

Chairmanship: Slovakia

1217th PLENARY MEETING OF THE COUNCIL

1. Date: Thursday, 14 February 2019

Opened: 10.05 a.m.

Closed: 1.05 p.m.

2. Chairperson: Ambassador R. Boháč
Ambassador K. Žáková

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

Agenda item 1: REPORT BY THE CHIEF OBSERVER OF THE OSCE
OBSERVER MISSION AT TWO RUSSIAN CHECKPOINTS
ON THE RUSSIAN-UKRAINIAN BORDER

Chairperson, Chief Observer of the OSCE Observer Mission at two Russian checkpoints on the Russian-Ukrainian border (PC.FR/3/19 OSCE+), Romania-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, Liechtenstein and Norway, members of the European Economic Area; as well as Andorra, Georgia, Moldova, San Marino and Ukraine, in alignment) (PC.DEL/176/19), United States of America (PC.DEL/162/19), Switzerland (PC.DEL/167/19 OSCE+), Turkey (PC.DEL/174/19 OSCE+), Ukraine (PC.DEL/171/19), Russian Federation (PC.DEL/163/19)

Agenda item 2: REVIEW OF CURRENT ISSUES

Chairperson

(a) *Russia's ongoing aggression against Ukraine and illegal occupation of Crimea:* Ukraine (PC.DEL/172/19), Romania-European Union (with the candidate countries Albania, the former Yugoslav Republic of Macedonia and Montenegro; the European Free Trade Association countries Iceland, Liechtenstein and Norway, members of the European Economic Area; as well

as Georgia and Moldova, in alignment) (PC.DEL/177/19), United States of America (PC.DEL/164/19), Turkey (PC.DEL/175/19 OSCE+), Switzerland (PC.DEL/169/19 OSCE+), Canada (PC.DEL/182/19 OSCE+)

- (b) *Situation in Ukraine and the need to implement the Minsk agreements:* Russian Federation (PC.DEL/165/19/Rev.1), Ukraine (PC.DEL/172/19), Romania-European Union
- (c) *The situation of the Jehovah's Witnesses in the Russian Federation:* Romania-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 Norway, members of the European Economic Area; as well as Andorra, Australia, Canada, Georgia, San Marino and Ukraine, in alignment) (PC.DEL/178/19), United States of America (PC.DEL/170/19), Switzerland (PC.DEL/168/19 OSCE+), Russian Federation (PC.DEL/166/19), Netherlands
- (d) *Violations of the rights of national minorities in the Russian Federation:* Ukraine (PC.DEL/173/19), Georgia, Russian Federation

Agenda item 3: REPORT ON THE ACTIVITIES OF THE
 CHAIRMANSHIP-IN-OFFICE

- (a) *Meeting of the Informal Working Group on Scales of Contributions to be held on 15 February 2019:* Chairperson
- (b) *Joint FSC-PC meeting to be held on 20 February 2019:* Chairperson
- (c) *Winter Meeting of the OSCE Parliamentary Assembly to be held on 21 and 22 February 2019:* Chairperson
- (d) *OSCE Charity Ball to be held on 15 February 2019:* Chairperson

Agenda item 4: REPORT OF THE SECRETARY GENERAL

- (a) *Briefing by the Strategic Policy Support Unit, held on 13 February 2019:* Director of the Conflict Prevention Centre (SEC.GAL/26/19 OSCE+), Ukraine
- (b) *Visit of the Acting Co-ordinator for Combating Trafficking in Human Beings to Brussels on 11 and 12 February 2019:* Director of the Conflict Prevention Centre (SEC.GAL/26/19 OSCE+)
- (c) *Presentation of an OSCE Network report on "Reducing the Risks of Conventional Deterrence in Europe", held on 12 February 2019:* Director of the Conflict Prevention Centre (SEC.GAL/26/19 OSCE+)

- (d) *Call for nominations for the position of Special Representative and Co-ordinator for Combating Trafficking in Human Beings*: Director of the Conflict Prevention Centre (SEC.GAL/26/19 OSCE+)
- (e) *Participation of the Secretary General in the 55th Munich Security Conference to be held from 15 to 17 February 2019*: Director of the Conflict Prevention Centre (SEC.GAL/26/19 OSCE+)

