

Delegation of the Russian Federation

**STATEMENT BY MR. ALEXANDER LUKASHEVICH,
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AT THE 1107th MEETING OF THE
OSCE PERMANENT COUNCIL**

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On the violation of the human rights of detainees in the European Union

Mr. Chairperson,

We should like to draw attention to the practice in the European Union of holding people suspected or accused of criminal offences in custody until the pronouncement of a final court decision and the conditions of such detention. The British non-governmental organization (NGO) Fair Trials recently published the results of its investigation in this regard. The information on which the investigation was based is highly representative. It includes the analysis of 672 criminal cases and 242 court hearings and the results of discussions with 544 lawyers, 56 judges and 45 public prosecutors.

The conclusion is not a comforting one. The decision to hold persons involved in criminal proceedings in pre-trial custody is taken systematically by the courts without sufficient grounds. The situation is not altered by the existence in EU Member States of laws defending the rights of suspects or defendants, for example, regarding arrest as a last restraining measure or the right to release on expiry of the detention period. Domestic courts frequently prefer strict measures because of the absence of a preliminary appraisal of the risks of freeing a suspect, the inadequate training of judges and the shortage of financial resources.

According to human rights defenders, more than 120,000 persons are detained in the EU awaiting judgement. Moreover, the risk of ending up behind bars is considerably greater for suspects from non-EU countries. The lack of EU citizenship or a permanent place of abode is often the decisive factor for placing a person in custody.

To judge from the reactions of many human rights NGOs, the detention conditions in some EU countries are simply deplorable. Apart from prison overcrowding, the suspects or defendants are restricted in their right to adequate legal aid, the services of an interpreter, information about the course of the investigation, etc.

The difference in the detention conditions in the EU Member States sometimes prevents the extradition of those held in custody from one EU State to another by way of a European arrest warrant.

In many cases, pre-trial detention is used as a pretext to “knock out” a confession or simply as a punitive measure. According to a number of European lawyers, the defence counsel is not given sufficient time to prepare for the court hearing in the majority of EU Member States.

There is also the matter of extending the length of pre-trial detention. There are frequent cases of suspects who might be innocent waiting years behind bars for a court decision. The long period of preventative detention increases the *de facto* risk that the suspect will ultimately be convicted.

In the opinion of quite a number of human rights organizations, the EU needs first to revive the idea of harmonizing the requirements for holding people in custody. Moreover, EU law should include the relevant standards in this regard of the Council of Europe. Otherwise, the absence of a clear and effective legal framework preventing long periods of detention for suspects and defendants will only increase prison overcrowding and the problems associated with it, including human rights violations.

It might be pointed out that the European Court of Justice Advocate General Yves Bot and a group of members of the European Parliament recently expressed a similar opinion in a joint communication to the European Commission.

We call on the States of the EU and its leaders in Brussels to give serious attention to the question of pre-trial detention of suspects and persons accused of criminal offences and also to the observance of their rights in accordance with international standards and OSCE commitments.

Thank you for your attention.