
Chairmanship: Austria**1160th PLENARY MEETING OF THE COUNCIL**

1. Date: Thursday, 12 October 2017

Opened: 10.10 a.m.
Suspended: 1.05 p.m.
Resumed: 3.05 p.m.
Closed: 4 p.m.

2. Chairperson: Ambassador C. Koja

Prior to taking up the agenda, the Chairperson welcomed Mr. Sherzod Asadov, the new *Chargé d'Affaires ad interim* of Uzbekistan to the OSCE.

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

Agenda item 1: ADDRESS BY THE MINISTER FOR FOREIGN AFFAIRS
OF THE FORMER YUGOSLAV REPUBLIC OF
MACEDONIA, H.E. NIKOLA DIMITROV

Chairperson, Minister for Foreign Affairs of the former Yugoslav Republic of Macedonia, Estonia-European Union (with the candidate countries Albania, Montenegro and Serbia; the country of the Stabilisation and Association Process and potential candidate country Bosnia and Herzegovina; the European Free Trade Association countries Liechtenstein and Norway, members of the European Economic Area; as well as Ukraine, in alignment) (PC.DEL/1329/17), United States of America (PC.DEL/1307/17), Russian Federation (PC.DEL/1308/17), Turkey (PC.DEL/1341/17 OSCE+), Norway (PC.DEL/1324/17), Bulgaria, Albania (PC.DEL/1313/17 OSCE+)

Agenda item 2: ADDRESS BY THE VICE-PRESIDENT OF THE
INTERNATIONAL COMMITTEE OF THE RED CROSS,
MS. CHRISTINE BEERLI

Chairperson, Vice-President of the International Committee of the Red Cross (PC.DEL/1323/17 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 country Liechtenstein, member of the European Economic Area; as well as Andorra, Georgia, Moldova, San Marino and Ukraine, in alignment) (PC.DEL/1330/17), United States of America (PC.DEL/1309/17), Switzerland (PC.DEL/1316/17 OSCE+), Turkey (PC.DEL/1342/17 OSCE+), Russian Federation (PC.DEL/1311/17), Norway (PC.DEL/1325/17), Georgia, Ukraine (PC.DEL/1320/17), Armenia, Turkmenistan

Agenda item 3: REVIEW OF CURRENT ISSUES

- (a) *Russia's ongoing aggression against Ukraine and illegal occupation of Crimea:* Ukraine (PC.DEL/1322/17), 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 Norway, members of the European Economic Area; as well as Georgia, Moldova and Ukraine, in alignment) (PC.DEL/1331/17), Switzerland (PC.DEL/1317/17 OSCE+), Turkey (PC.DEL/1312/17 OSCE+), United States of America (PC.DEL/1310/17), Canada (PC.DEL/1336/17 OSCE+)
- (b) *Situation in Ukraine and the need to implement the Minsk agreements:* Russian Federation (PC.DEL/1319/17), Ukraine
- (c) *Situation of LGBTI persons in the Russian Federation:* 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 country Norway, member of the European Economic Area; as well as Canada, San Marino and Ukraine, in alignment) (PC.DEL/1333/17), United States of America (PC.DEL/1314/17), Russian Federation
- (d) *Situation of LGBTI persons in Azerbaijan:* 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 country Norway, member of the European Economic Area; as well as San Marino, in alignment) (PC.DEL/1334/17), United States of America (PC.DEL/1315/17), Azerbaijan
- (e) *European and World Day against the Death Penalty, marked on 10 October 2017:* 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; as well as Andorra, Moldova and Ukraine, in alignment) (PC.DEL/1332/17), Norway (also on behalf of Canada, Iceland, Liechtenstein, Mongolia, San Marino and Switzerland) (PC.DEL/1326/17), Switzerland (also on behalf of Austria, Germany,

Liechtenstein, Luxembourg and Slovenia) (PC.DEL/1318/17 OSCE+), Spain, Holy See, United States of America, Belarus

