

## Special Representative

To:

PA President

and

PA Secretary General

### *PC Brief Week 49/50, 2012*

The first week all of Vienna moved to Dublin for the Ministerial Council. I also spent some time in Bucharest for our election observation in Romania. The second week saw a PC meeting and meetings of other bodies, in particular the ACMF – the time for a decision on the budget is running out, since the deadline December 20 is approaching.

As has been reported in the Press, the result of the Ministerial Council was less than meager and even below the already pessimistic expectations that I had outlined in my previous reports. No political declaration, not a single decision in the third dimension; not even a “chapeau” decision on FSC issues found consensus. Two decisions related to cyber space could have made a difference – in the first dimension one on new confidence-building measures, and in the third dimension one on freedom of the media in the digital age, but this was not met with consensus. Not even the draft on combating intolerance and xenophobia was accepted.

In the eyes of the OSCE diplomats the Helsinki+40 decision avoided a total failure. However, the original draft was cut back from three pages to one and the concept of an OSCE Security Community taken out of its title, seriously watering it down, causing it to fall way below the discussions that the OSCE had during the “Corfu Process”. In addition to the lack of substantial agreements at the meeting, President Migliori, with the support of the PA Bureau, had to declare the 1997 Cooperation Agreement inoperable and invalid because of more than ten years of ODIHR’s non-compliance with it (the News from Copenhagen contained details of the other issues he spoke about).

The Permanent Council has extended the mandates of most missions, although Kazakhstan and Uzbekistan have not yet agreed, and approved an “OSCE Consolidated Framework for the Fight against Terrorism.” The Secretary General, in consultation with the Chairmanship, exercised the early warning function given to him at the last Ministerial Council in Vilnius by pointing at imminent dangers resulting from heightened tension between Armenia and Azerbaijan. Albania invited the PA to observe the June 23, 2013 parliamentary elections, and so did Armenia – in a letter to the PA President – for its presidential elections on February 18, 2013.

I made a statement in reply to criticism of President Migliori’s decision coming especially from the EU and EU members, which I attach. The current Irish OSCE Chairmanship did not allow me to make to make my statement under the agenda item “Current Issues” where it would have been most appropriate, and instead referred me to the end of the agenda. Only the USA replied, reading out a short statement commending our EOM in Romania and urging the PA and the ODIHR “to engage in constructive dialogue with one another to ensure this partnership continues”.

In informal talks after the PC, I got unequivocal messages from diplomats. In essence, what they said amounted to saying that they never thought President Migliori's warnings were meant seriously. Two senior diplomats from European countries said "they" will never accept that the CiO appointed Special Representatives exercise their leadership, one of them adding that we "should be happy that they are allowed to read out the statement". The argument used for this "interpretation" of the Agreement, which fully contradicts its wording, is that anything else would undermine the ODIHR as an autonomous institution. This totally ignores that it is unacceptable for an elected parliamentarian appointed leader of a short term OSCE observer mission and an autonomous body made up of elected parliamentarians like the PA not to be allowed to come to independent conclusions on the basis of established facts. It seems to be very difficult for diplomats to understand that parliamentarians will not want to be reduced to a reading role. As for the independence of ODIHR's missions - most of them are led by (retired) diplomats who – according to the laws of most countries – owe loyalty to their country and their government even after retirement.



Andreas Nothelle  
Ambassador  
December 17, 2012

## **Dublin MC Decisions**

MC Decision on the Helsinki +40 Process

### **1<sup>st</sup> Dimension**

MC Decision on the OSCE's Efforts to Address Transnational Threats  
Statement on the Negotiations on the Transdniestrian Settlement Process in the "5+2" Format

### **2<sup>nd</sup> Dimension**

Ministerial Council Declaration on Strengthening Good Governance and Combating Corruption, Money Laundering and the Financing of Terrorism

### **3<sup>rd</sup> Dimension**

nothing



Vienna Office

**Statement by the OSCE PA as delivered by PA Special Representative  
Ambassador Andreas Nothelle**

**Permanent Council in Vienna on December 13, 2012**

Thank you Mr. Chairman,

Last week the Parliamentary Assembly observed the December 9 parliamentary elections in Romania. Our limited election observation mission was led by OSCE PA Vice President Wolfgang Grossruck, a member of the Austrian Parliament. We had an office in Bucharest, which opened on November 26, and we conducted a pre-assessment mission on November 28. On election day, our members observed the polling, counting and tabulation in Bucharest and several towns and villages in the counties of Constanta and Teleorman. Throughout our observation, we enjoyed excellent cooperation with the Romanian authorities, in particular with the Permanent Election Authority and the Central Election Bureau, as well as with the NGO and the diplomatic community. Mr. Grossruck presented our preliminary post-election statement at a Press Conference on December 10. A Press Release and our statement have been published on our website and circulated through the Conference Services. We thank Romania for its hospitality and the Romanian authorities for their cooperation.

