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Situation in Belarus: recent developments

Report
Committee on Political Affairs and Democracy
Rapporteur: Ms Sinikka HURSKAINEN, Finland, Socialist Group

Summary

Recent developments in Belarus show lack of progress towards Council of Europe standards:

– two prisoners were executed in March, in conditions of total secrecy and while their cases were being examined by the UN Human Rights Committee;

– members of the Polish minority continue to suffer harassment and infringements of their rights;

– the April 2010 local elections took place in the complete absence of any international observers.

In the light of these developments, the Political Affairs Committee, therefore, proposes that the Assembly put on hold its activities involving high-level contacts between the Assembly and the Belarusian authorities.

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A. Draft resolution

1. The Parliamentary Assembly recalls its Resolution 1671 (2009) on the situation in Belarus in which, responding to some improvements in the situation in Belarus and with a view to encouraging further progress, it sets out a new course of engagement and openness in its relations with the Belarusian authorities, while continuing to support the strengthening of Belarusian NGOs and civil society.

2. It also recalls its recommendation to ask the Bureau to lift the suspension of special guest status for the Parliament of Belarus provided that a moratorium on the execution of the death penalty was decreed, and reiterates its conviction that "dialogue can be sustained only through Belarus' continuous progress towards Council of Europe standards".

3. With these considerations in mind, the Assembly regrets that recent developments in Belarus show lack of progress towards Council of Europe standards and lack of political will on the part of the Belarusian authorities to embrace Council of Europe values and to make progress towards Council of Europe standards.

4. In particular, the Assembly:

4.1. condemns the executions of Andrei Zhuk and Vasily Yuzepchuk, which were carried out, in March 2010, in conditions of total secrecy and at a time when the United Nations Human Rights Committee had requested a stay in the executions pending its examination of their cases;

4.2. expresses concern at the situation of the Polish minority in Belarus, in particular as regards the repeated harassment of members of the Union of the Poles and the infringement of their rights of association and assembly.

4.3. regrets that the Belarusian authorities did not invite any international observer to monitor the April 2010 local elections;

4.4. although welcoming the renewal for an additional year of the agreement on the Council of Europe Infopoint located in the State University of Minsk, regrets that, despite continuous efforts, the Belarusian authorities have not yet authorised the establishment of the Council of Europe East European School of Political Studies in Belarus.

5. The Assembly remains ready to engage in a progressive dialogue with the Belarusian authorities in response to positive developments. It underscores, however, that there cannot be progress on dialogue without progress towards Council of Europe standards and a clear political commitment by the Belarusian authorities to embrace Council of Europe values, proved by consistent actions.

6. In the light of recent events, the Assembly, therefore, decides to put on hold its activities involving high-level contacts between the Assembly and the Belarusian parliament and/or governmental authorities.

7. The Assembly will continue to follow closely developments in Belarus.

B. Explanatory memorandum by Mrs Hurskainen, rapporteur

1. Introduction

1. In its Resolution 1671 (2009) on the situation in Belarus, responding to some improvements in the situation in Belarus and with a view to encouraging further progress, the Assembly set out a new course of engagement and openness in its relations with the Belarusian authorities, while continuing to express support for the strengthening of Belarusian NGOs and civil society. It also said, however, that *'dialogue can be sustained only through Belarus' continuous progress towards Council of Europe standards'.*

2. In the same resolution, the Assembly attached special importance to the introduction of a moratorium on capital executions, in the context of its relations with the Belarusian authorities. In particular, it recommended its Bureau to lift the suspension of special guest status for the Parliament of Belarus provided that a moratorium on the execution of the death penalty was decreed.

2. Recent developments

3. Since the adoption of Resolution 1671 (2009), worrying developments have taken place in Belarus.

2.1. The situation of the Polish minority

4. In February 2010, several episodes of harassment against members of the non-registered association of the Union of the Poles, including the search of the premises of the association in Ivianets, culminated in the arrest of 40 of them, including the leader of the association, Ms Angelika Boris, on trumped-up charges. Following complaints by the Polish authorities, joined by the European Union, the persons arrested were freed a few hours later. Intimidations against members of the Union, however, continue, in various forms.

2.2. Capital executions

5. It was an alarming albeit clear signal that, only a few days after the adoption of Resolution 1671 (2009), a Belarusian court sentenced Vasily Yuzepchuk to death. This capital sentence was followed by a second one, against Andrei Zhuk, in July 2009.

