

Chairmanship: Austria

1157th PLENARY MEETING OF THE COUNCIL

1. Date: Thursday, 28 September 2017

Opened: 10.05 a.m.
Suspended: 1.05 p.m.
Resumed: 3.05 p.m.
Closed: 5.35 p.m.

2. Chairperson: Ambassador C. Koja

Prior to taking up the agenda, the Chairperson welcomed the new Permanent Representative of Sweden to the OSCE, H.E. Ambassador Ulrika Funered, and the new Permanent Representative of Ireland to the OSCE, Ambassador Kevin Dowling.

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

Agenda item 1: UPDATE BY THE SPECIAL REPRESENTATIVE OF THE OSCE CHAIRPERSON-IN-OFFICE IN UKRAINE AND IN THE TRILATERAL CONTACT GROUP, AMBASSADOR MARTIN SAJDIK

Discussion under agenda item 2

Agenda item 2: REPORT BY THE CHIEF MONITOR OF THE OSCE SPECIAL MONITORING MISSION TO UKRAINE

Chairperson, Special Representative of the OSCE Chairperson-in-Office in Ukraine and in the Trilateral Contact Group, Chief Monitor of the OSCE Special Monitoring Mission to Ukraine (PC.FR/23/17 OSCE+), Estonia-European Union (with the candidate countries Albania, the former Yugoslav Republic of Macedonia and Montenegro; the country of the Stabilisation and Association Process and potential candidate country Bosnia and Herzegovina; the European Free Trade Association countries Iceland and

1 Includes corrections in agenda items 1 and 6(d), as well as additional document symbols.

Liechtenstein, members of the European Economic Area; as well as Georgia and Moldova, in alignment) (PC.DEL/1217/17), United States of America (PC.DEL/1188/17), Russian Federation (PC.DEL/1205/17), Turkey (PC.DEL/1231/17 OSCE+), Switzerland (PC.DEL/1190/17 OSCE+), Canada (PC.DEL/1223/17 OSCE+), Belarus (PC.DEL/1274/17 OSCE+), Georgia (PC.DEL/1236/17 OSCE+), Norway (PC.DEL/1240/17), France, Ukraine (PC.DEL/1196/17)

Agenda item 3: PRESENTATION BY THE SECRETARY GENERAL OF THE ANNUAL EVALUATION REPORT ON THE IMPLEMENTATION OF THE 2004 OSCE ACTION PLAN FOR THE PROMOTION OF GENDER EQUALITY

Discussion under agenda item 4

Agenda item 4: REPORT BY THE SPECIAL REPRESENTATIVE OF THE CHAIRPERSON-IN-OFFICE ON GENDER ISSUES, AMBASSADOR MELANNE VERVEER

Chairperson, Secretary General (SEC.GAL/127/17 OSCE+) (SEC.GAL/127/17/Add.1 OSCE+), Special Representative of the Chairperson-in-Office on Gender Issues, Estonia-European Union (with the candidate countries Albania, the former Yugoslav Republic of Macedonia, Montenegro and Serbia; the country of the Stabilisation and Association Process and potential candidate country Bosnia and Herzegovina; the European Free Trade Association countries Iceland and Liechtenstein, members of the European Economic Area; as well as Andorra, Georgia, Moldova, San Marino and Ukraine, in alignment) (PC.DEL/1219/17), Canada (PC.DEL/1224/17 OSCE+), Switzerland (PC.DEL/1189/17 OSCE+), Turkey (PC.DEL/1235/17 OSCE+), Russian Federation (PC.DEL/1203/17 OSCE+), Slovenia (PC.DEL/1191/17 OSCE+), Kazakhstan (PC.DEL/1233/17 OSCE+), United States of America (PC.DEL/1192/17), Norway (PC.DEL/1241/17), Ukraine (PC.DEL/1230/17), Holy See (PC.DEL/1193/17 OSCE+), Belarus (PC.DEL/1275/17 OSCE+), Azerbaijan (PC.DEL/1198/17/Corr.1 OSCE+), Armenia, Georgia (PC.DEL/1237/17 OSCE+)

Agenda item 5: REVIEW OF CURRENT ISSUES

(a) *Illegal elections in the temporarily occupied city of Sevastopol, Ukraine:* Ukraine (PC.DEL/1200/17), United States of America (PC.DEL/1194/17), Estonia-European Union (with the candidate countries Albania, the former Yugoslav Republic of Macedonia and Montenegro; the country of the Stabilisation and Association Process and potential candidate country Bosnia and Herzegovina; the European Free Trade Association countries Iceland and Liechtenstein, members of the European Economic Area; as well as Georgia and Ukraine, in alignment) (PC.DEL/1220/17/Rev.1), Georgia (PC.DEL/1238/17 OSCE+), Canada (PC.DEL/1225/17 OSCE+), Azerbaijan (PC.DEL/1201/17 OSCE+), Turkey, Russian Federation (PC.DEL/1204/17 OSCE+), France (PC.DEL/1207/17 OSCE+), Moldova

