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22 June 2009

## Situation in Belarus

### Committee Opinion<sup>1</sup>

Committee on Legal Affairs and Human Rights

Rapporteur: Mr Christos POURGOURIDES, Cyprus, Group of the European People's Party

### A. Conclusions of the committee

1. The Committee on Legal Affairs and Human Rights welcomes the proposals of the Political Affairs Committee aimed at achieving progress in Belarus on a number of key problems, including the continued application of the death penalty, political prisoners, freedom of association and of assembly, democratic elections and freedom of information (paragraphs 20 to 22 of the draft resolution).
2. It recalls that the changes to the constitution made in 1996 following an undemocratic referendum, which curtail the rights of parliament in favour of unfettered presidential powers, and which prompted the Parliamentary Assembly's Bureau to suspend the special guest status of the Belarusian Parliament, are still in force.
3. Belarus has also still not made much progress in the fields of democracy, human rights and the rule of law. In particular, even the most recent parliamentary elections were manipulated in such a way that the opposition is not represented in parliament at all. Whilst nine internationally recognised political prisoners have recently been released, new cases of politically motivated abuses of the criminal justice system have reportedly arisen. As to the high-profile disappearance cases denounced by the Assembly in 2004, the four senior officials named as being either involved in these criminal actions or in their cover-up were one by one removed from their positions or have resigned, but none of them has as yet been brought to justice. Freedom of expression is still seriously hampered, and peaceful demonstrations frequently give rise to police violence, with complete impunity.
4. The Committee on Legal Affairs and Human Rights therefore finds it premature for the Assembly to invite its Bureau unconditionally to restore special guest status for the Belarusian Parliament.
5. Instead, it suggests making use of the excellent list of issues to be resolved by the Belarusian authorities (paragraphs 21 and 22 of the draft resolution) as a standard by which the Bureau should be invited to evaluate if and when the progress made by Belarus can be considered as sufficient in order for the special guest status to be restored.
6. In the committee's view, the promulgation of a moratorium on executions must be a *conditio sine qua non*.

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1. See [Doc. 11939](#) tabled by the Political Affairs Committee.



## **B. Proposed amendments to the draft resolution**

### *Amendment A (to the draft resolution)*

At the end of paragraph 19.1, add the following phrase:

*“as soon as Belarus has made satisfactory progress regarding the implementation of the recommendations which the Assembly has addressed to the Belarusian authorities in paragraphs 21 and 22 of this resolution, but in no case before the promulgation of a moratorium on the execution of the death penalty.”*

### *Amendment B (to the draft resolution)*

In paragraph 19.2, after “Political Affairs Committee”, add “and the Committee on Legal Affairs and Human Rights”.

### *Amendment C (to the draft resolution)*

In paragraph 19.2, at the end of the first sentence, insert the following words: “which would justify restoring the special guest status”.

### *Amendment D (to the draft resolution)*

In paragraph 19.4, after “Political Affairs Committee”, replace the words “to continue to follow the situation in Belarus” by the words “and the Committee on Legal Affairs and Human Rights to continue to follow the situation in Belarus, the Political Affairs Committee”.

### *Amendment E (to the draft resolution)*

Replace paragraph 5 by the following text:

*“Concerning the disappearance of four political opponents in 1999/2000, the Assembly notes with satisfaction that none of the senior officials named in Resolution 1371 (2004) as being strongly suspected of involvement either in the disappearances themselves or in their cover-up still occupies a position of responsibility. But it strongly regrets that the investigations into these crimes have still not been allowed to progress any further, despite the elements provided in the Assembly’s report.”*

### *Amendment F (to the draft resolution)*

In paragraph 17, at the end of the first sentence, replace the words “no executions have been carried out since February 2008” by the words “no executions have been carried out in 2009 according to official statements”.

### *Amendment G (to the draft resolution)*

In paragraph 21.7.2, delete the word “unnecessarily” after “use excessive force”.

## **C. Explanatory memorandum by Mr Christos Pourgourides**

In view of the insufficient progress on key issues described in the report of the Political Affairs Committee, it would appear to be premature unconditionally to restore special guest status at this time. The fact that the opposition is not represented at all in the Belarusian Parliament, due to the undemocratic elections that were criticised by the international community, and the difficulties this creates under the Assembly’s own rules for the representation of the opposition in a future special guest delegation is a case in point. I also feel duty-bound to take into account the views of the leaders of the principal opposition movements, the Union of Democratic Forces, headed by Mr Anatol Liabiedzka, the Movement for Freedom, represented by Dr Alaksandr Milinkievič, and the Belarusian Popular Front whose deputy chairman, Vintsuk Vyachorka, has publicly expressed his position. All three have welcomed the principle of intensifying the dialogue between the Parliamentary Assembly and the Belarusian authorities, provided that the main opposition forces have the opportunity to participate in such a dialogue in a satisfactory way. They have nevertheless warned against granting any formal status to Belarus up front, before at least some conditions are fulfilled.