6. But what really testifies to the lack of interest of the Belarusian authorities in embracing Council of Europe values is that they decided to proceed with the capital executions, although they had the possibility of suspending, commuting or postponing them *sine die*.

7. Vasily Yuzepchuk and Andrei Zhuk were executed in March 2010, in conditions of total secrecy and while their cases were pending before the United Nations Committee on Human Rights, which had requested the Belarusian authorities to suspend the executions until completion of the examination procedure. To date, the Belarusian authorities have not officially confirmed the executions. It is worth noting that, as no executions occurred in 2009, these most recent executions actually represent a serious step backwards.[1]

8. In the light of these developments, the setting up, in February 2010, of a working group in the Belarusian parliament, for '*the consideration of the issue of the death penalty as an instrument of punishment'*, appears to be yet another cosmetic measure.

9. In assessing the political will of the Belarusian authorities to come closer to the Council of Europe, certainly facts count more than words, and the real fact here is two more executions, in flagrant disregard of Assembly Resolution 1671 (2009)!

2.3. The 2010 local elections

10. The local elections of 26 April 2010 are the first ones to take place following the amendments to the electoral code introduced as a result of international pressure and after a consultation process between the Belarusian authorities and OSCE/ODIHR, in Autumn 2009.

1. See in Appendix a joint statement by the President of the Assembly, the Chair of the Committee of Ministers and the Secretary General, as well as a joint statement by the Chairs of the Parliamentary Troika on Belarus.

11. Changes concerned more than one third of the Belarusian electoral code, and a number of additional articles were introduced. In general, these changes should improve transparency - especially in the context of early voting - facilitate the financing of electoral campaigns and simplify complex procedures resulted in the exclusion of some candidates. However, during meetings with Belarusian non-governmental organisations with consolidated experience in the electoral field, my attention was drawn to the shortcomings of these amendments, namely:

– they give too limited powers to members sitting in lower electoral commissions and they do not establish any obligation for electoral commissions to include representatives of the opposition;

– they do not introduce any explicit provision enabling observers to observe the counting of the vote - which is considered the most delicate stage in the context of electoral frauds - nor the way in which the counting should take place, namely whether the president of the polling station should read out the results or write them in silence as has so far been the case.

12. The non-governmental organisations I met concluded that the changes introduced in the Belarusian electoral code were largely cosmetic and would not have a decisive impact on the conduct of the elections. Following my request, the Political Affairs Committee asked the Venice Commission to give its expert opinion on the compliance of these amendments with European standards. This opinion should be finalised ahead of the presidential election in Belarus, which should be held at the beginning of 2011.

13. Irrespective of the expert analysis which the Venice Commission will give of the relevant legislation, from a political point of view, it is regrettable that:

– although being an associate member of the Venice Commission, Belarus has never asked the Venice Commission to be involved in discussing changes to its electoral code, nor has it asked the Venice Commission to carry out an assessment of the amendments introduced;

– although having been granted observer status with the Congress of Local and Regional authorities, Belarus has not asked the Congress to observe the April 2010 vote.

14. In fact, the 2010 local elections were held in the complete absence of international observers. The fact that diplomatic representatives accredited to Belarus were able to 'observe' the vote and report back to their capitals cannot in any way be comparable to or replace an electoral observation mission organised throughout the country by neutral bodies having specific expertise in this field.

3. Isolation versus engagement

15. In its relations with the Belarusian authorities, the Assembly has tried both the line of isolation and the line of dialogue. Neither has had any decisive impact in steering Belarus towards the path of democracy.

16. After a number of years in which a policy of isolation was applied, the Council of Europe relations with the Belarusian authorities became more dynamic in 2007, also thanks to the encouragement given by the Assembly, in particular by the former President René van der Linden and the former PACE Rapporteur on the situation in Belarus, Mr Andrea Rigoni.

17. This new dynamic has resulted in:

– increased contacts between the Assembly and the Belarusian parliament;

– numerous high level contacts between the Committee of Ministers and the Belarusian authorities;

– the establishment of an Infopoint on the Council of Europe in Minsk, in the premises of the State University, on the basis of a one-year renewable agreement.

