Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 2372 (2021)[1]

Human rights violations in Belarus require an international investigation

Parliamentary Assembly

1. The Parliamentary Assembly recalls that the peaceful protests against the falsification of the results of the presidential election in Belarus of 9 August 2020 were brutally put down by the regime of Alexander Lukashenko, with many protesters being arrested and tortured in detention. A great many leaders of the citizens' movement are being prosecuted for crimes which are vaguely defined but incur long prison sentences, while others have been forced into exile.

2. In February 2021, a new wave of arrests and prosecutions was launched against opposition activists who had not yet been detained. Those prosecuted included human rights defenders, journalists, lawyers, trade unionists and representatives of the "Coordination Council", the political opposition's flagship body.

3. According to the non-governmental organisation Freedom House, the number of political prisoners, including human rights defenders, journalists, activists, representatives of youth organisations and political parties, has reached 300, with cases having been fabricated against them; in March 2021 there were attempted suicides by two political prisoners and three hunger strikes in protest by Igor Losik, Igor Bantser and Dmitriy Furmanov.

4. The Assembly considers the persons referred to above to be political prisoners, according to the definition of this term in Resolution 1900 (2012). These persons are in administrative or pre-trial detention or serving prison sentences for merely participating in peaceful protests or publishing information on those protests and their unjustified repression by the law-enforcement agencies.

5. The Assembly notes that the perpetrators of these serious and repeated human rights violations, committed on a massive scale when repressing the protests against the falsification of the presidential election results, are not being prosecuted at national level, despite the fact that torture and inhuman or degrading treatment are also crimes in Belarusian law. Where international anti-torture instruments are concerned, Belarus is not a contracting party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126) or to the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) or to the Rome Statute of the International Criminal Court.

6. The Assembly stresses that combating impunity for the perpetrators of serious human rights violations is of the utmost importance, out of principle and also to deter others from perpetrating human rights violations, reiterating its Resolutions 2252 (2019), 2157 (2017), 2134 (2016) and 1966 (2014). It notes that the criminal legislation of several Council of Europe member States provides for "universal jurisdiction" for their courts for certain crimes of a particularly serious nature, including acts of torture, even committed abroad, by foreign nationals and against foreign nationals. It also notes that a number of States have passed "Magnitsky laws", under which targeted sanctions may be imposed on perpetrators of serious human rights violations.

1. *Assembly debate* on 21 April 2021 (12th sitting) (see Doc. 15256, report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Alexandra Louis). *Text adopted by the Assembly* on 21 April 2021 (12th sitting).
See also Recommendation 2201 (2021).

7. The Assembly welcomes the initiative taken by human rights activists in Belarus who have successfully compiled a substantial body of evidence of torture and inhuman or degrading treatment and identified presumed perpetrators.

8. It welcomes the initiative launched by the European Parliament in collaboration with other international stakeholders, in the spirit of the follow-up to the recommendations of the Moscow Mechanism of the Organization for Security and Co-operation in Europe (OSCE), setting up the International Accountability Platform for Belarus, an advisory platform tasked with gathering evidence of serious human rights violations in Belarus and assessing it with a view to making it available to the competent authorities of member States, so that they can prosecute Belarusian nationals having perpetrated these crimes, committed in Belarus against Belarusian victims. The Assembly also supports the creation of an ad hoc working group within the Council of Europe tasked with monitoring the human rights situation in Belarus and contributing to the aforementioned International Accountability Platform for Belarus.

9. The Assembly considers that the information gathered by human rights activists in Belarus and the evidence assessed by the platform launched within the European Parliament may be able to serve as a foundation for criminal proceedings lodged on the basis of universal jurisdiction and for the imposing of targeted sanctions under “Magnitsky laws”.

10. It welcomes the prosecutions already initiated by Lithuanian courts on the basis of universal jurisdiction and the commitment of some member States, notably the Baltic countries, Poland and Ukraine, which have taken in victims of repression forced into exile and support civil society in Belarus.

11. The Assembly calls upon:

11.1. the Belarusian authorities to:

11.1.1. engage in dialogue with the opposition as the only way to put an end to the violence and human rights violations and to hold new democratic elections this year to resolve the political crisis;

11.1.2. release all political prisoners without delay;

11.1.3. immediately put a stop to all acts of torture or inhuman and degrading treatment committed against opponents of the regime, whether in public, citizens’ homes or any places of detention;

11.1.4. prosecute all the perpetrators of such acts in accordance with the Belarusian Criminal Code;

11.1.5. co-operate with the European Commission for Democracy through Law (Venice Commission) with a view to reforming the Belarusian Criminal Code in order to decriminalise the exercise of freedom of expression, assembly and association;

11.1.6. sign and ratify the United Nations Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and the Rome Statute of the International Criminal Court and ask the Council of Europe Committee of Ministers to invite their country to accede to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

11.1.7. take all necessary measures to ensure the right to a fair trial, including access to a lawyer;

11.1.8. cease all restrictions on media freedom and freedom of assembly;

11.1.9. implement all recommendations of the Venice Commission in its opinion of 20 March 2021 on the compatibility with European standards of certain criminal law provisions used to prosecute peaceful demonstrators and members of the “Coordination Council”;

11.1.10. abolish the death penalty as soon as possible, starting with a moratorium;

11.2. the member States of the Council of Europe to:

11.2.1. explore mechanisms for facilitating dialogue between the authorities and the opposition to resolve the political crisis;

11.2.2. demand, in their dealings with the Belarusian authorities, at all levels, the immediate release of all political prisoners and an end to the campaign of repression against protesters and their families and make any economic, financial and political co-operation subject to these conditions;

11.2.3. support the ongoing efforts at international level to call to account the perpetrators of serious human rights violations committed in Belarus by State officials who enjoy impunity, including by exercising the universal jurisdiction provided for in their criminal legislation or, where applicable, by introducing this possibility into their legislation;

11.2.4. continue to take in the victims of repression who have been forced into political exile and support Belarusian civil society, including political prisoners' families, and provide study grants for Belarusian students who have been expelled from their university faculties;

11.2.5. use their "Magnitsky laws", which make it possible to impose targeted sanctions on perpetrators of human rights violations and also presumed perpetrators of such violations in Belarus, and pass such laws where necessary;

11.3. the competent institutions of the European Union to:

11.3.1. demand, in their dealings with Belarus at all levels, the immediate release of all political prisoners and an end to the campaign of repression against protesters and their families, and make any economic and financial co-operation subject to these conditions;

11.3.2. strengthen their co-operation with Belarusian civil society, give support to political prisoners' families and provide study grants for Belarusian students who have been expelled from their university faculties;

11.3.3. support the initiative developed within the European Parliament aimed at creating a co-ordination platform bringing together efforts at international level to combat impunity for the perpetrators of human rights violations in Belarus, by gathering, analysing and assessing relevant information and tip-offs with a view to these being used to help national law-enforcement authorities exercise universal jurisdiction and to impose targeted sanctions via the "Magnitsky mechanisms" that exist or are to be created; and strengthen personalised sanctions against those perpetrating human rights violations, including police, prosecutors and judges.