluctance by the next administration and the next Congress to do everything you want us to do if we believe that the OSCE is not reforming where it should reform. And I have concerns. I really believe that the OSCE is a very valuable institution. I've spent a lot of my own energy on it.

But I am troubled that we are really looking at such modest reforms. Transparency to me is a modest reform considering the principles of OSCE.

We need to have a mechanism that can work. And I am concerned as to whether the permanent council and the parliamentary assembly and the use of special conferences to try to focus on different issues rather than dealing with it at ministerial meetings. The whole bureaucracy of OSCE I'm wondering whether we need to even be bolder in looking at making the OSCE contemporary to the challenges we face in Europe and in North America. I welcome your thoughts on that.

LENARCIC: Thank you. With pleasure, Senator. But first on your saying U.S. will get back on track, yes, I'm confident. U.S. has always gotten back on track. And that's one of the greatest features of U.S. democracy. And also I'm pleased that you welcome the comment that I made. That is also one of the features of the same democracy, as is the fact, by the way, that the United States invited international observers to observe presidential and congressional elections in November without any restrictions as to the size and the type of their presence here. And I think that with this United States confirmed its commitment to the OSCE obligations.

You mentioned, Senator, that 22 years ago you started with your involvement in the CSCE. Well, 22 years ago my country was not a democratic one. And I remember that time very well. I also know that it was CSCE that contributed decisively to the change that happened in Europe.

CARDIN: And though I did not visit your country at that time, I visited many countries of the now OSCE that did not have democratic institutions. And the meetings that we initiated received widespread attention and I think contributed greatly to the change that took place. So I'm proud of what we've been able to achieve. And I think there's a lot more we can achieve.

So I'm very much in support of the continued mission. I think it's needed very much today. But I tell you I am frustrated by the bureaucratic structure that has been created. And when you ask parliamentarians -- and Spencer made a very good point. I'm not trying to -- we're all busy. Everybody's busy.

But there's a lot of problems we have that a parliamentarian needs to deal with. And parliamentarians are not going to spend a lot of time in an organization that they don't believe is working very well. And we've had active participation in OSCE. And I believe it's going to continue.

But the bureaucratic problems within the organization cannot be allowed to continue the way they have over the past five to 10 years. If those trends continue, I think you're going to find parliamentarians and governments backing off their active participation within OSCE. I think it's that serious.

LENARCIC: I was coming to that, Senator.

CARDIN: Right.

LENARCIC: First of all on bureaucracy, I have to underline the fact that there is no organization like OSCE when you measure the size of bureaucracy. By far the OSCE bureaucracy is the smallest you would find anywhere.

Second point, OSCE is not a career organization. So bureaucracy doesn't even have much chance to develop. Seven years is absolute maximum in all OSCE contracted positions for the same post with 10 years being absolute maximum for a term of anybody's contract in the OSCE. That's what we have in our institution. That's what they have in Vienna and elsewhere.

So OSCE has tried to manage. But I think you were aiming at the effectiveness. The effectiveness of the OSCE, I think, does not have to do so much with bureaucracy, which is the smallest you can find in the world, I guess, an organization of this size and with constant change of people. There is no bloated (ph) bureaucracy that is there around for decades or longer. But it has more to do with the methods of work of the OSCE.

Primarily I think it has to do with the consensus. Consensus has been a subject of discussion in the OSCE since the beginning. Here is one of the great advantages of the parliamentary assembly, as was underlined before by Secretary General Oliver. It can take decisions by majority vote.

The governmental part of the OSCE cannot. It can only take decision by consensus. Everyone has to agree, every single one. And that sometimes results in protracted decision making.

Just look at the current situation when the Finnish chairmanship is trying so hard to reach consensus on the deployment of the additional monitors in the zone of recent conflict in Georgia. And the consensus continues to elude them.

So I think that is the point. But on the other hand, when we have consensus, it carries greatest weight possible. And we have a lot of consensus.

