Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1671 (2009)[1]

Situation in Belarus

Parliamentary Assembly

1. The situation in Belarus has been the focus of close attention by the Parliamentary Assembly since 1992, when the Belarusian parliament was granted special guest status. Belarus' lack of progress in the field of democracy, human rights and the rule of law, however, led to the suspension of this status in 1997, and to the freezing of Belarus' membership application to the Council of Europe the following year. The Assembly continues to look forward to the time when Belarus meets the conditions to be a member of the Council of Europe and its authorities undertake a firm commitment to live up to the standards of the Organisation and embrace its values.

2. In recent months, important developments have taken place in Belarus: between January and August 2008, nine opposition figures considered as political prisoners were released, including former presidential candidate Alexander Kozulin. As a result, since then, in Belarus, there have been no internationally recognised political prisoners. The Assembly welcomes this tangible progress and calls for it to be made irreversible.

3. The Assembly also welcomes the registration of the opposition movement "For Freedom!", as well as the possibility for three independent publications – *Narodnaya Volya*, *Nashe Niva* and *Uzgorak* – to be published in Belarus and their inclusion in the state distribution network. However, media freedom is far from respected in Belarus, especially with regard to broadcasting.

4. It also considers as a positive development the setting up of a number of consultative councils, under the aegis of the presidential administration and other state bodies, as fora where the authorities can engage in constructive dialogue with representatives of non-governmental organisations and civil society. The Assembly hopes that the outcome of the discussions taking place in the consultative councils will lead to legislative and policy measures.

5. Concerning the disappearance of four political opponents in 1999 and 2000, the Assembly notes with satisfaction that none of the senior officials named, in Resolution 1371 (2004) on disappeared persons in Belarus, as being strongly suspected of involvement either in the disappearances themselves or in their cover-up still occupies a position of responsibility. It strongly regrets, however, that the investigations into these crimes have still not been allowed to progress any further, despite the elements provided in the Assembly's report.

6. What adds to the importance of these developments is that they respond to precise demands coming from European organisations, and that they have been undertaken in the context of the resumption of political dialogue with the Belarusian leadership.

7. In effect, following the release of all political prisoners in Belarus, in October 2008 the European Union took the decision to resume contacts with the Belarusian leadership at the highest level and to suspend, even if partially and temporarily, the visa ban against a number of high-ranking Belarusian officials, including President Lukashenko. This suspension was extended for an additional nine months in April 2009. The

1. *Assembly debate* on 23 June 2009 (20th Sitting) (see Doc. 11939, report of the Political Affairs Committee, rapporteur: Mr Rigoni; and Doc. 11960, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pourgourides). *Text adopted by the Assembly* on 23 June 2009 (20th Sitting). See also Recommendation 1874 (2009).

willingness of the European Union to normalise relations with Belarus was epitomised by the visit of the European Union High Representative for Common Foreign and Security Policy, Mr Javier Solana, to Minsk and his meeting with President Lukashenko on 19 February 2009.

8. Belarus is also one of the six countries that will participate in the Eastern Partnership, a new instrument designed to strengthen political and economic co-operation between the European Union and its eastern European and Caucasian neighbours, with a view to enhancing their stability and supporting democratic and market-oriented reforms. The level of Belarus' participation will depend on the overall development of its relations with the European Union. In this context, Belarus attended the Eastern Partnership summit in Prague on 7 May 2009. The European Union also intends to establish a human rights dialogue with Belarus.

9. The Council of Europe, for its part, has recently intensified its contacts with the Belarusian authorities: following a visit by a delegation of the Assembly's Political Affairs Committee in February 2009, Minister Miguel Angel Moratinos conducted an official visit to Minsk, in March 2009, in his capacity as Chair of the Committee of Ministers. A few weeks earlier, the Belarusian authorities had finally given their consent to the opening of an Infopoint on the Council of Europe in Minsk, an idea initiated by the Assembly itself and developed by the Slovak Chairmanship of the Committee of Ministers. The opening ceremony of the Infopoint took place in June 2009.

10. Furthermore, in December 2008, the Congress of Local and Regional Authorities of the Council of Europe decided to grant observer status to the Council for Co-operation of Local Self-Government Bodies of the Council of the Republic of the National Assembly of the Republic of Belarus.

