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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1372 (2004)[1]

Persecution of the press in the Republic of Belarus

Parliamentary Assembly

The Parliamentary Assembly of the Council of Europe recalls that membership of the Council of Europe requires the commitment of a state to strive for greater European unity based on the common values shared by the family of democratic nations in Europe and enshrined in the European Convention on Human Rights (ETS No. 5) and the other conventions and recommendations of the Council of Europe. Therefore, the authorities of each applicant state must show their willingness and capacity to adhere to these values and standards. One of the fundamental democratic rights guaranteed by the European Convention on Human Rights is the right to freedom of expression and freedom of the media.

The Assembly welcomes the wish expressed by the Parliament of Belarus to resume its Special Guest status with the Assembly as well as the desire of Belarus to accede to the Council of Europe. It is with regret, however, that the Assembly must note that neither the parliament nor the other state authorities of Belarus have made any progress towards democratic development since the suspension of the Special Guest status of the Parliament of Belarus in January 1997 due to the dissolution of the parliament by President Lukashenko's referendum and the subsequent non-democratic constitution of the new parliament. The Bureau of the Assembly consequently rejected, in January 2004, the application for re-granting Special Guest status to the Parliament of Belarus.

The Assembly recalls that freedom of expression and freedom of the media constitute one of the essential foundations of a democratic society, one of the basic conditions for its progress and for the development of every human being, as the European Court of Human Rights has consistently held. Where information is withheld from the people through state censorship and state propaganda reigns, true democracy can never exist.

The Assembly remains appalled by the fact that the disappearance, more than three years ago, of the journalist Mr Dmitri Zavadski and his alleged extra-judicial execution by agents of the state has not been properly and truly investigated. The conviction of four men for the abduction of Mr Zavadski cannot be regarded as a proper investigation for various reasons. Reference is made only to a few of them: firstly, the body of Mr Zavadski has not been traced and it has not been established that he has been murdered; secondly, the General Prosecutor of the Republic of Belarus is in charge of all criminal investigations. The present holder of the post of General Prosecutor is Mr Victor Sheyman, who is regarded by many people in Belarus as the mastermind behind this abduction and others.

The Assembly deplores the systematic harassment and intimidation carried out by state officials, in particular the Ministry of Information, against journalists, editors and media outlets which are critical of the President of the Republic or the Government of Belarus. The legal basis for such action is very often the requirement that print media receive a state licence from the Ministry of Information. Article 10 of the European Convention on Human Rights does not permit such licensing of print media.

Furthermore, the state allows a situation whereby the functioning of media outlets can be at the mercy of local administrations, of printing houses and distribution agencies. Independent media are forced to operate under discriminatory economic conditions.

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1. Assembly debate on 28 April 2004 (12th Sitting) (see Doc. 10107, report of the Political Affairs Committee, rapporteur: Mr Pourgourides; andDoc. 10165, opinion of the Committee on Culture, Science and Education, rapporteur: Ms Muttonen). Text adopted by the Assembly on 28 April 2004 (12th Sitting).

The Assembly condemns, as totally unacceptable in a democratic society, the subjecting of journalists to imprisonment, including forced labour, for criticism of the President and state officials, which is currently possible under the provisions of Articles 367, 368 and 369 of the Criminal Code.

The Assembly is deeply concerned by the level of state control over the electronic media, in particular the public television and radio company of Belarus, which works under a presidential decree, but also private joint-stock companies, in which the state typically holds major shares and interests. It is also concerned that printing companies and companies distributing print media are largely state controlled. In a genuine democracy, public media must not function as a voice of the President and the executive branch of power, but should provide an impartial service for the public at large by disseminating news and commentary in an open, unbiased and truthful way.

The Assembly believes that the media landscape, under the controls it is currently subject to, does not provide for the freedom of information through the media that is necessary for the preparation and conduct of democratic parliamentary elections in autumn 2004. All political candidates, political parties and political civil society organisations must have equal access to the media without control by the state. Otherwise, voters in Belarus will not be able to receive the information necessary to form their own opinions about the situation in their own country.

The Assembly therefore regrets that reform of the Law on the Press and other Mass Media and other relevant laws, long announced and awaited, have not been finalised in time for the coming parliamentary elections by the President of the Republic, the ministers responsible and the parliament and that the Belarusian authorities have not fulfilled their commitment to send the draft to the Council of Europe for examination. The Assembly resolves to continue monitoring the situation concerning the media in the Republic of Belarus until the new Law on the Press and other Mass Media is enacted.

The Assembly notes with regret that the Parliament of Belarus refused to co-operate with the Organization for Security and Co-operation in Europe (OSCE) in the organisation of a seminar on the media in Belarus on 27 February 2004. Furthermore, the Assembly regrets that the Vice-Chairman of its Chamber of Representatives, Mr Vladimir Konoplev, refused to receive a joint delegation from the Council of Europe's Parliamentary Assembly, the OSCE Parliamentary Assembly and the European Parliament from 22 to 24 January 2004, which would have allowed the members of the Parliament of Belarus to hold a dialogue with European parliamentarians on a number of issues including freedom of the media.