Agenda item 5: ANY OTHER BUSINESS

- (a) *Democracy and the rule of law in Spain*: Spain (Annex)
- (b) *Presidential election in the former Yugoslav Republic of Macedonia, to be held on 21 April and 5 May 2019*: former Yugoslav Republic of Macedonia
- (c) *Winter Meeting of the OSCE Parliamentary Assembly, to be held in Vienna on 21 and 22 February 2019*: OSCE Parliamentary Assembly
- (d) *Farewell to the Permanent Representative of Montenegro to the OSCE, Ambassador S. Milačić*: Chairperson, Montenegro

4. Next meeting:

Wednesday, 20 February 2019, at 10 a.m., in the Neuer Saal



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

PC.JOUR/1217
14 February 2019
Annex

ENGLISH
Original: SPANISH

1217th Plenary Meeting
PC Journal No. 1217, Agenda item 5(a)

STATEMENT BY THE DELEGATION OF SPAIN

Mr. Chairperson,

I address this Permanent Council, at my own request, to inform you about the state of democracy and the rule of law in Spain.

This delegation last addressed the Permanent Council on this matter on 18 January 2018. At that time, it announced the results of the elections to the autonomous Parliament of Catalonia, which took place on 21 December 2017, and the establishment of that Parliament on 17 January 2018, as a preliminary step for the forming of a new regional government on 14 May 2018.

I had the opportunity to address the Permanent Council on four occasions regarding the illegal actions that occurred in September and October 2017. These events are currently the subject of the trial that just began on Tuesday, 12 February, in the Supreme Court of Spain. I am taking the floor to tell you about this.

We have endured a great deal of misinformation about the events of 2017. We cannot rule out that fake news will be disseminated throughout the criminal trials for the purpose of confusing public opinion and sowing more discord. As I have done in the past, I am putting myself at the disposal of all the delegations of the participating States and the OSCE institutions to provide accurate information about this trial that may be required throughout the entire process.

Mr. Chairperson,

Allow me to refer briefly to the events that occurred in the months of September and October 2017 that form the basis of the criminal proceedings.

During the sessions held in the Catalan Parliament on 6 and 7 September 2017, the secessionist parliamentary majority approved by a simple majority the Referendum Act and the Legal Transition Act (the “disconnection laws”), violating the democratic rights of the non-secessionist opposition. It also violated the Statute of Autonomy of Catalonia and the Spanish Constitution, which were *de facto* repealed by that vote. The opposition parties left the Parliament in protest.

Pursuant to these laws, the so-called referendum of 1 October would be binding and would lead to secession within 48 hours. Even though the opposition had repeatedly expressed their rejection of this process, the secessionists went ahead with their plans.

That same September, the Constitutional Court declared both laws unconstitutional and warned of the consequences for the authorities if its rulings were not respected. The authorities were repeatedly warned that they would be in breach of the Constitution if they continued with their actions.

On 20 September 2017, during a court-ordered search of the Catalan Department of the Economy in Barcelona carried out by a judicial committee and members of the State security forces, the building was besieged for several hours, preventing the aforementioned personnel from leaving. Outside, there were altercations and State security forces' vehicles were destroyed.

The so-called referendum of 1 October 2017 lacked the minimum democratic guarantees in the way it was called, in the voting process and in its result. There were many irregularities. There was no list of registered voters, there was no campaign in favour of "no", and the process was not observed by any recognized international institution. There were cases of police violence (some of which are currently being examined by the judicial authorities), but this was not systematic. There were cases of violence against the police. Three people were admitted to hospital with injuries, and two of them were discharged within 48 hours.

The Government of the former Catalan President Puigdemont rebuffed the Spanish Government's calls for elections to be held and constitutional law and the Statute of Autonomy restored pursuant to Article 155 of the Constitution.

On 27 October, despite the appeals made by the Government of Spain and other political and social actors, and all the rulings of the Constitutional Court, the secessionists proclaimed a "Catalan Republic", with votes in favour from 70 out of the 135 members of the Catalan Parliament, representing just over 40 per cent of the electorate. The reform of the Statute of Autonomy requires a two-thirds majority of Parliament.