The text amended as proposed would leave it up to the Bureau to decide at which point it considers that enough progress has been made on the issues flagged by the Political Affairs Committee in paragraphs 21 and 22 of the draft resolution in order to justify restoring special guest status for the Belarusian Parliament, whilst stressing that the Assembly sees the promulgation of a death penalty moratorium as a *conditio sine qua non*.

#### **1. Amendment A:**

Explanatory note:

The list of recommendations addressed to the Belarusian authorities in paragraphs 21 and 22 of the draft resolution is likely to remain ineffective if no consequences are attached to the authorities' failure to implement the Assembly's exhortations.

As regards the condition of a death penalty moratorium, the Assembly is presently trying to convince existing observer states (including the United States and Japan) to abolish the death penalty or at least introduce a moratorium, arguing that executions are serious human rights violations, which are incompatible with the commitments required also from observer states. Taking a decision to (re-)open any type of observer status for a country before it has even decreed a moratorium would severely undermine and "decredibilise" the message which the Assembly is striving to address to the United States and Japan.

Also, the manner of execution of the death penalty in Belarus is particularly cruel. Convicts are shot from behind, without a prior warning to themselves or to their families that would allow them to prepare themselves and to say farewell. Families are not even informed after the fact of the exact time of the execution or of the place of burial.

To subject the restoration of special guest status to this condition would appear to be the absolute minimum in order to safeguard the Assembly's credibility and that of the Council of Europe as a whole.

I intend to argue in the Bureau that some additional progress is needed beyond the promulgation of a moratorium on executions, especially as regards political prisoners and the freedoms of association, assembly and information.

#### **2. Amendment B:**

Explanatory note:

It is obvious that many legal and human rights issues need to be followed up in the same way as political issues in order to present a complete picture of the situation to the Assembly and its Bureau.

#### **3. Amendment C:**

Explanatory note:

The addition shall clarify the purpose of the evaluation to be performed by the Bureau.

#### **4. Amendment D:**

Explanatory note:

As under Amendment B.

#### **5. Amendment E:**

Explanatory note:

Paragraph 5 as it stands unfairly singles out Mr Naumov, the former Minister of the Interior, who resigned in April 2009. Whilst Mr Naumov was named in my 2004 report on the disappearances as one of those suspected of covering up the truth, his name does not appear in the resolution itself, whereas the names of three senior officials allegedly involved in the actual disappearances do: the former head of the presidential administration and subsequent prosecutor general, Mr Sheyman, the former minister of the interior, Mr Sivakov, and the former special forces colonel, Mr Pavlichenko. All of them have seen their careers end in

one way or another (Colonel Pavlichenko reportedly took early retirement in 2009, accompanied by comments in independent media recalling his role in the disappearance cases). They still appear on the European Union's targeted sanctions list, even after this list was shortened considerably as part of the recent warming in the EU's relations with Belarus, but none of them have yet been properly investigated, let alone brought before a court, as requested by the Assembly in 2004.

## 6. Amendment F:

Explanatory note:

Executions in Belarus are generally carried out in secret (see explanation under Amendment A) and sometimes announced only much later.

In its report on the death penalty in Belarus, published in March 2009, Amnesty International notes that "Belarus has failed to publish comprehensive statistics about the number of death sentences passed and executions carried out, in contravention of their commitment as members of the Organization for Security and Co-operation in Europe (OSCE) to make available to the public information regarding the use of the death penalty." (Source: Amnesty International, "Ending executions in Europe, towards abolition of the death penalty in Belarus", March 2009 (AI index 49/001/2009).)

"Viasna" Human Rights Centre (<http://spring96.org/en/publications/26686/>) reports that on 20 June 2008 the *oblast* court in Homel sentenced to death 27-year-old Pavel Leny on accusations of rape and murder of a nine-year-old boy (<http://naviny.by>). In October 2008, Belarusian media reported that Pavel Leny was indeed executed ([www.svaboda.org/content/Article/1328779.html](http://www.svaboda.org/content/Article/1328779.html)).

## 7. Amendment G:

Explanatory note:

Excessive force is by definition unnecessary.

*Reporting committee:* Political Affairs Committee.

*Committee for opinion:* Committee on Legal Affairs and Human Rights.

*Reference to committee:* Decision of the Bureau of the Assembly of 17 December 1998, Order 562 (2000), Doc. 8544, Reference 2444 of 4 November 1999, [Resolution 1306 \(2002\)](#).

*Opinion* approved by the committee on 22 June 2009.

*Secretariat of the committee:* Mr Drzemczewski, Mr Schirmer, Ms Heurtin.