

Chairmanship: Canada

1057th PLENARY MEETING OF THE FORUM

1. Date: Wednesday, 4 October 2023 (in the Neuer Saal and via video teleconference)

Opened: 10.05 a.m.
Suspended: 10.10 a.m.
Resumed: 10.15 a.m.
Closed: 10.40 a.m.

2. Chairperson: Ambassador J. Kinnear

The draft agenda (FSC.GAL/63/23) and its revision (FSC.GAL/63/23/Rev.1) were not agreed upon by the FSC.

Chairperson (Annex), Russian Federation (FSC.DEL/350/23 OSCE+), United Kingdom, Bulgaria, Ukraine, Cyprus, Spain-European Union, Switzerland, United States of America, Germany

3. Subjects discussed – Statements – Decisions/documents adopted:

None

4. Next meeting:

Wednesday, 11 October 2023, at 10 a.m., in the Neuer Saal and via video teleconference



1057th Plenary Meeting

FSC Journal No. 1063, Point 2

STATEMENT BY THE CHAIRPERSON

Before we continue, I would like to offer the Chairperson's perspective on the current situation. The objective of today's Security Dialogue is to discuss the legal framework for command responsibility – including how legal cases are built to address this concept – and the ensuing implications for the armed forces. The speakers we have invited are all highly competent and renowned legal experts who have the knowledge and expertise to present on this topic.

Ms. Petra Ditrichová Ochmannová holds a doctorate in public international law from Charles University in Prague. We have asked her to speak about her experience implementing training and other practices to ensure awareness of command responsibility and other key elements of international humanitarian law among a State's armed forces.

Ms. Valerie Oosterveld is the Acting Director of the Centre for Transitional Justice and Post-Conflict Reconstruction at the University of Western Ontario, where she served as an Associate Dean of the Faculty of Law from 2014 to 2018. We have asked her to speak about her experience building legal cases relating to command responsibility and international humanitarian law.

Mr. Geoffrey S. Corn is Chair of Criminal Law and Director of the Center for Military Law and Policy at the Texas Tech University School of Law. We have asked him to speak on command responsibility and the link between the role of commanders and the effective implementation of international humanitarian law.

The delegation of the Russian Federation informed the Chairperson during last week's meeting of the Forum for Security Co-operation (FSC) that they wanted to propose a speaker for today's panel. Although we had already confirmed all the speakers, I invited the Russian delegation to share the name and curriculum vitae of their proposed panellist. Upon review of the curriculum vitae of the individual in question, we noted that, while he has a PhD in history and information technology, he does not possess a legal background that would qualify him to speak as an expert on international humanitarian law. Nor is his stated area of professional expertise compatible with the technical, expert and impartial nature of the panel.

As Chairperson of this Forum, I saw no choice but to decline Russia's request to include that speaker on our panel. The selection of speakers for Security Dialogues is at the discretion of the FSC Chairmanship. In the second trimester of 2017, the Russian

Chairmanship most certainly exercised such discretion when selecting speakers for its own Security Dialogues. I do not see any Canadian among the speakers at those events, but I do see that about half of them were Russian nationals; some Security Dialogues comprised only Russian panellists. Yet no participating States objected to those Security Dialogues taking place. Moreover, no participating State threatened to block future Security Dialogues because Russia had failed to include a speaker of that State's choosing, as we have heard Russia do today. Indeed, no participating State had ever blocked a Security Dialogue in the history of the FSC until Russia did so under the Chairmanship of Bosnia and Herzegovina earlier this year, citing the same grounds as today, namely that the Chairmanship had not included a speaker of Russia's choosing.

In my view as the FSC Chairperson, this constitutes an unacceptable abuse of the consensus principle. Where consensus is withheld by participating States in order to force the Chairmanship to include a panellist of their choosing, this can only result in the increasing use of non-consensus alternatives and the erosion of our Organization.

I would also like to address the fact that the delegation of the Russian Federation was not willing to adopt the revised version of the agenda that we circulated today, arguing that they had not had time to consult it with the authorities in Moscow. The revised agenda included only two items: "General statements" and "Any other business". These two items are the bare minimum for an FSC meeting, as laid out in paragraph IV.1(C)1 of the Rules of Procedure of the OSCE. Agreeing to an agenda that includes only the minimum content under the Rules of Procedure should not require consultation with government authorities in the capital for any participating State that is genuinely committed to preserving and upholding the OSCE as a platform for dialogue.

If any participating State should in future intend to block a Security Dialogue on any grounds whatsoever, it should be prepared to support at least a revised agenda that complies with the minimum requirements set out in the Rules of Procedure, or to justify to the Forum why it refuses to support such an agenda.

The Canadian Chairmanship, on behalf of the FSC Troika, would like to invite you to a side event on international humanitarian law and command responsibility this afternoon, starting at 3 p.m. An invitation to this event will be circulated shortly.

The Chairperson's statement will be attached to the journal of the day.