- (f) *Discrimination against the Russian media in France*: Russian Federation (PC.DEL/1327/17 OSCE+), France

Agenda item 4: REPORT ON THE ACTIVITIES OF THE
 CHAIRPERSON-IN-OFFICE

- (a) *Visit of the Political Director of the Federal Ministry for Europe, Integration and Foreign Affairs of Austria, Ambassador A. Marschik, to Kazakhstan, Kyrgyzstan and Tajikistan*: Chairperson
- (b) *Forty-first round of the Geneva International Discussions, held on 10 and 11 October 2017*: Chairperson
- (c) *Preparations for the Twenty-Fourth Meeting of the OSCE Ministerial Council, to be held in Vienna on 7 and 8 December 2017*: Chairperson
- (d) *Reinforced ambassadorial retreat, to be held in Eisenstadt, Austria on 6 and 7 November 2017*: Chairperson

Agenda item 5: REPORT OF THE SECRETARY GENERAL

Announcement of the distribution of a written report of the Secretary General (SEC.GAL/142/17 OSCE+): Co-ordinator of Activities to Address Transnational Threats

Agenda item 6: ANY OTHER BUSINESS

- (a) *Commemoration of the victims of the Holocaust in Romania, marked on 9 October 2017*: Romania (PC.DEL/1328/17 OSCE+)
- (b) *Democracy and the rule of law in Spain*: Spain (Annex)

4. Next meeting:

Wednesday, 18 October 2017, at 10 a.m., in the Neuer Saal



1160th Plenary Meeting
PC Journal No. 1160, Agenda item 6(b)

STATEMENT BY THE DELEGATION OF SPAIN

Mr. Chairperson,

I am taking the floor in this Permanent Council for the third consecutive week to report, at your request, on the situation with regard to democracy and the rule of law in Spain.

Since my statement last Thursday, there have been several significant events in my country related to the separatist challenge in Catalonia. Of these, I should first like to mention the new challenge to the constitutional order, which has led to the President of the Government of Catalonia appearing in a plenary session of the Parliament of this autonomous community on Tuesday 10 October in order to present the results of the so-called referendum of 1 October, which would give way to the unilateral declaration of independence.

Allow me to briefly explain the scale of this challenge:

1. The declaration of independence is being made on the basis of the results of the so-called referendum of 1 October, which arose from the Independence Referendum Act and the Act on the Legal Transition and Founding of the Republic adopted by the Catalan Parliament on 6 and 7 September, and which were declared unconstitutional by the Constitutional Court. These are two laws that, as I have had occasion to explain in previous statements before this Council, violated the most basic parliamentary and democratic rules. It is clear from this declaration of the laws' unconstitutionality that the so-called referendum of 1 October is null and void.

2. In spite of this, the Government of Catalonia went ahead with its plan to carry out the referendum and stage the break with the established order. The Venice Commission warned on two occasions that the "referendum" planned for 1 October did not meet the Commission's criteria and was contrary to the Constitution and laws. In addition, the so-called referendum was carried out with numerous irregularities inappropriate for a democratic vote. I have also had occasion to present five examples of such irregularities in this Council, such as the change of voting rules 15 minutes before the beginning, the documented existence of multiple voting, ballot boxes in streets and private homes, opaque ballot boxes and ballot boxes pre-filled with ballot papers, anomalous counts and irregularities in the electoral roll. On the basis of this act, which was illegal, fraudulent and

without the slightest safeguards, the President of the Catalan Government tried last Tuesday to legitimize the declaration of independence.

3. Third, the results of that referendum officially presented by its promoters yield a result of 38.47 per cent (including multiple votes) of the electoral roll in favour of independence. According to this data, the declaration of independence would therefore be based on the position of a minority of the Catalans (two million) who would try to impose their will on the majority (three million).

We cannot in any way give validity to a law that is unconstitutional, to a referendum that was null and void and without safeguards, or to the marginalization of the will of the majority of Catalans. The declaration of independence based on the above facts is an obscene mockery of democracy and deserves a strong rejection on the part of the international community and international organizations that, like the OSCE, are based on the values and principles of democracy and the rule of law.

