

FSC.JOUR/955 17 June 2020

Original: ENGLISH

Chairmanship: Ukraine

949th PLENARY MEETING OF THE FORUM

1. Date: Wednesday, 17 June 2020 (via video teleconference)

Opened: 10 a.m.
Suspended: 1 p.m.
Resumed: 3 p.m.
Closed: 3.40 p.m.

2. <u>Chairperson</u>: Ambassador Y. Tsymbaliuk

Point of order: Russian Federation (Annex 1), Chairperson, United States of America

Prior to taking up the agenda, the Chairperson reminded the Forum for Security Co-operation (FSC) of the technical modalities for the conduct of FSC meetings via video teleconferencing technology during the COVID-19 pandemic (FSC.GAL/37/20 OSCE+).

3. <u>Subjects discussed – Statements – Decisions/documents adopted:</u>

Agenda item 1: SECURITY DIALOGUE ON PRIVATE MILITARY AND SECURITY COMPANIES

- Presentation by Ms. M. Gasser, Head of the Section for Export Controls and Private Security Services, Swiss Federal Department of Foreign Affairs
- Presentation by Mr. I. McKay, Deputy Legal Adviser at the Permanent
 Mission of the United States of America to the United Nations and other
 international organizations in Geneva
- Presentation by Major General V. Skibitskyi, Deputy Director of the Information and Analysis Department, Main Intelligence Directorate, Ministry of Defence of Ukraine

Chairperson, Ms. M. Gasser (FSC.DEL/129/20 OSCE+), Mr. I. McKay (FSC.DEL/141/20), Major General V. Skibitskyi (FSC.DEL/140/20), Croatia-European Union (with the candidate countries Albania, Montenegro

and North Macedonia; the country of the Stabilisation and Association Process and potential candidate country Bosnia and Herzegovina; the European Free Trade Association country Liechtenstein, member of the European Economic Area; as well as Moldova and San Marino, in alignment) (Annex 2), United Kingdom (Annex 3), United States of America (Annex 4), Ukraine (FSC.DEL/136/20), Portugal, Russian Federation (Annex 5), FSC Co-ordinator for the Code of Conduct on Politico-Military Aspects of Security (Romania) (Annex 6)

Agenda item 2: GENERAL STATEMENTS

- (a) On the subject of Russia's ongoing aggression against Ukraine and illegal occupation of Crimea: Ukraine (FSC.DEL/138/20), Croatia-European Union (with the candidate countries Albania, Montenegro and North Macedonia; the European Free Trade Association countries Iceland, Liechtenstein and Norway, members of the European Economic Area; as well as Andorra, Moldova, San Marino and Ukraine, in alignment) (FSC.DEL/135/20), Canada, United Kingdom (FSC.DEL/131/20 OSCE+), United States of America
- (b) On the subject of the situation in and around Ukraine: Russian Federation, Ukraine, Canada, United States of America, Lithuania (FSC.DEL/132/20 OSCE+)
- (c) On the subject of the resumption of verification measures during the *COVID-19 pandemic*: Germany (Annex 7)

Agenda item 3: ANY OTHER BUSINESS

- (a) Letter from the Chairperson of the FSC to the Chairperson of the Permanent Council on the Forum's contribution to the 2020 Annual Security Review Conference, to be held from 23 to 25 June 2020 (FSC.DEL/133/20 OSCE+): Chairperson
- (b) Reminder to delegations to exchange information on anti-personnel mines and explosive remnants of war as required under FSC Decision No. 7/04 (FSC.DEC/7/04): Chairperson
- (c) Completion of the online component of the 2020 OSCE Scholarship for Peace and Security training programme for young professionals, in particular women: Representative of the Conflict Prevention Centre (Annex 8)

4. Next meeting:

Wednesday, 1 July 2020, at 10 a.m., via video teleconference



FSC.JOUR/955 17 June 2020 Annex 1

ENGLISH

Original: RUSSIAN

949th Plenary Meeting FSC Journal No. 955, Point 2

STATEMENT BY THE DELEGATION OF THE RUSSIAN FEDERATION

Mr. Chairperson,

The delegation of the Russian Federation would like to make the following statement.