- (b) *Russian citizens detained by the United States of America*: Russian Federation (PC.DEL/1210/17), United States of America (PC.DEL/1195/17)
- (c) *Anniversary of the Munich Agreement, signed on 30 September 1938*: Russian Federation (PC.DEL/1212/17) (PC.DEL/1213/17) (PC.DEL/1214/17), Ukraine (PC.DEL/1202/17), United Kingdom, France (PC.DEL/1208/17 OSCE+), Poland (PC.DEL/1216/17), Germany

Point of order: France

- (d) *The newly adopted law of education in Ukraine*: Hungary (PC.DEL/1218/17 OSCE+), Russian Federation (PC.DEL/1211/17) (PC.DEL/1206/17 OSCE+), Romania (PC.DEL/1229/17 OSCE+), Ukraine (PC.DEL/1199/17)
- (e) *Violations of freedom of the media in Moldova*: Russian Federation (PC.DEL/1209/17), Moldova (PC.DEL/1222/17 OSCE+)

Agenda item 6: REPORT ON THE ACTIVITIES OF THE
 CHAIRPERSON-IN-OFFICE

- (a) *Participation of the Chairperson-in-Office in the UN General Assembly in New York*: Chairperson
- (b) *Participation of a representative of the Chairperson-in-Office in the opening of the Human Dimension Implementation Meeting (HDIM), held in Warsaw from 11 to 22 September 2017*: Chairperson
- (c) *Participation of a representative of the Chairperson-in-Office in the Concluding Meeting of the 25th OSCE Economic and Environmental Forum, held in Prague from 6 to 8 September 2017*: Chairperson
- (d) *Organizational matters related to the Twenty-Fourth Meeting of the OSCE Ministerial Council, to be held in Vienna on 7 and 8 December 2017*:
Chairperson
- (e) *Conference on Security Sector Governance and Reform, held in Vienna on 19 September 2017*: Chairperson
- (f) *Annual ACMF (Advisory Committee on Management and Finance) field trip to the OSCE Mission to Moldova, conducted from 25 to 27 September 2017*:
Chairperson
- (g) *Preparations for the Human Dimension Seminar “Rights of the Child: Children in Situations of Risk”, to be held in Warsaw on 11 and 12 October 2017*: Chairperson
- (h) *Internet Freedom Conference, to be held in Vienna on 13 October 2017*:
Chairperson

Agenda item 7: REPORT OF THE SECRETARY GENERAL

- (a) *Participation of the Secretary General in the 72nd session of the UN General Assembly from 18 to 22 September 2017: Secretary General (SEC.GAL/128/17 OSCE+)*
- (b) *Update on the tragic incident of 23 April 2017 involving a patrol of the Special Monitoring Mission to Ukraine: Secretary General (SEC.GAL/128/17 OSCE+)*
- (c) *Visit of the Secretary General to Ukraine on 13 and 14 September 2017: Secretary General (SEC.GAL/128/17 OSCE+)*
- (d) *Participation of the Secretary General in the Human Dimension Implementation Meeting (HDIM), held in Warsaw from 11 to 22 September 2017, and in the Concluding Meeting of the 25th OSCE Economic and Environmental Forum, held in Prague from 6 to 8 September 2017: Secretary General (SEC.GAL/128/17 OSCE+)*
- (e) *Report on activities of senior officials of the OSCE Secretariat: Secretary General (SEC.GAL/128/17 OSCE+)*
- (f) *Announcement of the distribution of the OSCE Secretariat Visibility Report for the period July and August 2017: Secretary General (SEC.GAL/128/17 OSCE+)*
- (g) *Calls for the nomination of candidates for the post of Chief Observer of the OSCE Observer Mission at two Russian checkpoints on the Russian-Ukrainian Border and for senior posts in the Secretariat and executive structures: Secretary General (SEC.GAL/128/17 OSCE+)*
- (h) *Revision and extension of the extrabudgetary project on the Structured Dialogue: Secretary General (SEC.GAL/128/17 OSCE+)*