Mr. Chairperson,

I should also like to briefly refer to two other events that have taken place this past week and that illustrate the unreasonableness of this separatist drift.

On the one hand, the demonstrations on Sunday 8 October in several places in Spain, which brought together around one million people in Barcelona. These gatherings have given voice to thousands and thousands of Catalans who have gone out to defend the rule of law and the framework of coexistence represented by the Constitution of 1978. There has been talk of a “silent” majority, but also a majority “silenced” in recent years by the separatist plans. Catalan institutions have been circumventing the laws, and a uniformity has been imposed that does not exist; everything that implies inclusion and plurality has been left aside, traits that by definition characterize democratic regimes.

Another notable event of the past week has been the transfer of the headquarters of numerous companies from Catalonia to the territory of other communities in Spain. This is just one more consequence of the breakdown of the rule of law, and of the legal uncertainty deriving from the imposition of the arbitrary nature of the independence coalition, as well as its appetite for building walls around Catalonia.

Mr. Chairperson,

In recent weeks, the separatists have not stopped alluding to democracy and human rights in a well-orchestrated communication strategy based on simple messages that hide a deeply undemocratic reality. To begin with, they set the legitimacy of the supposed votes against the rule of law, forgetting that their own legitimacy comes precisely from the 1978 Constitution, a pact among all Spaniards that was voted for by more than 90 per cent of Catalan citizens in an irreproachable referendum.

Since we are in a city through which the Danube flows, I will take the liberty of quoting Claudio Magris in a reflection that is highly relevant: “to set up legitimacy against legality, making an appeal to “warm” values (the community, immediacy of emotion, etc.) as against Weber’s Disenchantment with the World and the coldness of the democracies, means

destroying those rules of the political game... To invoke love against law is the profanation of love; it is using love as a weapon to deprive other men of freedom and of love itself.”

The concept of direct democracy advocated by the independence process also falls outside any axiological framework, unrelated to the values and principles that inspire our coexistence based on the Constitution and laws. The idea of the person as the holder of fundamental rights and freedoms that cannot be arbitrarily denied by any power is the basis of our democracy. For this reason, the attack on laws and judicial decisions implies a serious violation of fundamental rights and freedoms. There is no democracy outside of the rule of law. Democratic institutions have a duty and responsibility to respond calmly and firmly to such attacks.

I should also like to recall at this point that Spanish democracy has a proven track record that places it among countries where there is greater freedom and where there are greater safeguards for the protection of fundamental rights. The Constitution, the laws that implement it and its enforcement by the judges are the basis of this reality.

Mr. Chairperson,

The Government of Spain is today, as it has been in the past, ready for dialogue, but in order for it to take place we must return to democratic rule of law and constitutional loyalty. The Council of Ministers has made a formal request to the President of Catalonia to speak out and clarify the scope of the declaration of independence announced and signed on 10 October. The rule of law in Spain is showing undeniable restraint in giving the Government of Catalonia time to return to legality.

Yesterday, on 11 October, in his appearance before the Congress of Deputies, the President of the Government reaffirmed that he was open to dialogue and warned of its limitations. He said that discussions could be held on reforming the Constitution itself. It is not a perfect law and can be modified. The President also referred to the need to “aspire to rediscover the type of Catalanism that is willing to reach agreements and integrate and that has given Catalonia its best moments”, and stressed the importance of the unity of the democrats.

Mr. Chairperson,

We are grateful for the statements by numerous leaders of the international community and international organizations in defence of democracy and the rule of law in Spain. Their support is fundamental to that unity of the democrats referred to by the President of the Government, which is so necessary at the present time. Only the constitutional framework and respect for the rule of law can offer the necessary conditions to repair the social and political divide that the separatist drift has provoked in Catalonia. Rest assured that Spanish democratic institutions will not let them down.

Thank you very much.

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