The reference made by you on 6 May 2020 to paragraph IV.2(C)4 of the Rules of Procedure of the OSCE as justification for the presence of a NATO liaison officer at meetings of the OSCE Forum for Security Co-operation (FSC) is incorrect for the following reason.

The paragraph in question governs the procedure for inviting high-ranking officials to address a meeting as a guest speaker. We would point out that a NATO liaison officer does not have this status and his participation is not covered by this paragraph of the Rules of Procedure of the OSCE. Consequently, his participation requires agreement by consensus with all the OSCE participating States.

The Russian delegation officially informs you of the absence of consensus regarding the admission of a NATO liaison officer to FSC meetings.

Mr. Chairperson,

Today, as justification for the presence of a NATO liaison officer at FSC meetings you referred to paragraph IV.1(D)5 of the Rules of Procedure of the OSCE.

In line with that paragraph, representatives of other international organizations, institutions and initiatives may be invited by the participating States, on a case-by-case basis, to attend certain meetings of decision-making bodies.

The wording of the aforementioned paragraph clearly indicates that the decision to extend an invitation is taken by the OSCE participating States. Consequently, before announcing that you had invited a NATO liaison officer to the FSC meeting, you should have reached agreement on his participation with all the OSCE participating States and made sure that there was consensus on this issue.

The Russian delegation informs you with this statement of the absence of consensus regarding the admission of a NATO liaison officer to FSC meetings.

We should also like to point out that we are prepared to agree to the admission of a NATO liaison officer to those OSCE meetings in which representatives of the Collective Security Treaty Organization participate. With regard to all other meetings, our position will remain unchanged until there is a significant improvement in the Alliance's relations with Russia.

I request that this statement be attached to the journal of the day.



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Original: ENGLISH

949th Plenary Meeting

FSC Journal No. 955, Agenda item 1

STATEMENT BY THE REPRESENTATIVE OF THE EUROPEAN UNION

The delegation of Croatia, in its capacity as EU Presidency, passed the floor to the representative of the European Union, who delivered the following statement:

The European Union and its Member States warmly welcome the speakers to the Forum for Security Co-operation (FSC) and thank them for their insightful presentations. We commend the Ukrainian FSC Chairmanship for drawing attention of this Forum to this important topic.

Mr. Chairperson,

We appreciate the broad approach you have chosen for this discussion on challenges and opportunities in the context of private military and security companies (PMSCs). Regulating and overseeing PMSCs is a challenge across the OSCE area, as many countries currently witness an increased number in private security personnel than, for example, police officers. In this situation, compliance with international law, in particular and when applicable, international humanitarian law and international human rights law by PMSCs is of particular importance.

We see our discussion today in the specific context of the OSCE Code of Conduct on Politico-Military Aspects of Security and its implementation. The Code of Conduct which was recently commemorated at the Ministerial Council in Bratislava for its 25th anniversary, and the implementation of which we discussed extensively last week, is the first-ever multilateral instrument to incorporate norms and principles for regulating the conduct of armed and security forces both at national and international level. It requires States to provide effective control of their military, paramilitary and security forces by constitutionally established authorities vested with democratic legitimacy.

We would like to take this opportunity to once again reiterate our strong support for the Code and the importance we attach to the implementation of its norms and principles as well as to the need to improve the overall quality of reporting.

Today, we would like to recall last year's analysis paper ("Supporting enhanced dialogue on private military and security companies: Analysis of OSCE participating States' responses to the voluntary information exchange") carried out by the Geneva Centre for the

Democratic Control of Armed Forces (DCAF; now known as the Geneva Centre for Security Sector Governance) in co-operation with the Swiss Ministry of Foreign Affairs. This paper identifies additional avenues to support States' reporting and includes several recommendations for further action. Following up on the discussion last year and using the presence of our distinguished speakers, we would be interested in their views on the role of the OSCE and how OSCE could support participating States in overcoming the challenges connected with PMSCs, given their growing relevance in the OSCE area.