Agenda item 8: ANY OTHER BUSINESS

- (a) *Farewell to the Permanent Representative of Latvia to the OSCE, Ambassador B. Hasans: Chairperson, Latvia*
- (b) *Farewell to the Permanent Representative of Iceland to the OSCE, Ambassador G. Gunnarsdóttir: Chairperson, Iceland*
- (c) *Democracy and rule of law in Spain: Spain (Annex)*

- (d) *Meeting of the Contact Group with the Asian Partners for Co-operation, to be held on 6 October 2017: Germany*

4. Next meeting:

Friday, 29 September 2017, at 11 a.m., in the Neuer Saal



**Organization for Security and Co-operation in Europe
Permanent Council**

PC.JOUR/1157/Corr.1
28 September 2017
Annex

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STATEMENT BY THE DELEGATION OF SPAIN

Mr. Chairperson,

I should like to make the following statement on the situation regarding democracy and the rule of law in Spain.

Spain is first and foremost a democratic State governed by the rule of law. Our democracy is currently facing one of the most important challenges of its constitutional history. On 6 and 7 September, the Parliament of the Autonomous Community of Catalonia passed two laws: the Independence Referendum Act and the Act on the Legal Transition and Founding of the Republic. Both laws have been declared unconstitutional by the Constitutional Court. In adopting these laws, the Parliament of Catalonia has violated the most fundamental parliamentary norms, silencing the opposition groups and ignoring the warnings of its own Catalan institutions regarding their legality. This is an attempt to repeal the Spanish Constitution and the Statute of Autonomy of Catalonia, without having the necessary votes to do so and bypassing the mechanisms provided for by law. It is therefore a profoundly undemocratic action.

Mr. Chairperson,

In recent weeks we have witnessed a smear campaign targeting Spanish institutions. Institutions that have distinguished themselves by their commitment to democratic values, the principles of international law, the principles and values of the Charter of the United Nations and the Helsinki Final Act, and the defence and promotion of respect for human rights and fundamental freedoms.

In the past few days we have heard statements made by leading politicians from the Government of the Autonomous Community of Catalonia that are not only inaccurate but strictly false. Unfortunately, some media outlets have taken these statements for granted, presenting an account of the situation in Spain that is completely divorced from reality. We cannot fail to mention that part of the disinformation that is being disseminated is targeted and caters to specific objectives. I should therefore like to offer you, in the spirit of democratic transparency, reliable and verified information on the events that have taken place and the actions of the Spanish authorities to confront this separatist challenge.

Allow me to do this by refuting some serious allegations that have been made:

First, I must say that the Government of Spain has not suspended the self-government or autonomy of Catalonia: The Constitutional Court has declared that the aforementioned referendum and transitional laws are unconstitutional and imply a violation of Articles 1 and 2 of the Spanish Constitution. The Catalan authorities have been warned that they should prevent any action aimed at holding the referendum. The repeated violations and breaches of the laws, and of the opinions and judgments of the Constitutional Court, have resulted in both the Attorney General of the State and the courts in Catalonia initiating procedures against the preparation of the referendum. These actions have therefore not been aimed at suspending or intervening in Catalan autonomy, but at avoiding the holding of the referendum. These actions have not occurred at the initiative of the Government but by court order of the Attorney General's Office and the courts in Catalonia in defence of the rule of law. However, I must recall that Article 155 of the Spanish Constitution provides that "if an Autonomous Community does not fulfil the obligations imposed upon it by the Constitution or other laws, or acts in a way seriously prejudicing the general interests of Spain, the Government, after lodging a complaint with the President of the Autonomous Community and failing to receive satisfaction therefore, may, following approval granted by an absolute majority of the Senate, take the measures necessary in order to compel the latter forcibly to meet said obligations, or in order to protect the above-mentioned general interests".

Another aspect in which there have been obvious inaccuracies relates to the nature of the security forces that have intervened: The security forces that have acted within the framework of the aforementioned judicial proceedings have done so as "judicial police", following the orders of the judicial authorities, independent of the executive branch. At no time has there been intervention by "military police". The security forces, which include the Guardia Civil, the National Police and the regional police of the Mossos d'Esquadra, are intervening in a co-ordinated way, according to the respective competences of each body.