The Assembly calls on all member and Observer states of the Council of Europe not to tolerate any longer the existing state of affairs in Belarus. Fundamental rights and freedoms are systematically violated in Belarus with the sole aim of keeping a non-democratic regime in power. The regime of President Lukashenko bases its existence on repression, intimidation and fear. The measures of repression and intimidation are directed not only towards the media but also towards all other democratic institutions, human rights activists and the people at large. Belarus remains, in the year 2004, a police state with conditions similar to those prevailing in the country during the Soviet Union era. It is imperative to do everything possible in order to bring democracy to Belarus. Millions of Belarusians were killed during the second world war bravely fighting against the forces of Hitler. However, freedom has not yet come to their land. All member and Observer states of the Council of Europe have a duty to ensure that Belarus ceases to be the last dictatorial state in Europe.

The Assembly calls on the Secretary General of the Council of Europe to:

1. constantly bear in mind the people of Belarus and step up targeted action in favour of human rights, democracy and the rule of law in Belarus; and

2. allocate, in co-operation with the Committee of Ministers, sufficient resources for projects on strengthening democracy and freedom of the media in Belarus in preparation for the parliamentary elections in autumn 2004 and, more generally, aimed at enhancing the understanding of democratic standards in the media field and reinforcing public opposition to any form of repression of free speech.

The Assembly calls on the President of the Republic of Belarus, the Government of Belarus and the National Assembly of Belarus to:

1. launch a truly independent investigation into the disappearance and alleged extra-judicial execution of the journalist Mr Dmitri Zavadski which occurred more than three years ago and make the final results of this investigation public, a prior requirement to such an investigation being the removal from office of Mr Victor Sheyman;

2. consider revising the penal laws and Article 5 of the Law on the Press and other Mass Media in order to allow political criticism of the President of the Republic and the members of the National Assembly; the honour and dignity of the President of the Republic and the heads of state bodies must not be protected unconditionally;

3. take due account of Article 19 of the International Covenant on Civil and Political Rights of the United Nations as well as Articles 3 and 4 of the Law on the Press and other Mass Media; thus the courts of Belarus should not impose disproportionate penal sanctions against media and journalists criticising the President of the Republic;

4. revise Article 9 of the Law on the Press and other Mass Media in order to abolish the licensing requirement for print media, because this is contrary to the right to freedom of the press as guaranteed by Article 10 of the European Convention on Human Rights;

5. abolish administrative sanctions and oral reprimands against the media by the Ministry of Information because they violate the fundamental principle of the separation of powers between the executive and the judiciary and are contrary to Article 10 of the European Convention on Human Rights; the Law on the Press and other Mass Media should be revised accordingly;

6. initiate legislation which fully implements Article 33, third sentence, of the Constitution of Belarus and which would prohibit any monopoly over the mass media by the state; for this purpose, the high concentration of state interests in joint-stock media, printing companies and distributing companies should be reduced and the national broadcasting company should become a public service broadcaster independent of direct control by the President of the Republic or other state organs along the lines of Recommendation 1641 (2004) on public service broadcasting;

7. ensure that printers and distributors of print media do not discriminate against private media independent of state support, or against the foreign press;

8. ensure that the Central Electoral Committee and the national broadcasting company provide for free, equal and fair access to airtime for political parties as well as independent candidates before the elections in Belarus; the authorities may be guided by Recommendation No. R(99)15 of the Committee of Ministers on measures concerning media coverage of election campaigns; this is particularly important in preparation of the coming parliamentary elections in autumn 2004;

9. revise all presidential decrees which excessively restrict the right to receive and disseminate information about the state under Article 34 of the Constitution of Belarus;

10. ensure that the National Assembly can take up its role as legislator and become the initiator of legislation and legislative amendments in the media field; in this regard, the National Assembly should seek to include in the Constitution of Belarus a provision on freedom of the media and the inadmissibility of censorship similar to Articles 3 and 4 of the Law on the Press and other Mass Media;

11. refrain from restricting the right to freedom of association of journalists and editors, as guaranteed by Article 22 of the International Covenant on Civil and Political Rights of the United Nations and by Article 11 of the European Convention on Human Rights; the state authorities of Belarus must not hinder the work of the Belarusian Association of Journalists by intimidating or harassing its staff and members.

The Assembly calls on the European Parliament, the Council of the European Union and the European Commission not to tolerate any longer the systematic violation by Belarusian authorities of the fundamental freedoms guaranteed under Articles 10 (freedom of expression) and 11 (freedom of association) of the European Convention on Human Rights, Articles 11 (freedom of expression) and 12 (freedom of association) of the Charter of Fundamental Rights of the European Union, and to take appropriate action in their relations with Belarus.

The Assembly calls on the OSCE Parliamentary Assembly, the Chairman-in-Office of the OSCE and the OSCE Representative on Freedom of the Media not to tolerate any longer the systematic violation by Belarusian authorities of the fundamental freedoms guaranteed under Articles 10 and 11 of the European Convention on Human Rights, Articles 19 (freedom of expression) and 22 (freedom of association) of the International Covenant on Civil and Political Rights of the United Nations in relation to the obligations of Belarus under the Helsinki Final Act, and paragraph 22 of the Istanbul Summit Declaration of the OSCE, and to take appropriate action against Belarus.

The Assembly calls on the United Nations and, in particular, the United Nations Commission on Human Rights, never to tolerate the systematic violation by Belarusian authorities of Articles 19 and 22 of the International Covenant on Civil and Political Rights of the United Nations, and to take appropriate action against Belarus.