Consequently, the executive led by the then President of the Government Mariano Rajoy asked the Senate to approve the implementation of Article 155 of the Spanish Constitution. Following negotiations with the two main opposition parties, the Spanish Socialist Workers' Party (PSOE) and the Citizens' Party (Ciudadanos), this application was approved for a limited period and focused on removing the authorities of the Regional Government of Carles Puigdemont and calling regional elections on 21 December.

The application of Article 155 served to restore the regular functioning of the Catalan institutions and prevent them from making any further illegal use of the region's resources and institutions.

The Catalan elections of 21 December were the third to be held in five years and they produced similar results in terms of the balance of secessionists – around 47 per cent of the electorate – and the opposition.

Mr. Chairperson,

As regards the criminal trials that began this week with the hearing before the Supreme Court, proceedings have been brought against 25 people. Seven of them escaped, nine are on remand and another nine are on provisional release. Twelve of them will be tried by the Supreme Court because of the positions they held. The charges include, among other things, the crimes of rebellion, sedition and embezzlement of public funds. Whether or not they are defined in exactly the same terms, these are crimes that appear in the criminal codes of most Western democracies.

Some people class the defendants as political prisoners. They stand accused not because of their ideas, but because of the alleged commission of crimes defined in the Spanish Criminal Code, and will be tried with all the guarantees inherent in a democratic State governed by the rule of law. Anyone who knows only a little about Spain recognizes the highest degree of freedom of expression, demonstration and association that exists in my country.

As regards the measure of pretrial detention that is being applied to some of the defendants, in accordance with the Spanish procedural regime, the decision to adopt this measure lies entirely with the judge. This measure (provided for in the Spanish legal system, as it is in that of all comparable countries, with even longer terms) is in compliance with the Charter of Fundamental Rights of the European Union and the Council of Europe's European Convention on Human Rights. In the present case, the Court has considered this measure to be justified by one or more circumstances: flight risk, the risk of reoffending or destroying evidence. The escape of Puigdemont and six other defendants in this trial has most certainly had an influence on the measure taken. As is logical in any State governed by the rule of law, the Government has no capacity to influence in one way or another measures agreed by the judicial authorities.

The trial will be public and will be carried out with maximum transparency. The Supreme Court will guarantee that it can be followed by the widest possible audience through television broadcasting and online streaming. As is customary in a democratic State, there is no recognition or accreditation of "international observers". Anyone who wishes to "observe" the court proceedings in person is free to do so, with the only limitation being the space available. A larger room than the one usually used will be allocated. There will be space for two or three family members of each defendant, and Catalan-Spanish/Spanish-Catalan interpretation will be available. All of the defendants are fluent in both languages.

The Spanish judiciary is independent from the executive and legislative powers. This is expressly stated in the Constitution.

The proceedings regarding the acts related to the secessionist process in Catalonia are to be held in the Criminal Chamber of the Supreme Court, which is a body with national authority. Normally, it is an appeals court, but it is also competent to hear criminal cases brought against certain persons holding public office.

The Second Chamber of the Supreme Court is a completely independent court. Its judges are selected by the General Council of the Judiciary by enhanced majority and are

appointed for indefinite terms, ending upon their retirement. This provides a maximum guarantee of their independence. Their decisions are based not on political criteria but on strictly technical and legal criteria.

By virtue of the applicable regulations, the rights of individuals are rigorously safeguarded by Spanish criminal procedure, more so than elsewhere in Europe. Proceedings fully respect the fundamental rights of defendants to the presumption of innocence, to defence, to not incriminate oneself and to a fair trial. All of these will be witnessed by those who follow the broadcast of the hearing.

Mr. Chairperson,

The proven track record of democracy in Spain since 1978, when our Constitution was adopted, has placed our country among those that enjoy greater levels of freedom and guarantees of protection of the rights of all its citizens. Spain is a mature democracy, with the means to enforce its law, stimulate dialogue, overcome crises and continue to serve as an example of an open and pluralist society.

The international track record of democratic Spain endorses our undeniable commitment to the principles and values on which the United Nations, the Council of Europe, the European Union and our Organization are based. In particular, we feel bound to the commitments assumed in the human dimension of the OSCE to democracy and the rule of law, which guide the daily work of our institutions.

Mr. Chairperson,

I reiterate that I remain at the disposal of all the delegations present here today and the OSCE institutions to continue providing information on this process, and ready to appear again before the Permanent Council if the situation so requires.

Mr. Chairperson,

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