
Resolution 1606 (2008)¹

Abuse of the criminal justice system in Belarus

1. The Parliamentary Assembly, recalling its previous work regarding Belarus, in particular Resolutions 1371 (2004), 1372 (2004), 1482 (2006) and 1496 (2006), as well as Recommendations 1657 (2004) and 1734 (2006), deeply regrets the numerous politically motivated abuses of the criminal justice system that have taken place in recent years and are still taking place in the Republic of Belarus. The Assembly welcomes the recent release of a large number of political prisoners, but regrets all the more the Belarusian authorities' persistent refusal to release Aleksandr Kozulin and the bringing of fresh criminal proceedings against opposition activists.

2. Such abuses take different forms, including:

2.1. the enactment – in particular through Law No. 71-3 of 15 December 2005 (the so-called “anti-revolution law”) – and the arbitrary application of specific provisions criminalising legitimate, peaceful activities of opposition parties, non-governmental organisations and independent media, in particular through arbitrary legal action against members and activists of non-registered citizens' groups, against organisers and participants of peaceful demonstrations, and against journalists and opposition figures making critical comments in public, including via the Internet;

2.2. arbitrary convictions of political opponents, following unfair court proceedings, under general criminal provisions such as embezzlement, fraud, counterfeit or tax evasion;

2.3. the failure, for political reasons, to properly investigate and prosecute criminal acts committed by state agents against opposition figures, including:

2.3.1. the high-profile disappearances covered by Resolution 1371 and Recommendation 1657;

2.3.2. unelucidated deaths of independent journalists and foreign diplomats;

2.3.3. acts of violence committed by security forces against peaceful demonstrators;

2.4. the continued use of the death penalty and the particularly cruel, secretive method of execution by gunshot, without informing the condemned persons themselves or their families until the last moment. Belarus is the last country on the European continent that still implements the death penalty. The existence of the death penalty excludes the extradition to Belarus of any person accused of a capital offence by member states of the Council of Europe;

2.5. the restriction of the right of persons to free movement through abuses of the provisions of Presidential Decree No. 643 of 17 December 2007 on simplifying exit procedures from the Republic of Belarus.

3. The effects of the criminalisation of the activities of civic groups not registered according to Article 193-1 of the Criminal Code, brought into effect by the law of 15 December 2005, are aggravated by restrictive administrative rules, and their arbitrary implementation, governing the registration of associations. In this respect, the Assembly also recalls the views adopted by the

United Nations Human Rights Committee on 24 July 2007, which found that the dissolution of the Viasna Human Rights Centre violated the right of its members to freedom of association and that they were entitled to an effective remedy – including re-registration of their organisation and compensation – and that Belarus was under an obligation to take steps to prevent similar violations from occurring in the future.

4. The Assembly is outraged, in particular, at the arrests of persons distributing copies of its own 2004 report on disappearances in Belarus.

5. Persons abusively convicted for political reasons (paragraphs 2.1 and 2.2 above) must be recognised as political prisoners and compensated for their suffering as soon as possible.

6. Officials ordering or participating in politically motivated abuses of the criminal justice system must be held to account personally for their responsibility regarding such abuses.

7. The Assembly is confident that the Republic of Belarus will one day join the family of European states upholding human rights and the rule of law, and that justice will be done, *inter alia* by compensating victims and punishing perpetrators of the abuses described above.

8. Meanwhile, the Assembly urges:

8.1. the Parliament of the Republic of Belarus to:

8.1.1. repeal Law No. 71-3 of 15 December 2005 (the so-called "anti-revolution law"), and in particular Article 193-1 of the Criminal Code, criminalising activities of non-registered associations;

8.1.2. urgently introduce a moratorium on executions and abolish the death penalty;

8.2. the competent authorities to revoke or amend Presidential Decree No. 643 of 17 December 2007 so as to curb its wrongful use;

8.3. judges, prosecutors and police officers in Belarus to avoid, to the best of their ability, participating in abuses of the criminal justice system, and to bring to bear their courage and imagination in order to mitigate the effects of the abusive legislation on its victims;

8.4. Belarusian and international human rights defenders to keep a record, in a transparent and objective manner, of both the victims and the perpetrators of politically motivated abuses of the criminal justice system.

9. The Assembly further encourages:

9.1. the member states of the Council of Europe, through their diplomatic representations in Minsk, and in collaboration with local and international human rights defenders, to continue intervening with the authorities on behalf of political prisoners and their families, and to offer them temporary protection;

9.2. the European Union and the United States of America to continue imposing targeted sanctions, such as visa bans or the freezing of assets, on Belarusian officials responsible for serious human rights abuses;

9.3. the international community to set up a mechanism for assistance to victims of human rights violations in Belarus, bearing in mind the following:

9.3.1. such a mechanism could be governed by a working group involving local and international human rights defenders, in Minsk or in a neighbouring capital;

9.3.2. it is essential to provide those students who have been expelled from Belarusian universities because of their participation in anti-government demonstrations with an opportunity to continue their education in Council of Europe member states;

9.3.3. the working group's tasks could also include the identification, in a fair and transparent manner, of officials responsible for abuses, with a view to the imposition of targeted sanctions (paragraph 9.2);

9.4. the Government and Parliament of the Russian Federation to intervene urgently with the authorities in Minsk on behalf of political prisoners and other victims of politically motivated abuses.

Assembly debate on 15 April 2008 (13th Sitting) (see Doc. 11464, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Christos Pourgourides). Text adopted by the Assembly on 15 April 2008 (13th Sitting).