We appreciate initiatives by Switzerland on PMSCs including the Montreux Document, which seeks to provide guidance on a number of legal and practical aspects based on the existing international law. We joined the Montreux Document as the first regional organization in 2012 and have been supportive of its further universalization since. In the context of the Human Rights Council the European Union participates in the open-ended intergovernmental working group mandated to elaborate the content of an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies and we hope that this process continues toward complementing and strengthening existing initiatives such as the Montreux Document.

Finally, we appreciate the consistent efforts of Switzerland, Germany, Austria and the Czech Republic to promote and support the Code of Conduct and the implementation of its norms and principles, including through support to regional and outreach activities.

Mr. Chairperson,

We thank you for the opportunity to exchange views on this important topic. Thank you for your attention.

The candidate countries the Republic of North Macedonia¹, Montenegro¹ and Albania¹, the country of Stabilisation and Association Process and potential candidate Bosnia and Herzegovina, and the EFTA country Liechtenstein, member of the European Economic Area, as well as the Republic of Moldova and San Marino align themselves with this statement.

¹ The Republic of North Macedonia, Montenegro and Albania continue to be part of the Stabilisation and Association Process.



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Original: ENGLISH

949th Plenary Meeting

FSC Journal No. 955, Agenda item 1

STATEMENT BY THE DELEGATION OF THE UNITED KINGDOM

Thank you, Mr. Chairperson.

I would like to thank the Ukrainian FSC Chairmanship for dedicating today's Security Dialogue to private military and security companies (PMSCs). I'd also like to extend my sincere gratitude to the distinguished speakers for their invaluable time and insights today. The United Kingdom supports the EU statement and would like to make a few additional remarks.

Private military security companies working to high standards are vital to the protection of diplomatic missions, and to the work of companies and non-governmental organizations (NGOs) operating in complex environments around the world.

We note that well-established rules of international law apply to States in their relations with PMSCs and their operation during armed conflict, particularly under international humanitarian law and human rights law. The Montreux Document recalls those existing legal obligations and sets out recommended good practice. The United Kingdom agrees with the definition of PMSCs described within the Montreux Document. We also agree with the definitions of private security companies and complex environments described in the International Code of Conduct Association for private security service providers.

The United Kingdom would like to take this opportunity to reaffirm its commitment to raising standards in the global private security industry. It considers full compliance with the International Code of Conduct for private security providers and recognition of that compliance by State and non-State clients, to be the most practical means of delivering this aim.

The United Kingdom played a leading role in the drafting of the International Code of Conduct for private security providers and the launch of its oversight mechanism, the International Code of Conduct Association for private security providers in 2013.

The United Kingdom actively supports the International Code of Conduct Association oversight mechanism and believes that together with the Code's principles and provisions it offers a solution that is proactive and preventative rather than reactive. The Code upholds and promotes the highest standards in the private security company sector and allows the industry to conduct business effectively.

The use of professional standards provides assurance that PMSCs are recruiting, training and deploying personnel in a manner, which minimizes the risk of human rights abuses, or of exacerbating the drivers of conflicts. Standards also level the playing field globally so that PMSCs that work to high standards cannot be undercut by PMSCs offering a lower standard service at a cheaper price.

Raising standards in the private security industry is of particular interest to the UK Government. The United Kingdom is a home State, with many market-leading PMSCs based in the United Kingdom. It is also a contracting State, working with PMSCs to protect our high commissions and embassies in some more complex environments. Many UK-based companies and NGOs employ PMSCs in their work globally.

We call on all States, companies and NGOs that contract PMSCs to recognize and encourage certification standards in their contracting processes. The United Kingdom also encourages Montreux Document signatory States to join the International Code of Conduct Association.

We are grateful for the opportunity to discuss private military and security companies here today. Thank you, this concludes our statement and I request that it be attached to the journal of the day.



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Original: ENGLISH

949th Plenary Meeting

FSC Journal No.955, Agenda item 1

STATEMENT BY THE DELEGATION OF THE UNITED STATES OF AMERICA

Thank you, Mr. Chairperson, and thank you to our distinguished speakers,

The United States supports international efforts to promote the effective national regulation and oversight of private military and security companies (PMSCs). These efforts include the development and promotion of the Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict as well as support for the International Code of Conduct Association which builds on that work.