ODIHR-PA cooperation was not an issue during this observation, because from the start the ODIHR has stated that their small team of experts does not constitute an observation mission and consequently would not publish preliminary findings. However, we had met with them during our pre-assessment visit and offered our help and cooperation.

In this context, however, I would like to express our disappointment about statements of surprise or regret about President Migliori's announcement during the Ministerial Council Meeting that we regard the 1997 Cooperation Agreement inoperable. These statements force me to raise the issue again in some detail:

November 20 this year saw the tenth anniversary of my office in Vienna. These were years during which the PA, its Presidents, its Secretary General, and I repeatedly and consistently tried to make you aware of ODIHR's non-compliance with the Agreement. In fact, until the Brussels Ministerial Council in 2006, the ODIHR, supported by some Permanent Representatives, had even challenged the Agreement's validity. This is why I initiated what became the often quoted clause from MC Decision 19/06, hoping that the Ministerial Council's call on the ODIHR to work with the PA on the basis of the Agreement would remove any doubts and lead to a smooth cooperation.

Unfortunately, this was not the case. Instead of continuing to deny its validity, the ODIHR now started to reinterpret the Agreement. The effect on our cooperation was the same: Continuous disregard for fundamental principles of the Agreement and the Ministerial Council decision, constantly challenging the leadership of the OSCE Chairman-in-Office appointed Special Representatives.

To our deep disappointment, nobody here ever took it up or expressed regret about this.

In addition to the many opportunities we used to acquaint you with our concerns, most Special Coordinators, among them senior politicians from Austria, Canada, Croatia, Denmark, Portugal and Slovenia, have sent reports to several Chairpersons-in-Office describing ODIHR's lack of compliance with the Agreement. A number of meetings organized by different chairmanships did not lead to an improvement of the situation.

At the Warsaw HDIM in September President Migliori rang the alarm bell loud and clearly, and during our Fall Session in Tirana, the PA Standing Committee, in the presence of the OSCE Secretary General, discussed a pronouncement of the Agreement's inoperability as the only possible consequence when one side persistently refuses to comply with its fundamental principles, and when the bodies that should enforce Ministerial Council decisions do nothing to ensure compliance with it. You were all present when the President addressed the issue in his speech and especially in his reply to your statements here in Vienna.

After a very thorough discussion during our Bureau Meeting in Dublin, the President, with the support of the members of the Bureau, then took the only logical and natural decision that was reflected in his presidential address to the Ministerial Council.

This has never been simply a personality issue, nor purely a problem caused by the International Secretariat of the PA, as some like to dismiss it. The ODIHR, obviously trusting that most Special Coordinators, when in the field, would not want to endanger their mission by separating from the ODIHR, has apparently convinced those that now express their surprise or even dismay that blatant disregard of the Agreement will not lead to sanctions or other serious consequences. This is why many in the PA have the impression that they never got a fair hearing in the decision-making bodies of the OSCE.

What will the future bring? We will continue our work and focus on those missions that we can handle with our resources, which of course are much more limited than ODIHR's. We are also ready to cooperate with the ODIHR on a case-by-case basis, although some years ago in Russia, as well as during the past 20 months in Turkey, Tunisia, the USA, and now in Romania we have demonstrated that we can perform well without the ODIHR.

Let me make this perfectly clear: We deplore the inoperability of the Agreement. We would have much preferred to jointly implement it in one OSCE observer mission with a partner who is ready to abide by the rules. But practically all Special Coordinators reported about the sort of treatment that I referred to on numerous occasions and saw no other way out of this situation. On a positive note, in future I will not have to raise this issue here.

A solution could be found only if the ODIHR becomes ready at last to accept what the Cooperation Agreement tried to establish, namely one OSCE Mission under the leadership of a senior politician provided by the PA. This is the model of EU observation missions, it is what the Cooperation Agreement wanted, and it has been recommended by several outside experts in the past. Only when the ODIHR – in giving its expert advice - accepts the leadership of the appointed Special Coordinator, its experts and ours can effectively and jointly, and without all the frictions we witnessed in the past, assist the leader of the mission in the best possible manner to deliver a good and convincing statement.

Thank you.