We have a lot of commitments. We have a lot of documents that create the solid ground for our work, for the work of our office. And we could do more of that work with more funding. That was my point. But your remarks are absolutely, of course, valid, Senator.

CARDIN: Thank you.

I had one more question, Mr. Chairman.

If you could answer briefly, I would appreciate it. You know, the United States Helsinki Commission was very actively involved in the conferences on anti-Semitism, racism and xenophobia. And we very much supported the creation of the special representatives. And if you could give us an update as to how you are working with the special representatives in furthering the objectives of those efforts, I would appreciate it.

LENARCIC: Thank you for the question. Very quickly, the personal representatives in the area of tolerance and non-discrimination are chairmanships personal representatives. So it's the chairmanship that coordinates the work and consults with them on what they do.

What we do is we support their activities. And I can say that we have established very close relationships with all three of them, that we provide support for them, that they work with our people. We intend to continue to provide this support. It is primarily substantive support for their work. And I think that our office and their activities complement each other very well.

I mentioned in my introduction the teaching materials that we have developed for anti-Semitism or combating anti-Semitism. I can only say that the activities of the personal representative on combating anti-Semitism, the German parliamentarian (inaudible) complements and fortifies, strengthens what we do because he has access, he has range. He travels, and he can contribute a lot to promotion of what we do.

So it's not only one way that we support the work. Also their activities magnify the impact of what we do. So it's useful, good relationship, and I'm sure that it will continue. We are so far satisfied with it.

HASTINGS: Then if I could just follow-up on that, and not so much for an immediate response. I'll talk with both of you more. But I would be interested in the current efforts to address racism and discrimination against other communities such as black Europeans and Muslims.

As you know, Senator Cardin and I were actively involved in initiating, with the assistance of both your good offices, anti-Semitism conferences that took place and also the Cordoba conference on Muslims. We did something particularly unique here. There had never been any hearing at all having to do with the diaspora of American blacks who live in Europe. And we, as a result of that, have determined that it would be helpful for the Helsinki Commission to hold a meeting in Europe so that we can reach the sources greater.

There's an immense amount of discrimination takes place in Europe against a significant number of populations. And I'm just going to leave the Roma and the Sinti on the side and not get to that, but that's a part of ODIHR's portfolio that I'd be interested in. And you and I can follow up.

Mr. Oliver, you were going to comment, but I know a vote is coming real soon. So I'd ask you to be brief so that I could get to Ms. Solis and the ranking member, Mr. Smith.

OLIVER: Thank you, Mr. Chairman.

(inaudible) Although there is no permanent bureaucracy, there's the ever-growing bureaucracy. At first the positions were two years with, I think, possible extension to three and then three with an extension to four and then five with an extension to seven and now seven with an extension to 10. And then they become consultants.

So the bureaucracy is semi-permanent. And it is a situation in which one of your predecessors, Mr. Chairman, president of the assembly told the permanent council directly. He said now, the way that you operate here behind closed doors in complete secrecy with no transparency, no accountability, no public auditing is not only undemocratic, it's anti-democratic.

So to have the OSCE pushing democracy and openness and transparency and democratic development throughout the OSCE and then function in the way they do is just -- it is hypocritical and in the extreme. I think we have tried on a number of occasions not to go from consensus to majority. But consensus less one even, just on matters of personnel, for instance, or budget. But you find in Vienna that a lot of times even ministerial councils get held up over which country is going to get which position and which mission.

And so, if they're trading jobs behind closed doors with no accountability and so on, the bureaucracy really is ineffective. And as Senator Cardin has pointed out, in many countries now you find that the OSCE is not dealt with at the highest levels of their government or even their foreign ministries, that it is dealt with at a lower and lower level, not only because -- not just because they're not interested, but because all they know is what their ambassadors tell them from Vienna.