The Montreux Document addresses the services provided by private military and security companies. Our speakers today have addressed some of the functions PMSCs may perform such as guarding personnel, facilities, designated sites, or property; this can include operations in complex emergencies and similar environments as well as operations in stable environments. The US Department of State engages private security companies through its Worldwide Protective Services contract to assist in the protection of its diplomatic missions in high-threat areas. PMSCs may also perform functions in support of the military such as logistical support unique to armed forces, maintenance and operation of weapons systems, or military training. For example, the US Department of Defense uses private military companies for maintenance of fixed- and rotary-wing aircraft, to provide data analysis across functions, and to enable critical networks and communications capabilities.

The United States does not use PMSCs to perform inherently governmental functions. As Mr. McKay also noted, US regulations prohibit contractors from engaging in or directing combat operations. For example, US federal policy explicitly identifies "combat" as an inherently governmental function. Moreover, US Department of Defense policy provides additional guidance on inherently governmental functions and reserves combat operations solely for US military personnel. The US Department of Defense has also issued policies to oversee, manage, and account for these contractors effectively. In short, to borrow the phrase of our Swiss speaker today, the United States "walks the talk" with respect to PMSCs.

Mr. Chairperson,

We regret that these standards and practices are not universally shared, and that some participating States have decided to pay private companies to engage in military operations. In particular, Russia routinely uses mercenaries as instruments of its foreign policy. For instance, in Libya, Russia has provided material and logistical support, including advanced fighter aircraft, to the Wagner Group, an entity operating under US sanctions. Wagner's involvement in Libya has led to a significant escalation of the conflict and a worsening of the humanitarian situation. Russia has also used the Wagner Group to prop up the Assad regime in Syria and the Maduro regime in Venezuela, and to try to destabilize Ukraine. Wagner is often misleadingly referred to as a Russian private military company, but in fact it is an instrument of the Russian Government which the Kremlin uses as a low-cost and low-risk tool to advance its goals. This is not a PMSC in any real sense of the term; these mercenaries conduct operations that would usually be performed by military forces, and they should be held accountable accordingly.

By contrast, the United States has sponsored the development of national and international standards and requires compliance with these standards in its contracts with legitimate PMSCs. The laws of the United States and implementing regulations provide effective control and accountability over the activity of all contractors and other civilians who accompany US armed forces.

In multilateral discussions, the United States supports the implementation of the Montreux Document, which describes existing legal obligations regarding PMSCs and lists recommended good practices for States that contract for such services as well as for States in which the companies are registered and/or operate. We actively participate in the Montreux Document Forum, and as my colleague Mr. McKay has outlined, also strongly support the International Code of Conduct for Private Security Service Providers. Only those private security companies that are members of the International Code of Conduct Association in good standing are eligible to be awarded a contract to protect the US Department of State's missions in high-threat areas.

We encourage other OSCE participating States to engage actively in the Montreux Document Forum, to join the International Code of Conduct Association, and to implement standards and guidelines for the use of PMSCs that align with international law and established best practices.

Thank you, Mr. Chairperson. We request that this statement be attached to the journal of the day.



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ENGLISH

Original: RUSSIAN

949th Plenary Meeting

FSC Journal No. 955, Agenda item 1

STATEMENT BY THE DELEGATION OF THE RUSSIAN FEDERATION

Mr. Chairperson,

We thank you for organizing today's meeting of the Forum for Security Co-operation (FSC) and also thank Ms. Martina Gasser and Mr. Ian McKay for their interesting presentations. Unfortunately, we cannot address the same words to Mr. Vadym Skibitskyi, although we have taken note of his ability to present his fantasies in a most colourful manner.

At the meeting devoted to the inauguration of the Ukrainian Chairmanship, our delegation pointed out that the issue of private military and security companies (PMSCs) does not fall within the Forum's remit because this topic is being discussed in detail on other competent multilateral platforms.

As we noted at the time, when considering the appropriateness of including this issue in the FSC's programme of work, it is necessary to take into account the continuing wide range of views among the OSCE participating States, and the absence of a legal definition or of common approaches to the legal regulation of such companies' activities.

