

**Working Session No 10  
Fundamental Freedoms 1  
Including Freedom of Expression, Freedom of Peaceful Assembly & Association,  
Nation Human Rights Institutions, etc**

**OSCE / ODIHR  
Warsaw, Poland  
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**Thank you, madam moderator, ladies and gentlemen.** When considering the criteria by which free speech is measured in government forums that address “Freedom of Expression”, I would like to remind the United States Delegation of the American benchmark by which free speech is measured; the **First Amendment** – which states:

- “Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”

The concern is that rhetorical devices are being used to manipulate free speech canons in the name of respect for the “other,” as in; in order to respect whatever can be perceived as offending the “other,” your actual free expression will not be tolerated in fact. When free speech is assessed dialectically, it seeks its negation. Such abuses of language result in antithetical outcomes leading to abuses of power. This is a brazen act of **prior restraint**.

- **Black’s Law Dictionary**, defines **Prior Restraint** as “any scheme which gives public officials the power to deny use of a forum in advance of its actual expression. . . . Any system of prior restraints of expression bears a heavy presumption against its constitutional validity, and the Government carries a heavy burden of showing justification for imposition of such a restraint. . . . **Prior restraint on speech and publication are the most serious and least tolerable infringement on First Amendment Rights. . . .**

In Vienna in May 2015, an officially sponsored ODIHR panel held that calling the Islamic State the Islamic State constitutes hate speech even as it was acknowledged that this was the Islamic State’s own designation.

From that admission, the panel was then directly asked whether it believed that expressing things known to be true could constitute a hate crime to which the panel answered “**YES!**”



This past year, a man was forcefully arrested and imprisoned for peacefully reporting accurate information in a public space on a notorious criminal trial with serious political consequences.

Today, ODIHR is creating rules that claim the higher authority to cut people off and ban their organizations for “saying that which shall not be said” or “naming that which shall not be named.”

**This is brazen prior restraint.** Underneath the rhetorical feints are violent assaults on free speech that expose an unstated and troubling assault on the freedom of thought.

**Unconstrained Analytics recommends** that the OSCE and all participating States – especially the United States and those that actually claim freedom of speech rethink the negating aspects of the narratives they and consider their effects in light of their actual intended impact. Thank you!