So they write back cables that say, you know, everything was great this week. We worked really hard, and we had a lot of good discussions, and so on, and I did a great job. But there's no transcript. There's no openness. There's no accountability. The only thing they know is what their own ambassador tells them.

So no one is really following what's going on. And that's why you need enormous reform in the OSCE in order to save it.

HASTINGS: Well, I appreciate my predecessor bringing that to their attention. I can't talk about the number of them, at least count the number of them that I said pretty much the same thing personally. But the one thing that I did as president of parliamentary assembly that didn't please them too much was I told them when I was before them that their work, notwithstanding the fact that it's not transparent and it is anti-democratic, is also very boring.

Ms. Solis?

SOLIS: Thank you, Mr. Chairman. I apologize for coming in late. And I'm one of the newer members, I guess, to the OSCE and have accompanied my colleagues here on different conferences and forums. And now I have the privilege of serving as chair of the third committee. And I'm very, very taken with respect to human rights, human trafficking and the way that we as a world



community deal with other nations and the treatment of families, women and children.

And I also happen to be DOW's (ph) special representative on migration. And it's a very interesting topic because it's very different. The experience we see in Europe with different ethnic groups, Roma would be one, and just different types of discrepancies that exist there, very different experience from what we see here in the United States.

In fact, we held one of our hearings, a field hearing out in Los Angeles in my district earlier this year. And we made it a point to talk about migration issues with respect to one of the largest populations in our country, which is the Hispanic community. And, of course, you probably read much about what that ongoing immigration discussion is about.

It's very complicated, but not that much different from what we think people can learn from our experience in the European Union and obviously members of OSCE. We had an opportunity to hear testimony from witnesses that are speaking up for people who are being discriminated because they are migrants. We had an opportunity to talk to people who organize the community, the migrant community to help better educate them and assimilate them into the community.

We also talked to a group of Asian representatives, Pacific Islander, Asian/Chinese community, which is one of the second largest communities in my own district, one that is increasingly growing. And there's a lot of complicated issues there. And we tried to glean information and how we could share that in a report and take back to the OSCE. It's a very sensitive issue, as we last saw in the last conference we were at.

It was hard to get consensus, even on a report that I gave. There was much controversy with respect to how Italy and different countries deal with immigration or migration issues. Very sensitive, one that I hope that as the OSCE we can try to come up with good action plans that will build more than just consensus, but really help to provide for incentives and really amplify those good things that are working in Europe that we also as parliamentarians here in the U.S. could learn from.

I'm always fascinated when I go visit any one country on any of these missions and to hear, not only from other parliaments about what they're having to go through, but to share also my perspective because we have also been blamed for faults that I don't want to take any credit for, to be honest. I come from a very different perspective, very progressive, by the way. And sometimes that creates problems for people in our own delegation.

But I believe that it's because we are -- this is a democratic institution we ought to be able to share those ideas. And so, even as a minority in some cases, it's still important for other people to hear our perspectives from the United States, which are very diametrically different from what may have been happening in the last eight years.

And I, like you, have much hope that we are going to see a change, not only in the administration, but that we will see that there is more funding so that more members will be able to participate. I can't tell you the last mission we went to I think we had such a good turnout of U.S. House of Representatives. And I'm not just talking about representatives from one part of the country. But I'm talking about the diversity of this entire continent, if you will.

And that to me is very important because I as a House of Representatives member -- of course, when you look at me, you don't see the typical U.S. House of Representative. And that's what the world and what members of OSCE need to understand as well. So we both have a lot, I think, to learn and share, but also go beyond just trying to come up with things that we think we can agree on but then no one's held accountable to. Because there is a lot of work that some of us put into these.

And I know my colleagues here have been doing that for many years. I'm a recent arrival. But if I am going to make my energy available and my effort, because I can do so many other things here in the House, then I would like to see some credible assistance also in issues that we care about.

