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Political Affairs Committee

Situation in Belarus

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Memorandum

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I. Introduction: aim and scope of my report

1. I have been following the situation in Belarus very closely for the last two years in my previous capacity as Chair of the sub-committee on Belarus of the Political Affairs Committee. Under my chairmanship, the sub-committee held a number of exchanges of views, involving both the extraparlimentary opposition and parliamentarians from Belarus. I considered these gatherings as an opportunity to engage in a dialogue with all the actors concerned, while sending out a clear message: the Parliamentary Assembly wishes to see decisive progress from Belarus towards meeting Council of Europe democratic and human rights standards.

2. In my new capacity as Rapporteur, I will lean on **Resolution 1671 (2009)** on the Situation in Belarus, which the Assembly adopted last June, as a starting point. In this text, the Assembly resolved to *'engage in a political dialogue with the authorities, while at the same time continue to support the strengthening of democratic forces and civil society'* (paragraph 18). It is not my intention to change direction: **dialogue** is the way forward.

3. There are, however, different kinds of dialogue: conditional, unconditional, limited to certain levels, limited to certain matters, formal, informal, structured or ad hoc...Unfortunately, the Belarusian authorities have not so far taken up the opportunity which Resolution 1671 (2009) handed over to them to resume a formal status with the Parliamentary Assembly: more than 6 months have elapsed since the adoption of Resolution 1671 (2009) but the authorities have not introduced an immediate moratorium on capital executions, which was the only condition required for restoring special guest status for the Belarusian parliament; in fact, since then, two more individuals have been condemned to capital punishment.

4. I consider my main task as Rapporteur to clarify whether or not the Belarusian authorities have the genuine intention to engage with the Council of Europe, accept 'the rules of the game' – including criticism and if necessary conditionality - and make a serious effort to embrace Council of Europe values and standards. If there is such an intention, it should be proved by concrete steps: I will, therefore, assess developments in Belarus against the yardstick of Resolution 1671 (2009), checking to what extent the recommendations laid down therein have been implemented.

2. Looking ahead

5. Important deadlines are looming ahead. In April 2010, **local elections** will be held in Belarus. This is the first electoral contest following the amendments introduced to the electoral legislation after consultation with the OSCE/ODIHR. As a matter of fact, a number of international bodies, including the Assembly, had demanded that the electoral legislation be aligned with European standards.

6. It is disappointing for me to hear that no international observers will be invited to monitor these elections. Even if it is a consistent practice of the Belarusian authorities not to invite international observers to monitor local elections, it would have been an important sign of openness and co-operative attitude to invite the Congress of Local and Regional Authorities, where Belarus has enjoyed observer status since December 2008.

7. Furthermore, **presidential elections** should take place in 2011, as a rule by February. The respect of political and media freedoms during the election campaign, the compliance with European electoral standards and an invitation of international observers, including our Assembly to monitor the elections, will be important elements to be taken into account in my report.

8. Finally, on 3 February 2010, the Belarusian parliament set up a working group on the consideration of the issue of the **death penalty** as an instrument of punishment. The working group includes 5 members from the lower chamber and 2 from the upper chamber. It is chaired by Nikolai Samoseiko, who also chairs the Permanent Commission on legislation, judicial and legal matters.

9. In my work, I will take particular care in following the activities of this working group, who should be a major interlocutor for our Committee, in the light of the pivotal importance which Assembly Resolution 1671(2009) attaches to the moratorium on the death penalty in the context of the resumption of structured relations with Belarus.

3. Current relations with the Council of Europe

10. After years of standstill during which a policy of isolation was applied, Council of Europe relations with the Belarusian authorities have become more dynamic since 2007, also thanks to the encouragement from the Assembly, in particular by the former President René van der Linden and the former PACE Rapporteur on the situation in Belarus, Mr Andrea Rigoni.

11. A cluster of activities revolves around the **Information Point** (often referred to as "Infopoint") on the Council of Europe in Minsk. This is a small *sui generis* structure (2 staff), which was opened in June 2009, and is based on an agreement between the Council of Europe Secretariat and the Minsk State University. At the moment, the Infopoint is conducting two Council of Europe campaigns: one against domestic violence and another one against the death penalty. In addition, being accessible to the public, it provides information about the Organisation and its work.

12. I am convinced that the Infopoint is a valuable tool to reach out to civil society and public opinion at large and promote knowledge of the Council of Europe, its values and standards, in Belarus. The establishment of a Council of Europe structure in Minsk could not be achieved without a complex process of negotiation with the Belarusian authorities, which took nearly two years. The agreement will come to an end in March 2010 and talks to ensure its renewal are currently under way.

