Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1371 (2004)[1]

Disappeared persons in Belarus

Parliamentary Assembly

1. The Parliamentary Assembly has been concerned for over two years by the disappearances of Yuri Zakharenko, former Minister of the Interior (disappeared on 7 May 1999), Victor Gonchar, former Vice-President of the Parliament of Belarus (disappeared on 16 September 1999), Anatoly Krasovski, businessman (disappeared at the same time as Mr Gonchar), and Dmitri Zavadski, cameraman for the Russian television channel ORT (disappeared on 7 July 2000).

2. Allegations made in public that these disappearances were politically motivated led to an ad hoc sub-committee of the Committee on Legal Affairs and Human Rights being set up in September 2002, and to a motion for a resolution in April 2003. The Assembly commends the ad hoc subcommittee and the rapporteur for their thorough work under difficult circumstances.

3. The Belarusian authorities refused to allow the ad hoc sub-committee to visit Minsk in order to meet with persons who could not, or would not, come to Strasbourg, and they cancelled a second round of meetings requested by the rapporteur after they found out about his preliminary findings by intercepting confidential communications between the Secretariat and his contacts in Minsk. The Assembly particularly and strongly protests against the refusal of the Belarusian authorities to invite Mr S. Kovalev and the ad hoc sub-committee presided by him to Minsk.

4. The Assembly expresses its respect for those Belarusian officials and human rights defenders who have sacrificed their careers and taken risks, even putting their personal safety on the line, in order to advance the cause of truth.

5. It thanks those countries who granted protection and asylum to a number of such officials, including the Russian Federation, the United States of America, Germany and Norway, and seizes this opportunity to recall the importance of the practical availability of political asylum as a last resort to protect defenders of human rights and democracy.

6. The Assembly recalls Article 1, paragraph 1, of the 1992 United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which states that "Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights", and Article 13, paragraph 6, of the declaration, which calls for investigations to be continued "as long as the fate of the victim of enforced disappearance remains unclarified".

7. It notes that the United Nations Commission on Human Rights in Article 2 of its Resolution 2003/14, adopted on 17 April 2003, urged the Government of Belarus:

a. To dismiss or suspend from their duties law enforcement officers implicated in forced disappearances and/or summary executions, pending an impartial, credible and full investigation of those cases;

1. Assembly debate on 28 April 2004 (12th Sitting) (see Doc.10062, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pourgourides). Text adopted by the Assembly on 28 April 2004 (12th Sitting).

b. To ensure that all necessary measures are taken to investigate fully and impartially all cases of forced disappearance, summary execution and torture and that perpetrators are brought to justice before an independent tribunal and, if found guilty, punished in a manner consistent with the international human rights obligations of Belarus".

8. The Assembly considers it an unacceptable conflict of interest that a person who has been accused of masterminding serious crimes should subsequently be put in charge, as General Prosecutor, of the official investigation of the said crimes. Under the circumstances, the Assembly strongly condemns this appointment.

9. On the basis of the solid results of the rapporteur's work, which separates mere rumours from facts established by evidence or well-founded conclusions, the Assembly concludes that a proper investigation of the disappearances has not been carried out by the competent Belarusian authorities. On the contrary, the information gathered by the rapporteur leads it to believe that steps were taken at the highest level of the state to actively cover up the true circumstances of the disappearances, and to suspect that senior officials of the state may themselves be involved in these disappearances.

10. The Assembly therefore requests that the Belarusian executive authorities:

10.1. launch a truly independent investigation into the above-mentioned disappearances by the competent national authorities, after the resignation of the current General Prosecutor, Mr Sheyman, who has been accused of having himself orchestrated the disappearances in his previous function, and to keep the families of the missing persons fully informed of the progress and results of this investigation. The Council of Europe is ready to provide all possible assistance in such an investigation;

10.2. initiate criminal investigations with a view to clarifying, and punishing, as the case may be:

a. the alleged involvement of the current General Prosecutor, Mr Sheyman, the currrent Minister for Sports and Tourism (previously Minister of the Interior), Mr Sivakov, and a high-ranking officer of the special forces, Mr Pavlichenko, in these disappearances; and

b. the crime of perversion of the course of justice possibly committed by certain other high-ranking officials who have been involved in the investigations carried out so far and who may have falsified, dissimulated or destroyed evidence in their possession in order to protect the true perpetrators of the crimes.

11. The Assembly further invites the Belarusian Parliament:

11.1. to establish a parliamentary committee of inquiry, complete with proper investigatory resources at its disposal;

11.2. to take the necessary steps with regard to the executive to ensure that the action requested under paragraph 10 above is fulfilled, including demanding the resignation of certain high-ranking officials accused of being involved in the disappearances, in order to allow a truly independent investigation.

12. Until substantial progress is made regarding its demands under paragraphs 10 and 11 above, the Assembly does not consider it appropriate to reconsider the suspension of Special Guest status in favour of the Belarusian Parliament, as decided by the Bureau on 13 January 1997. As long as no substantial progress is made as regards paragraph 11 above, the Assembly considers inappropriate the presence, even informal, of Belarusian parliamentarians during its sessions.