18. Belarus has also expressed an interest in becoming a party to some Council of Europe bodies or conventions, in particular the Group of States against Corruption (GRECO) and the Convention on Action against Trafficking in Human Beings (CETS No. 197). These requests are currently under examination.

19. Personally, I am convinced that nothing can be gained through a policy of isolation. The Assembly and the Council of Europe should pursue a strategy of engagement with the Belarusian authorities. However, the scope and extent of this engagement should depend on developments in Belarus.

20. In addition, it is unacceptable that Belarus refuses the imposition of 'conditions', in the context of a strategy of engagement. Conditionality is an intrinsic characteristic of the way in which the Council of Europe works. If the Belarusian authorities' will to engage with the Council of Europe is genuine, they should accept the 'rules of the game', including conditionality.

21. Finally, in asking for the introduction of a moratorium on the death penalty as the only condition for restoration of special guest status, in my opinion, Resolution 1671 (2009) represented the lowest possible level of demands that can be made to the Belarusian authorities. The Assembly hoped to see concrete positive steps in response; the authorities replied with concrete steps backwards. In these circumstances, we cannot act as if it were business as usual.

4. Conclusions

22. It is my opinion that:

– the approach of dialogue and engagement should be pursued; the Council of Europe should not revert to a policy of isolation;

– there cannot be progress on dialogue without progress towards Council of Europe standards and a clear political commitment by the Belarusian authorities to embrace Council of Europe values, backed up by concrete actions;

– recent actions taken by the Belarusian authorities demonstrate a lack of political commitment on their part to come closer to the Council of Europe; as a result, the Council of Europe, as an organisation based on and upholding fundamental values, should respond by putting on hold its activities involving further high level contacts with the Belarusian authorities.

Appendix 1 – Joint statement by the President of the Assembly, the Chair of the Committee of Ministers and the Secretary General

Council of Europe condemns executions in Belarus

Joint statement by the Chair of the Committee of Ministers, Micheline Calmy-Rey, the President of the Parliamentary Assembly, Mevlüt Çavusoglu and the Secretary General of the Council of Europe, Thorbjørn Jagland.

Strasbourg, 23.03.2010 - "The Council of Europe strongly condemns the execution of Andrei Zhuk and of Vasily Yuzepchuk in Belarus. Death penalty is barbaric and degrading, and this is why it has been abolished by the Council of Europe through Protocol 6 to the European Convention on Human Rights. The authorities of Belarus are the only remaining ones in Europe who execute people. The recent executions, if confirmed, are a serious setback to our aspiration to bringing Belarus closer to European values. The Council of Europe is ready to help Belarus to end its self-imposed isolation in Europe, but when it comes to the values of human rights and democracy, one cannot have it both ways. We therefore call for an immediate end to the use of the death penalty".

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Appendix 2 – Joint statement by the Chairs of the Parliamentary Troika on Belarus

Europe's parliamentarians unite to condemn executions in Belarus

Strasbourg, 24.03.2010 – The heads of three European parliamentary bodies dealing with Belarus have firmly condemned the execution of Andrei Zhuk and Vasily Yuzepchuk which, according to human rights organisations, took place in Belarus last week in complete secrecy and which has yet to be confirmed officially by the authorities.

The statement was made by Sinikka Hurskainen, Jacek Protasiewicz and Uta Zapf, who head the bodies dealing with Belarus for the Parliamentary Assembly of the Council of Europe, the European Parliament and the OSCE Parliamentary Assembly:

> *"The Belarusian authorities carried out the executions ignoring all appeals to for clemency and knowing that capital punishment represents an insurmountable obstacle for the development of political dialogue with the Parliamentary Assembly of the Council of Europe and the European Parliament," they said.*
>
> *"The decision to execute Mr Zhuk and Mr Yuzepchuk was taken in blatant disregard of the fact that the UN Human Rights Committee was still considering individual applications on their cases and had called on the Belarusian government to suspend the enforcement of the penalty. Politically, this decision is also at odds with the initiative of setting up an ad hoc group in the Belarusian parliament to consider the issue of capital punishment in Belarus," the parliamentarians added.*
>
> *"In Europe, there is no place for the death penalty. The Belarusian authorities should be aware that there cannot be political dialogue without shared values," they concluded.*