We indicated that we saw no great practical sense in shifting the Forum's attention to such secondary themes, the significance of which was being artificially inflated, because they did not strengthen the positive potential for co-operation and could lead to further disagreement. We regret that today's meeting has only confirmed our misgivings.

Mr. Chairperson,

At present, there remains a wide range of views in the international community as regards the legitimacy of PMSCs and acceptable parameters for their engagement: from classifying their activities as a form of mercenarism to affirming the legality of bringing in such companies to conduct military operations alongside a regular army.

Russia's position regarding private military companies is well known, namely that defence and security matters fall within the exclusive competence of the State.

The Montreux Document, which is advisory in nature, is not in line with the provisions of our legislation. Having said that, we do pay heed to the Document, study its application and take note of a number of its features. In particular, the Document stands out for its high-quality treatment of one particular aspect, namely, screening the actions of companies: it enshrines the necessity of testing personnel on their knowledge of international humanitarian law. However, we do not fully understand the overly broad range of functions that, according to the Document, may be assigned to PMSCs.

Today, a number of delegations have called for the exchange of information on PMSCs to be stepped up within the framework of the Code of Conduct on Politico-Military Aspects of Security. We have nothing against a voluntary exchange of information on questions of interest to some countries, but this is on the understanding that it will take place on a truly voluntary basis, without the scope of the obligations incumbent on participating States being unduly expanded.

Furthermore, we believe that the actual extent of the provision of information on PMSCs in the current year – with a mere four countries providing such information – indicates that there is no great demand for this measure. During the meeting last week on the Code of Conduct, we brought up the significant reduction in the number of responses to the Questionnaire, which is mandatory in nature. However, in spite of this, a number of speakers paid considerably more attention than necessary to calling for responses to be provided on PMSCs, thus diverting delegations' attention from what is most important, namely providing responses to the Questionnaire in a timely manner.

Mr. Chairperson,

In view of the statements by the Ukrainian keynote speaker and the delegation of Ukraine, we are disappointed that instead of shedding light on the actual politico-military situation in Donbas, they have once again opted for anti-Russian rhetoric and groundless accusations. We emphatically reject any attempts to blame Russia for the alleged presence of PMSCs in Donbas. The information presented by the Ukrainian speakers is unverified and does not correspond to the facts. Our laws do not contain norms regulating the activities of such companies, nor are there any references to them in the register of Russian legal entities.

In addition, we note that the Ukrainian Chairmanship has set yet another negative precedent – namely, in the way that its true priorities, reflecting a narrowly nationalistic attitude, were broadcast in advance in the media. Thus, we were bewildered by the interview given by the FSC Chairperson to the Ukrinform online media outlet, in which he highlighted the key points of today's plenary meeting in advance and announced the anti-Russian theme of the Ukrainian delegation's statement, which has been confirmed at this meeting.

In summing up, the following points may be noted.

Given the limited role that PMSCs play in the provision of security, we have our doubts as to the need to devote much attention to this issue within the FSC. It should not be forgotten that the Forum lacks professional expertise in this field, since this topic is being examined in detail on other multilateral platforms. Today's discussion has shown that disregarding these facts results in attempts to disseminate misleading or even downright false

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information based on dubious sources, thereby leading to a deterioration in the working atmosphere at the FSC.

Including the issue of PMSCs on the agenda results in a fragmentation of the OSCE's efforts in the field of confidence-building measures and arms control and in a shifting of attention to secondary themes, which is not conducive to strengthening the politico-military strand of the OSCE's work

I request that this statement be attached to the journal of the day.



FSC.JOUR/955 17 June 2020 Annex 6

Original: ENGLISH

949th Plenary Meeting

FSC Journal No. 955, Agenda item 1

STATEMENT BY THE FSC CO-ORDINATOR FOR THE CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY (ROMANIA)

Mr. Chairperson,

I should like to make use of this opportunity to deliver a brief statement in my capacity as FSC Co-ordinator for the Code of Conduct on Politico-Military Aspects of Security.

I am very pleased to note that the topic of private military and security companies (PMSCs) was chosen as the theme of today's Security Dialogue.

Private military and security companies play an increasingly important role within the security sector as a whole, and they have significant potential implications for human rights and the rule of law.