So one would be, yes, human trafficking, human rights, looking at revisiting these issues on migration, energy security, environmental and global climate change, which I think are very important. Some people might think we're not interested in those issues. We are very much fixated on those issues because they also pose security issues for us in the U.S. and our relations with other countries.

So I am excited about the possibility of what's going to come. But I also know that if I am asked to fight to see an increase in budgets, I want to make sure that the money is going appropriately to places where it's going to be most effective and transparent, not for the sake of continuing something that doesn't work, but making sure that we really do have a hand and can see that and that everyone that is helping us in this effort can have that ability to have that transparency.

And when there are questions asked, that they be answered. That's what positions are made available for. There should be accountability. And I hope that happens. That's how we will be able then to get more of our members in our House to be a part of this and take this seriously as well.

Because I am surprised that this, to me, in some instances, has been a well-kept secret. And I'm just coming of age into this process here, but it's such a great organization. The principles, the goals are so relevant to everything we do every single day here in the House.

And, of course, we need to do more of our own introspective review of our own policies. We understand that. But it's going to take time. But we also need to work with our partners.

So it's more of a comment that I'm making. But I certainly would like to see more opportunities for some of our folks here in the U.S. to be able to serve in Vienna, to be able to partake in some of the wonderful things that are happening in OSCE and ODIHR and the parliamentary assembly because I think it's a good experience to expose, have more U.S. citizens partake in what is happening in issues abroad.

So I leave it with that, Mr. Chairman. Thank you for the opportunity to speak.

HASTINGS: Thank you very much, Ms. Solis.

I turn now the ranking member, who has had a substantial amount of involvement in all these issues. So, Mr. Smith, you have the floor.

SMITH: Thank you very much, Mr. Chairman. I thank both the chairman for convening this hearing -- and to welcome our very good friend and long-time associate, Senator Oliver and a seasoned veteran of elections past who has done so much on so many issues, but especially on election observation and rule of law issues.

So it's so good to see you.

And, Ambassador Lenarcic, thank you for -- I'm sorry I missed your statement, but I did read it. But I missed all your ad libs, so I will have to go back and read the record for that. But thank you for your presence. We're honored by your being here.

Just a couple of questions. I know that you had mentioned on your most recent trip that there are no double standards. And maybe this has been touched by some of my colleagues, but we know Moscow has in the Duma and members of the Russian government some very different views when it comes to election monitoring, when it comes to press freedoms, religious freedom, across the board really. And I'm wondering if you already did, you know, maybe in a very short way you could just tell us what your impressions were. Because there needs to be a consensus.

You know, we find this in a lot of places. I remember there was a big push in some of the Asian countries to change the definition of human rights. We know the Russians historically have always talked about more of a group thing. I remember when they tried to exploit the homelessness issue way back in the 1980s. We have to be concerned about homelessness, but not to the detriment of individual paramount human rights, freedom of speech, assembly and the rest.

And I would ask you, Mr. Oliver, if you could. Yesterday we heard some very incisive testimony about how what appears to be Lukashenko's attempt to game the system of observers, take the observers' presence and judo them for his benefit by talking, you know, welcoming them seemingly to be, you know, hook, line and sinker on the same page while denying the media to opposition candidates, using the executive electoral process to exclude opposition representation. And it seems to be a very sophisticated strategy.

And we know that the OSCE is on the ground there obviously with people who have been there since mid-August. I hope, you know, he's not able to obscure what I think will be a very damning report when it finally comes out.

But we know from ones to date since they've been there that this has been his game plan. You might want to speak to that.

And finally, Ambassador Lenarcic, I was in Georgia for five days two and-a-half-weeks ago and met with the OSCE mission there and was very impressed with their competence, their can-do attitude. Both the ambassador and the head of the military mission gave us a very comprehensive briefing as to what they were attempting to do. And it was all good.