Reporting Committee: Political Affairs Committee

Reference to Committee: Reference 3659 of 26 April 2010

Draft resolution unanimously adopted by the Committee on 27 April 2010

Members of the Committee : Mr Björn **von Sydow** (Chairperson), Mr Dariusz Lipiński (Vice-Chairperson) (alternate: Mrs Miroslawa **Nykiel**), Mr Konstantin **Kosachev** (Vice-Chairperson), Mr Michael Aastrup Jensen (Vice-Chairman), Mr Françis Agius (alternate: Mr Joseph **Debono Grech**), Mr Alexander Babakov (alternate: Mr Sergey **Markov**), Mr Viorel Badea, Mr Denis Badré, Mrs Theodora Bakoyannis, Mr Andris Bērziņš, Mr Erol Cebeci, Mr Lorenzo Cesa (alternate: Mrs Fiamma **Nirenstein**), Mr Titus **Corlăţean**, Ms Anna Čurdová, Mr Hendrick Daems, Mr Pol van den Driessche, Ms Josette Durrieu, Mr Frank Fahey, Mr Piero Fassino, Mr Hans **Franken**, Mr György Frunda, Mr Jean-Charles Gardetto, Mr Marco Gatti (alternate: Mr Fiorenzo **Stolfi**), Mr Michaël Glos (alternate: Mr Karl-Georg **Wellmann**), Mr Andreas Gross, Mr Michael Hancock, Mr Davit **Harutyunyan**, Mr Norbert **Haupert**, Mr Joachim **Hörster**, Mrs Sinikka **Hurskainen**, Mr Tadeusz **Iwiński**, Mr Bakir Izetbegović, Mr Miloš Jevtić (alternate: Mr Milos **Aligrudic**), Mrs Birgen Keleş, Mr Jean-Pierre Kucheida, Ms Darja **Lavtižar-Bebler**, Mr Göran **Lindblad**, Mr Marian Lupu, Mr Gennaro Malgieri, Mr Dick Marty, Mr Frano Matušić (alternate: Mrs Marija **Pejcinovic-Buric**), Mr Silver **Meikar**, Mr Dragoljub Mićunović, Mr Jean-Claude Mignon, Mr Aydin Mirzazada (alternate: Mr Sabir **Hajiyev**), Mr Juan Moscoso del Prado Hernández, Ms Lilja Mósesdóttir, Mr João Bosco Mota Amaral (alternate: Mr Jorge **BacelarGouveia**), Mrs Olga Nachtmannová, Mr Gebhard **Negele**, Mrs Miroslava Nemcova, Mr Zsolt Németh, Mr Fritz Neugebauer (alternate: Mr Franz Eduard **Kühnel**), Mr Aleksandar Nikoloski, Mrs Yuliya Novikova, Mr Maciej Orzechowski, Mr Johannes Pflug (alternate: Mr Andrej **Hunko**), Mr Ivan Popescu (alternate: Mrs Olha **Herasym'iyuk**), Mr Christos Pourgourides, Mr John Prescott (alternate: Mr John **Austin**), Mr Gabino Puche, Mr Lluis Maria de Puig, Mr Amadeu **Rossell Tarradellas**, Mr Ilir Rusmali, Mr Predrag Sekulić, Mr Samad Seyidov, Mr Leonid Slutsky (alternate: Mr Ziyad **Sabsabi**), Mr Petro Symonenko (alternate: Mr Serhiy **Sobolev**), Mr Zoltán Szabó, Mr Mehmet Tekelioğlu, Mr Han Ten Broeke, Mr Zhivko Todorov (alternate: Mr Krasimir **Minchev**), Lord **Tomlinson**, Mr Latchezar **Toshev**, Mr Petré Tsiskarishvili, Mr Mihai Tudose, Mr Ilyas Umakhanov (alternate: Mr Alexander **Pochinok**), Mr José Vera Jardim, Mr Luigi **Vitali**, Mr Konstantinos **Vrettos**, Mrs Katrin **Werner**, Mrs Karin S. Woldseth, Mr David **Wilshire**, Ms Gisela Wurm, Mr Emanuelis Zingueris.

Ex-officio: Mrs Anne Brasseur, Mr Tiny Kox, Mr Luca Volontè'

N.B. : The names of the members who took part in the meeting are printed in **bold**

Secretariat of the committee: Mrs Chatzivassiliou, Mr Ary, Mr Chevtchenko, Mrs Sirtori-Milner