Supporting the principle of dialogue as always, the OSCE has since 2009 given participating States the opportunity to share information on PMSCs through the annual information exchange on the Code of Conduct on Politico-Military Aspects of Security. Moreover, as already mentioned by previous speakers, the OSCE Conflict Prevention Centre commissioned, in 2018, the Geneva Centre for the Democratic Control of Armed Forces (DCAF; now known as the Geneva Centre for Security Sector Governance) to analyse the responses provided by the OSCE participating States and to identify challenges and good practices.

The topic of PMSCs has featured prominently on the agenda of the Forum for Security Co-operation (FSC) over the past few years. In that regard, I recall the side event organized in June 2018 by the then Slovenian FSC Chairmanship on the margins of the Seventh Annual Discussion on the Implementation of the Code of Conduct on Politico-Military Aspects of Security. A number of recommendations regarding PMSCs were made at that side event, including the following:

- The need for greater dialogue on PMSCs, for example as part of the annual information exchange on implementation of the Code of Conduct;
- Compilation of relevant best practices by the OSCE;

- Greater use to be made of the OSCE field operations to build knowledge of PMSC regulation in their respective host States;
- Stepping up of efforts to raise awareness of the scope and impacts of PMSCs;
- The need to define and categorize PMSCs more clearly.

The same event was used to present the aforementioned DCAF study, published under the title "Supporting enhanced dialogue on private military and security companies (PMSCs): Analysis of information provided to the annual OSCE information exchange".

Mr. Chairperson,

I hope that today's discussion will also contribute to improving awareness among the participating States of the relevance of PMSCs for the politico-military sphere.

By way of conclusion, I wish to emphasize that meetings such as today's are an excellent opportunity to share experiences and discuss the way forward.

Thank you.



FSC.JOUR/955 17 June 2020 Annex 7

ENGLISH

Original: GERMAN

949th Plenary Meeting

FSC Journal No. 955, Agenda item 2(c)

STATEMENT BY THE DELEGATION OF GERMANY

Mr. Chairperson, Dear colleagues,

We thank the French delegation for its paper distributed as PC.DEL/621/20, which we support.

We should like to elaborate on the French paper in our food-for-thought paper FSC.DEL/125/20 on the reversal of COVID-19 restrictions, which has just been circulated.

We believe that as soon as exercises are resumed they should be observed and verified.

We realize that verification measures must be resumed gradually with account taken of the individual safety and health restrictions of each participating State.

We are grateful for discussion on the resumption of verification measures in these times of COVID-19.

We request that this statement be attached to the journal of the day.



FSC.JOUR/955 17 June 2020 Annex 8

Original: ENGLISH

949th Plenary Meeting

FSC Journal No. 955, Agenda item 3(c)

STATEMENT BY THE REPRESENTATIVE OF THE CONFLICT PREVENTION CENTRE

Mr. Chairperson, Dear ambassadors, Dear colleagues,

I am pleased to inform you that the eight-week online course under the third edition of the OSCE Scholarship for Peace and Security training programme, conducted together with the United Nations Office for Disarmament Affairs (UNODA), was recently completed by a total of 135 graduates from 46 OSCE participating States and 7 Partners for Co-operation. The course provided valuable insights into conflict prevention and resolution through arms control, disarmament and non-proliferation, with a focus on the OSCE-relevant instruments. The training facilitated networking and enhanced the participants' awareness of career development opportunities in these areas. The participants have given very positive feedback on the course, with all of them indicating that they would highly recommend it to other young professionals.

To mark the successful conclusion of the eight-week online course, the OSCE organized two informal online "get-togethers" for all the graduates on Monday, 15 June, and Tuesday, 16 June. These were a valuable opportunity for the participants to meet (even if remotely), share their feedback, exchange ideas on their future endeavours (including professional, academic and personal activities) and discuss networking possibilities. Furthermore, the donor countries Andorra, Germany, Finland, Ireland and Switzerland took part in and contributed to both online get-togethers.

Finally, I should like to mention that the in-person component of the training programme is scheduled to take place in Vienna from 7 to 11 December 2020 and will bring together 50 selected female participants.

I kindly ask for my statement to be attached to the journal of the day.