But there are concerns about how quickly the upwards of 100 observers will be able to get into town, whether or not they are adequately paid for. You know, are you happy with the 20 and then the 80 that will follow? Are you able to muster the kind of talent that will be needed to at least try to mitigate what could become a new powder keg built on the old?

LENARCIC: Thank you very much first for the comments made by Representative Solis. I think there was an underlying issue between your comments and the questions by Chairman Hastings on discrimination. Discrimination is something that the OSCE has been fighting now for quite some time. I already answered the question by Senator Cardin on how we work with the three personal representatives of chairman's office on tolerance and non-discrimination.

To this I would add the information system that we have developed at our office -- it's called TANDIF, tolerance and non-discrimination information system. It compiles all the relevant information about the OSCE and other international conduct concerning tolerance and non-discrimination. It compiles all the documents that are there. It's, in my view, compiled in a very user-friendly form. And I would really invite you to check it.

It's something that we are proud of. A lot of work has been invested in that. And the feedback that we receive is positive. And there are a lot of hits on that part of our Web site. So it's something that I would certainly recommend and we will continue to expand on it.

Also as far as discrimination is concerned, you mentioned Europe. Yes, it's an important issue in Europe, no doubt about that, and in other parts of OSCE regions. It is an important message that we try to address in our annual hate crimes report because discrimination is something that contributes decisively to the occurrence of the hate crimes.

And in this report we try annually to assess the situation on all areas of hate crimes, all areas. So crimes motivated by hatred for whatever reason, hatred of somebody who is different for whatever reason. This year's annual report is in the final stage of preparation. And I think that we will be able to promote it. I think it's an important report. A lot of effort was invested into collection of information and into drafting this report. And this is also one of our contributions, in addition to the numerous cases of our activities in the field in very many participating states.

I would like to thank for the question of homelessness by Congressman Smith. Unfortunately, Chairman Hastings had to leave because he also asked that question about Russia. And I'm grateful for your reminding us of that part.

My recent visit to Russia, to Moscow had one motivation primarily, to man (ph) census. Russia is an essential part of the OSCE. It was said earlier that the Soviet Union was one of the founding members, not only founding members, but one of the instrumental countries in bringing the CSCE closer to existence.

I think that Russian Federation today continues to care about the OSCE. It does. What I got there, the impression that I got there was that there is willingness to open a new chapter with my office to work on the commitment. But there is this burden of suspicion and mistrust.

I cannot say where exactly it comes from, but there are accusations of double standards, which I tried to, how will I say, deal with stating clearly that for us there is only one standard, and these are the OSCE commitments, which are equally applicable throughout the OSCE regions to each and every participating state. The remedy, the action that we take when there is a discrepancy between the commitment and reality, of course, differs because it depends on the discrepancy. However, the standard is one.

I think that we have to engage in more discussions with our Russian colleagues. As I said, I get the impression that they were ready to start a new chapter. I got the impression that they were willing to engage in discussions. And I also got the impression that they do take seriously their commitment. The problem, as I said, seems to be this suspicion, as far as ODIHR is concerned, our office, suspicion that seems to be based on some perceived threat.

There appear to be people that believe that ODIHR is an agent of the West to stimulate changes in the East, which, of course, I think is not the case. We don't take orders from anyone, except 56 participating states as a whole. What they say is what we do. What they say is what we obey, all of them, not individual ones.

Just one sentence about the monitors in Georgia. We believe strongly that monitors that are to be deployed -- and we hope they will be deployed sooner rather than later. But that is subject to consensus that we hope will emerge in Vienna.

These monitors should be deployed immediately, and they should also monitor human rights situations. That's what we believe, and we would like to see that happen. And we are ready to assist in training them and working with them so that the human dimension of the situation there on the ground is covered. Thank you.

CARDIN: Well, let me thank both of our witnesses.

OLIVER: I was just going to respond to that, if I may, Mr. Chairman.

CARDIN: Certainly, Mr. Oliver. Absolutely.

