



## **United States Mission to the OSCE**

### **Protecting America Through Lawful Detention of Terrorists**

As delivered by Acting Deputy Chief of Mission Michele Siders  
to the Permanent Council, Vienna  
February 1, 2018

At the January 18 Permanent Council meeting – to which the distinguished Russian Ambassador referred – our delegation exercised a future right of reply regarding a current issue raised by his delegation over the Guantanamo Bay Detention Facility. We would like to take the opportunity now to respond.

Mr. Chair, the United States remains engaged in an armed conflict with al-Qa'ida, the Taliban, and associated forces – including with the Islamic State of Iraq and Syria. The President maintains authority to detain certain persons as part of his Constitutional powers as Commander in Chief and Chief Executive, and those provided by the Authorization for Use of Military Force of September 18, 2001. The law authorizes the United States to detain certain persons who are part of, or provide substantial support to, al-Qa'ida, the Taliban, or associated forces engaged in hostilities against the United States or its coalition partners. The detention of enemies captured in an armed conflict is a lawful and necessary tool of warfighting that must continue to be available to the United States.

As many of you are aware, President Donald Trump, in his January 30 State of the Union address, announced a revision in United States policy on Guantanamo. In signing a Presidential Executive Order on “Protecting America Through Lawful Detention of Terrorists” the same day, the President affirmed that the detention facility will remain open and serve as one of several options the United States maintains for the disposition of captured terrorists. The United States employs several options to prevent individuals from returning to the battlefield, including transferring them to host governments or pursuing prosecution in U.S. courts. All of these potential courses of action remain viable.

The Executive Order does not mandate new transfers to Guantanamo. It simply clarifies that the United States reserves the *right* to transport additional detainees there, when necessary to protect the nation. In addition, it is necessary for the facility to remain open in order to maintain the detention of those individuals being prosecuted in military commissions, as well as those for whom detention remains necessary to protect against a significant threat to the United States, as determined by the Periodic Review Board. All operations at the Guantanamo Bay Detention Facility will continue to comply with applicable domestic and international law, including Common Article 3 of the Geneva Conventions and the Convention against Torture. We will continue to allow the ICRC access to the facility.

Mr. Chair, I would like to underscore that, in the past, the Russian Federation has repeatedly suggested that the OSCE pays too much attention to the human dimension – purportedly out of proportion to the attention it pays to the other dimensions included in the comprehensive

concept of security. Russia has also suggested that the human dimension is used in a politicized and selective manner to criticize certain participating States. Furthermore, we have heard the assertion that expressions of concern by some participating States about human rights in other participating States amount to interference in the internal affairs of those States.

In this regard, I would like to thank the delegation of the Russian Federation, and the distinguished Russian Ambassador, for raising their concerns about this issue, and for thereby acknowledging our commitments dating back to Moscow 1991, where we agreed “categorically and irrevocably that... the commitments undertaken in the field of the human dimension are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned.”

In concluding, the government of the United States remains committed to upholding its OSCE commitments and its obligations under applicable international law in its struggle against the terrorist threat, as it does in all other areas.

Thank you, Mr. Chair.