13. I believe that, in the context of closer relations and increasing mutual trust between the Council of Europe and the Belarusian authorities, the Infopoint should become a more stable structure and that the range of its activities should be expanded.

14. In 2009, **high level political contacts** saw a peak: an ad hoc committee of the Bureau of the Assembly (formed by myself, Mr Rigoni and Mr Lindblad) visited Minsk in February; in the following weeks, Miguel Angel Moratinos, Minister of Foreign Affairs of Spain, also visited Minsk in his capacity as Chair of the Committee of Ministers of the Council of Europe; in June, Samuel Sbogar, Minister of Foreign Affairs of Slovenia and Chair of the Committee of Ministers, together with Mrs Maud Buquicchio, Deputy Secretary General of the Council of Europe, and Mr Rigoni participated in the opening ceremony of the Infopoint. In the same month, Mr Ivanov, Vice-President of the lower chamber of the Belarusian parliament, addressed the Assembly in the context of the debate on the situation in Belarus.

15. On 5 February 2010, **Micheline Calmy-Rey, Chair of the Committee of Ministers**, met Mr Martynov, Minister of Foreign Affairs of Belarus, during the 46th Conference on security in Munich. During this meeting, Mrs Calmy-Rey raised four priority issues: the renewal of the agreement on the Information Point; the abolition of the death penalty; freedom of the media and the guarantee of political freedoms for the opposition. In a separate meeting with President Lukashenko, in Kyiv on 25 February 2010, Mrs Calmy-Rey confirmed these priorities and emphasised that a closer relationship between the Council of Europe and Belarus meant that this country would have to respect the Organisation's fundamental values by ensuring, amongst other things, free and fair elections, the abolition of the death penalty, freedom of assembly and freedom of the media.

16. In parallel, since 2007, the **participation of Belarusian representatives in the work of Council of Europe bodies** has intensified: the President or the Vice-President of the Belarusian upper chamber have regularly attended the sessions of the Congress of Local and Regional Authorities; Belarusian officials have attended the meetings of the Council of Europe Steering Committee on Higher Education, as a result of Belarus being a party to the European Cultural Convention.

17. It is also a positive development that the Belarusian authorities have expressed an interest in becoming a party to some **Council of Europe instruments**, in particular they have sent formal requests to accede to the Group of States against Corruption (GRECO) and the Convention on Action against Trafficking in Human Beings (ETS No. 197).

18. While an agreement on immunities and privileges concerning GRECO has already been signed,, the conclusion of an agreement on privileges and immunities for the Group of Experts on Action against Trafficking in Human Beings, set up by the relevant Convention, is proving to be more problematic. At the moment, given that the amendments proposed by the Belarusian authorities to the memorandum pose a problem of compatibility with the Convention, further discussion between the Secretariat and the Belarusian authorities will be necessary. Furthermore, the Secretariat will not, for the time being, take further action on organising a meeting of experts on the possible accession of Belarus to other Council of Europe conventions.

4. Relations with the European Union

19. Since October 2008, following the release of internationally recognised political prisoners, the European Union has adopted a new strategy towards the Belarusian authorities, **associating dialogue and pressure**.¹

20. This strategy aims at encouraging the authorities to make further progress in five priority areas (electoral legislation, freedom of association, freedom of assembly, freedom of the media and the death penalty) by compensating it with a progressive deepening of EU-Belarus relations.

21. The first measure which the EU took in response to the release of internationally recognised political prisoners is the lifting of the **visa-ban** against a number of high ranking Belarusian officials, including President Alexander Lukashenko, which had been in force since 2004 and extended in 2006. The travel restrictions, however, continue to apply to a few Belarusian figures, namely those allegedly involved in political disappearances and electoral frauds.

22. In 2009, both the High Representative for the Common Foreign and Security Policy, Javier Solana, and the Commissioner for External Relations, Benita Ferrero Waldner, paid official visits to Minsk, where they announced and welcomed the participation of Belarus in the **Eastern Partnership** and the establishment of a **Human Rights Dialogue** with this country.

23. The new EU strategy, however, has **not yet led to a break-through**: in November 2009, despite recognising that the authorities had taken a number of positive steps earlier in the year, the EU Council regretted a lack of tangible progress in the area of human rights and fundamental freedoms in Belarus, notably as regards the crackdown on peaceful political actions and the continued denial of registration of many political parties, non-governmental organisations and independent media. It also expressed dismay at the death sentences which were handed down in Belarus during the summer.²

24. In the Council's opinion, this lack of progress prevents the EU from responding with further positive measures. However, also in recognition of the importance of enhanced people-to-people contacts, the Council has invited the Commission to prepare recommendations in the field of **visa facilitation** with Belarus, which could be adopted once relevant conditions are met. Similarly, the Commission should make a proposal for a **joint interim plan to set priorities for reforms**, inspired by the Action Plans developed in the framework of the European Neighbourhood Policy, to be implemented with Belarus.