11. Despite recent positive developments, however, and the resumption of contacts with European organisations, the situation in Belarus continues to be a cause for concern.

12. Firstly, the parliamentary elections of September 2008 were a missed opportunity for a decisive change towards democracy, as they failed to meet European standards of freedom and fairness. As highlighted by the Organization for Security and Co-operation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR), serious shortcomings affected all stages of the electoral process, from the availability of pluralist information for voters to the lack of transparency of the vote count. These shortcomings inevitably cast a doubt over the representativeness of the present parliament, where no opposition candidate managed to gain a seat. It is, however, to be welcomed that, following the final OSCE/ODIHR assessment, the Belarusian authorities agreed to work with that organisation on the reform of the country's electoral legal framework and practice, in order to align them with Belarus' OSCE commitments.

13. As regards respect for political freedoms, harassment and intimidation of opposition activists, in particular young people, continue to take place through various means, such as unwarranted searches of private houses, unlawful requisition of equipment, police brutality during demonstrations and forced conscription into the military service despite previous declarations of being unfit for service. In addition, a number of political activists are under house arrest and the criminal records of those political prisoners who were released have not been erased, with the result that they face limitations in the exercise of some rights, including the right to run for elections.

14. The Assembly also takes note of the fact that, as of today, three entrepreneurs, who are currently in detention, as well as other persons who are subject to limitations of personal liberty, are considered by the Belarusian opposition as political prisoners or, at least, as victims of an abuse of the criminal justice system for political reasons. The Assembly calls for an independent investigation to be conducted into these cases, in order to clarify whether they are political prisoners and, if so, to secure their release.

15. The situation regarding freedom of association also gives rise to concerns: even if the political opposition movement "For Freedom!" was finally registered in December 2008, other opposition and human rights organisations continue to face obstacles in obtaining registration by the Ministry of Justice, the latest example being the human rights organisation "Nasha Viasna", and its members risk prosecution for membership in a non-registered organisation under Article 193.1 of the Criminal Code.

16. The Assembly regrets that, despite the inclusion of three independent publications in the state distribution network, the other independent publications cannot benefit from this scheme and cannot even be printed in Belarus. Absolute governmental control over the printing and the distribution of the press as well as over broadcasting is a flagrant violation of media freedom. Similarly, the Assembly expresses concern at the difficulties encountered by foreign journalists in obtaining press accreditation and by foreign media, such as the satellite channel Belsat, in obtaining registration by the Ministry of Foreign Affairs. It takes note, however, of the numerous statements emanating from the Belarusian leadership on their willingness to ensure that the new media law is not implemented in such a way as to restrict freedom of expression. The Assembly wishes

that the same could be said for the implementation of the Law on Counteraction against Extremism, which has recently led to the suspension of the publication of the magazine *Arche*, later withdrawn following international pressure.

17. It also regrets that capital executions can still be carried out in Belarus, despite the reduction of the categories of crimes for which they can be inflicted, a decrease in the number of death sentences handed down in such cases and the fact that no executions have been carried out since October 2008 according to official statements. The Assembly recalls that, in the current constitution, the presence of a provision on the death penalty is considered as a transitional measure and that no legal impediment prevents either the president or the parliament from introducing a moratorium on executions. While no public statistics are available, the Assembly also takes note of the information provided by the authorities that currently there are no capital sentences whose execution is pending.

18. Considering that, although Belarus is far from Council of Europe standards in the field of democracy, the rule of law and human rights, its authorities have recently taken important steps in the right direction; the Assembly thus resolves to encourage the continuation of this process by engaging in a political dialogue with the authorities, while at the same time continuing to support the strengthening of democratic forces and civil society in the country.