The third point I should like to raise concerns the allegations of indiscriminate suppression and general infringement of citizens' rights and freedoms, in particular freedom of expression and assembly. Neither the Spanish Government nor the judicial authorities have at any time ordered measures restricting rights and freedoms that are general or indiscriminate. The confiscation of material related to the referendum, the arrests made and the closure of websites have been by judicial decision, on a case-by-case basis and proportionate to the relevant purpose, that is, to prevent the referendum from being held. All persons arrested (14) have already been released after giving testimony, although proceedings are still ongoing. The right to assembly and demonstration has not been restricted beyond the basic measures of public order. There has been no state of emergency. The State security forces have been notable for their restraint in the exercise of their functions, despite the difficult conditions and the bullying and harassment by demonstrators who have confronted them. These acts of pressure, bullying and harassment have also been directed at politicians and officials who do not support the referendum, as well as at private citizens in Catalonia.

Finally, Mr. Chairperson, the Spanish State has been described by the Catalan authorities as an undemocratic and intransigent State that prevents citizens from exercising their right to decide: These gratuitous statements that unfortunately damage the image of my country are not only false but also deeply unjust. It is hard to imagine that a liberal and generous democracy like that of Spain can be presented in these terms. Allow me to give you

some information. Since the first democratic elections of 1977, the Catalans have participated in 35 democratic elections at different levels – local, regional, national and European. Their parties are fully represented not only in the Catalan Parliament, but in the Spanish Parliament, the European Parliament and the OSCE Parliamentary Assembly. They have also participated in three referendums, on ratification of the Constitution and on two Statutes of Autonomy.

But voting is only synonymous with democracy when it is done in accordance with the law and with respect for the rights of all. I should like to explain why the holding of the referendum is unconstitutional and therefore undemocratic.

The Spanish Constitution was approved in 1978 with the majority vote of 90.4 per cent of the citizens of Catalonia, and establishes the fundamental principles of our coexistence. Among these principles, those contained in Articles 1 and 2 are particularly relevant. The first states that “National sovereignty is vested in the Spanish people, from whom emanate the powers of the State.” The second establishes that “The Constitution is based on the indissoluble unity of the Spanish nation, the common and indivisible country of all Spaniards; it recognizes and guarantees the right to autonomy of the nationalities and regions of which it is composed, and the solidarity amongst them all.”

Our Constitution therefore does not recognize the right to self-determination or secession of one part of the country, nor is it recognized by the constitutions of virtually every Western democracy, which establish the supremacy of the constitution or federal law, and also the powers of central government over federated or regional entities, as in the case of the Basic Law for the Federal Republic of Germany (Articles 31 and 37), the Constitution of the Italian Republic (Article 126) and the Constitution of the United States of America (Article VI). As far as my country is concerned, only the Spanish people as a whole are the holders of national sovereignty, and it is only for them to decide on an issue with such far-reaching consequences as the definition of Spain, using the procedures enshrined in the Constitution, including a referendum.

The act of voting is certainly the clearest expression of democracy; but that is not enough. Many undemocratic regimes have used the vote to try to legitimize themselves. Others have done so by bypassing the law, as in the case of the Parliament of Catalonia. I should like to recall at this point that the pro-independence coalition that voted in favour of the breakaway laws in the Catalan Parliament did so by a simple majority, with a bare minimum of seats and without the support of the majority of votes cast in the last regional elections. You cannot vote to violate the law. The law must be changed by lawful means.

Mr. Chairperson,

The Spanish State has the necessary mechanisms and instruments to defend the rule of law and to hold accountable those who jeopardize coexistence among all. We are prepared to do so. The Government is providing support to mayors, councillors, officials and local police in Catalonia who are being threatened, insulted and harassed for simply refusing to break the law. To those who try to weaken our institutions by generating instability in the streets, the State will respond with the law and the rule of law.

The Spanish Government has been and continues to be completely open to dialogue and understanding. In democracy, there are always ways to defend any political position but

it must be done through legal channels. As the President of the Government of Spain pointed out in his institutional statement on 20 September 2017, “What is at stake is not a political demand, which has its channels of expression and defence; what is currently in question is the very foundation of democracy.”

We hope that those responsible for this radical course of independence will reconsider their intention to impose on all citizens an exclusionary project that exacerbates differences and splits in two a plural society like that of Catalonia. We hope that the rule of law, democracy and dialogue will return, in order to guarantee a coexistence in peace and freedom.

Mr. Chairperson,

My delegation stands ready to provide to all delegations of the participating States, as well as to the OSCE Institutions, information that may be required on this issue. Our action is guided by a desire for transparency and co-operation, to ensure that democratic guarantees and the rule of law are respected in Spain and in the OSCE area.

At this juncture in the history of my country, Spain hopes that its partners and the international organizations of which it is a part and to which it contributes, are firmly and unambiguously committed to the defence of democracy and the rule of law in Spain.

Mr. Chairperson, I request that this statement be appended to the journal of the day.

Thank you very much.