OLIVER: Thank you for your kind words, Mr. Smith. I think you must be going on about your 32nd year on this commission, as I remember. When I was a young staff director here, you were a freshman member of the commission. And you've been a faithful participant ever since. I don't think anybody knows more about the OSCE than you do in this Congress. I very much appreciate your support and your energy in pursuing implementation of the OSCE standards.

What I said earlier regarding, not just Belarus, but many of the countries in what you might call the transitioning democracies or whatever you might wish, but those who are struggling to try to establish democracy, they are tending to eliminate the possibility for opposition to participate and to compete in elections. And you have now one-party parliaments in several Central Asian states and in Belarus where Mr. Hastings led the observation of the last parliamentary elections. And I was there also.

A great difficulty came in the counting, but also the opposition, as you know, was harassed and intimidated. And the press was limited and restricted and shut down. I think that Mr. Lenarcic's team on the ground there are reporting that this is a very quiet election. You would hardly know it was going on.

And I think the problem there is there's no opposition. There is no real competition. There is still some competition. There are human rights defenders and activists who want us to be there, who want us to observe these elections. There'll be about 70 OSCE parliamentarians being deployed there next week, a number of our people are already on the ground. I think in the next couple of days -- and we've followed it rather closely.

But the great danger in these places is that, not that they don't know how to hold an election because I think that the election in Belarus -- that if you look at the election law and the election commissioners and the voting on election day and the vote counting, you won't find hardly any problems at all, I mean, maybe a few, little, minor things which really don't matter. What really matters is there's not a competitive atmosphere.

And in a democracy you have to have a competitive atmosphere. You have to have a critical opposition or democracy won't grow and thrive. That's the problem in these areas. And that certainly appears to be one of the major developments, unfortunately, in Belarus.

CARDIN: I would also add it helps when you have a free media and you have access to -- opposition has access to be heard in addition to the opportunity to run. There is also problems, I think, in Belarus with their commissions having adequate representation from minority parties.

But I think your point is well-taken in the election issues. It's not just what happens on election day. It's what happens leading up to the elections and the ability of opposition to challenge the government. And that's not true in Belarus. And it's not true in too many of the OSCE states.

I want to thank both of our witnesses, not just for being here, but for their long-standing service to these international issues. I can assure you that the United States Helsinki Commission will continue to be actively involved. We very much believe in the importance of the mission.

We will be looking at every opportunity we can to accomplish the type of reforms within OSCE that we think is important. We will be very supportive of ODIHR and your mission and look for ways in which your budgets become stabilized to carry out the missions you need to. And we will look for opportunities to advance additional issues that we believe are important for human rights.

We're proud, again, of our records dealing with discrimination and intolerance, dealing with trafficking, which our commission took a lead and on advancing the cause of the Roma population, which we still believe needs a lot more work in ODIHR and OSCE. So we'll continue to look for ways in which we can highlight what we believe are the challenges in the human rights basket of OSCE and work very closely with you, Mr. Ambassador, on strategies where we have adequate resources to advance those issues, always working in the spirit of OSCE with the member states trying to get the best practices in each of our member state countries.

We always are welcome for your suggestions how we can improve. But I do hope that we find a way in which the parliamentarians working with our governments can try to bring about the type of reform so that we have a better process for advancing the agenda. I think we all are just frustrated by way decisions are made. And I agree with what Spencer said. And maybe I'll just underscore this point.

In too many cases I don't believe the government really knows what's happening in OSCE, that what's happening in Vienna is insulating the governments from having to make a decision they choose not to. And as a result, we're stymied because of the consensus requirement. And that could be a minor issue concerning an appointment of an individual, or it could be some major issue. So

I think we can do better, and I'll look for ways in which we can figure out strategies in order to accomplish that.

And with that, the commission will stand adjourned. Thank you all very much.

[Whereupon the hearing ended at 4:24 p.m.]

END