19. In the light of the above, the Assembly calls on its Bureau to:

19.1. lift the suspension of special guest status for the Parliament of Belarus after a moratorium on the execution of the death penalty is decreed by the competent Belarusian authorities;

19.2. also taking into account the opinion of the Political Affairs Committee, follow the situation in Belarus and, within one year, or sooner if the situation so requires, evaluate whether this country has made substantive and irreversible progress towards Council of Europe standards. In this context, special attention should be given to the extent to which Belarus will have complied with the recommendations made under paragraphs 21 and 22 of the present resolution and to the co-operative attitude shown by the authorities in their relations with the Council of Europe;

19.3. in the context of the restoration of special guest status for the Belarusian Parliament and until the opposition is adequately represented therein, ensure that a delegation of the Belarusian extraparliamentary opposition is invited to participate in the work of the Assembly and its committees, according to modalities which will be established by the Bureau itself;

19.4. invite the Political Affairs Committee to continue to follow the situation in Belarus, also relying on the activities carried out by its Sub-Committee on Belarus, and report back to the Assembly when necessary.

20. Furthermore, the Assembly calls on the Secretary General of the Council of Europe to appoint a panel of independent experts to investigate the new cases of alleged political prisoners in Belarus and those which might arise.

21. Being convinced that dialogue can be sustained only through Belarus' continuous progress towards Council of Europe standards, the Assembly calls on the Belarusian authorities to:

21.1. ensure the immediate release of all political prisoners (as would be determined by the process established by paragraph 20, above) and that there will be no setback on this important issue;

21.2. immediately and unconditionally lift the restrictions imposed on 11 young people sentenced to terms of restricted freedom for their participation in a peaceful demonstration in January 2008;

21.3. co-operate with the Council of Europe in order to ascertain whether the allegations that there are still a number of political prisoners in Belarus are well founded;

21.4. erase the criminal record of former political prisoners, to enable them fully to exercise their civil and political rights;

21.5. refrain from the harassment and intimidation of opposition activists;

21.6. discontinue the practice of forced conscription of opposition activists into the military service despite previous declarations of being unfit for service;

21.7. ensure the respect of freedom of association, in particular by:

21.7.1. removing all undue practical and legal obstacles to the registration of political parties, groups and human rights associations and introducing the possibility for them to have their legal premises in residential buildings;

21.7.2. allowing the registration of the human rights organisation “Nasha Viasna”;

21.7.3. repealing Article 193.1 of the Criminal Code;

21.8. ensure the respect of freedom of assembly, in particular by:

21.8.1. enabling opposition organisations to hold demonstrations in places where they can be visible to the public;

21.8.2. ensuring that law-enforcement officials do not use excessive force against demonstrators;

21.9. reform electoral legislation and practice by taking into account the recommendations of the OSCE/ODIHR and the European Commission for Democracy through Law (Venice Commission), in order to align them to European standards and formally ask the Venice Commission, with which it holds associate status, to be involved in this process;

21.10. ensure freedom of the media and the provision of pluralist information, in particular by:

21.10.1. allowing independent publications to be printed in Belarus and to be distributed through the state network;

21.10.2. allowing the creation of independent printing houses and independent distributors of print media;

21.10.3. abolishing the existing direct governmental control over the state broadcaster and ensuring that the political opposition can have fair access to broadcasting, especially before elections;

21.10.4. ensuring that Internet-based media can function without administrative restrictions;

21.10.5. abolishing the overly restrictive penal laws on defamation, in particular the offence of making false negative statements about the Republic of Belarus and its state organs;

21.10.6. removing obstacles to the granting of entry visas and the accreditation of foreign journalists;

21.10.7. registering the satellite channel Belsat and other satellite channels once they apply, subject to the availability of technical resources;

21.10.8. refraining from using the Law on Counteraction against Extremism as a pretext to restrict or shut down the activities of independent media outlets;

21.10.9. ensuring the non-restrictive implementation of the new media law, especially as regards the obligation of re-registration;

21.11. ensure university autonomy and academic freedom, allow the European Humanities University to reopen in Belarus and refrain from excluding students and faculty from educational institutions in Belarus for political reasons;

21.12. ensure the registration of the East European School of Political Studies and consider participation therein by young government officials;

21.13. give their full support to the functioning of the Infopoint on the Council of Europe in Minsk and the implementation of its activities;

21.14. make full use of the Council of Europe conventions of which Belarus is a party, by participating actively and constructively in the activities stemming from them.

22. Finally, the Assembly calls on the Belarusian Parliament and other authorities to immediately declare an official moratorium on death sentences and executions with a view to abolishing the death penalty and to introducing appropriate legislation as the next step towards its complete abolition.