25. In February 2010, tensions between the European Union and Belarus flared up following the arrest of 40 members of the association of the **Union of the Poles**, in Belarus. Both the President of the European Parliament, Mr Buzek and the High Representative, Mrs Ashton, made strong statements underlying that the EU strategy of engagement was conditional upon steps towards democratisation and upholding of human rights by Belarus, and that the infringement of minorities' rights in the case of the Union of the Poles undermined the efforts to strengthen relations between the European Union and Belarus.

26. At the end of February 2010, a **delegation** of the European Parliament (EP) visited Minsk on a fact-finding mission. In addition to holding exchanges of views on the situation in Belarus with Belarusian officials, human rights organisations and opposition representatives, the EP delegation discussed the issue of the composition of the Belarusian delegation to Euronest, in light of the fact that the European Parliament considers 'questionable' the democratic legitimacy of the current Belarusian parliament. In particular, the EP delegation proposed that the Belarusian Euronest delegation should comprise both members of the Belarusian parliament and members of the extra-parliamentary opposition. The Belarusian authorities expressed their disagreement.

5. The Assembly's main concerns

27. Resolution 1671 (2009) defines the core areas in which the Assembly expects to see positive developments in Belarus. These are:

¹ Council Conclusions of 13 October 2008

² Council Conclusions of 17 November 2009.

- **introduction of a moratorium on capital executions**, in particular the declaration of an official moratorium on death sentences and executions, with a view to abolishing capital punishment altogether.

- **political freedoms**, in particular the need to put an end to the question of political prisoners and to all forms of harassment and intimidation against opposition activists and representatives;

- **freedom of assembly and association**, in particular:

- the removal of legal and practical obstacles to the registration of political parties, groups and human rights associations;
- the abolition of the currently existing liability for participation in the activities of non-registered organisations;

- **freedom of the media**, in particular:

- the printing of independent publications – including political ones - in Belarus and their distribution through the state network;
- the possibility for independent printing houses and distributors of print media to work in Belarus;
- the abolition of the existing direct governmental control over the state broadcaster;
- the possibility for all political forces to have fair access to broadcasting, in particular in the context of electoral campaigns;
- the prohibition of political interference with freedom of the media – including Internet-based media -, in particular by relying on existing legislation on counter-extremism and defamation.

28. In my work, I will focus on developments in these keys areas.

6. Next steps

29. I strongly support the idea that the Ad hoc sub-committee on the follow-up to Resolution 1671 (2009) on the situation in Belarus organise a **seminar on the introduction of a moratorium on capital executions** in Minsk. With this event, the Assembly could make its expertise available to the Belarusian legislators and help them make progress towards the implementation of Council of Europe standards. Whereas it should be for the ad hoc sub-committee to organise this seminar, I believe that, in view of its mandate, the Committee on Legal Affairs and Human Rights of the Assembly should also be involved in this event, in a format to be decided.

30. In any event, I consider it essential to explore the possibilities for organising such a seminar directly with members of the working group recently established by the Belarusian parliament “on the consideration of the issue of the death penalty” and for this purpose I would like to pay a **fact-finding visit to Belarus**, if possible before summer. During this visit, I could also form an objective and comprehensive overview of the general situation in the country, speaking directly to the main actors involved, in particular in view of the fact that presidential elections should be held at the beginning of next year. It is thus essential to check out preparations for the elections, in particular as regards respect of political and media freedoms during the election campaign, the compliance with European electoral standards and the intention or not of the authorities to send an invitation to international observers, including our Assembly, to monitor the elections.

31. As regards the electoral legislation, I would recommend that the **Venice Commission** carries out a comprehensive analysis of the amendments introduced into the Belarusian electoral code, at the end of 2009, in order to assess if they can have a real impact in bringing the Belarusian electoral legislation in line with Council of Europe standards.

32. In the preparation of my report, I intend to follow attentively the work of the European Union and the OSCE. In particular, I would encourage a continuation of the activities of the **Parliamentary Troika on Belarus**, including representatives of our Assembly, of the European Parliament and of the OSCE Parliamentary Assembly, with a view to exchanging information, improving co-ordination and undertaking joint activities. Members of the EP and the OSCE Parliamentary Assembly working on Belarus could be invited to address the Ad hoc sub-committee on the follow-up to Resolution 1671 (2009) on the Situation in Belarus or the Political Affairs Committee as a whole.