Parliamentary Assembly
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COUNCIL OF EUROPE CONSEIL DE L'EUROPE

AS/Pol (2010) 37rev[1]
18 November 2010
Apdoc37rev_10

Political Affairs Committee

Situation in Belarus

Rapporteur: Mrs Sinikka HURSKAINEN, Finland, Socialist Group

Information note on the Rapporteur's visit to Minsk (22-25 August 2010)

[1] [1] This information note has been made public by decision of the Political Affairs Committee dated 18 November 2010

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F – 67075 Strasbourg Cedex | e-mail: assembly@coe.int | Tel: + 33 3 88 41 2000 | Fax: +33 3 88 41 2733

1. Context of the visit and current state of procedure

1. In its Resolution 1727 (2010) on the *Situation in Belarus: recent developments,* adopted in April 2010, the Assembly decided to put on hold its activities involving high-level contacts between itself and the Belarusian authorities. The resolution was voted following a debate under urgent procedure prompted by the execution of two prisoners in March 2010, as well as incidents of harassment of members of the Polish minority and infringements of their rights and the fact that local elections were held in the country in the complete absence of any international observers.

2. The Assembly reaffirmed its readiness to engage in a progressive dialogue with the Belarusian authorities in response to positive developments but underscored that there cannot be progress on dialogue without progress towards Council of Europe standards and a clear political commitment by the Belarusian authorities to embrace Council of Europe values, proved by consistent actions.

3. When interpreting this Resolution, the Bureau of the Assembly considered that "high-level contacts" meant "members of the Bureau". However, upon the request of the Committee and with a view to verifying the situation on the ground prior to the forthcoming presidential election, the Bureau, at its meeting in Skopje, on 20 May 2010, authorised me to visit Belarus "in [my] capacity as Rapporteur of the Political Affairs Committee for '*The situation in Belarus*'".

4. The Committee took note of my proposals for the draft programme of my visit to Minsk at its meeting during the June 2010 part-session (see in Appendix 1 the final programme). Following consultations with the Belarusian authorities, my visit to Minsk took finally place from 22 to 25 August 2010.

5. I am grateful that the Committee and the Bureau of the Assembly authorised me to conduct this fact-finding visit: it is important to maintain working contacts and dialogue, and the visit helped me form a better picture of the situation on the ground.

6. I was received in Minsk in a pleasant atmosphere. There was no particular tension in my meetings with the authorities or the opposition.

7. I informed the Committee of the main findings of my visit to Belarus at its meeting on 7 September in Belgrade. The present information note aims at putting in writing my findings as well as informing the Committee of further developments that have occurred in Belarus since my visit, the most important of which has been the announcement of presidential elections to be held on 19 December 2010.

8. Following my proposal, the Committee held an exchange of views on the situation in Belarus and, in particular, the preparations for the elections, at its meeting of 1 October 2010 with the participation of: Mr Thomas Markert, Secretary of the Venice Commission, who presented to the Committee the Venice Commission's assessment of the changes recently introduced in the Belarusian Electoral Code, prepared at our Committee's request; Mr Nikolai Samoseiko, Chairman of the Standing Committee on Legislation and Judicial and Legal Matters of the House of Representatives and Head of the parliamentary *ad hoc* group on capital punishment matters, who informed the Committee of recent developments in the country, including the round table co-organised in Minsk by the Council of Europe and the parliamentary group on 23 September 2010; Mr Aleh Hulak, from the "Belarusian Helsinki Group", who focused on the electoral campaign and the electoral code.

9. Upon my proposal, the Committee decided to hold a further exchange of views at its meeting on 18 November with a representative of the authorities and a representative of the opposition, as well as two representatives of the media. Mr Evgeni Smirnov, Chairman of the Standing Commission on Legislation and Public Management of the Council of the Republic of the National Assembly of the Republic of Belarus and Deputy Head of the National Assembly Delegation for Relations with PACE, Mr Vital Rymasheuski, Co-Chairman of the Belarusian Christian Democracy, Mr Andrei Babok, special correspondent of the department of international co-operation at the "Narodnaya Gazeta", and Mr Andrei Aliaksandrau, Vice Chairman of the Belarusian Association of Journalists, have accepted the invitation of our Chairman and should be present at the meeting when my memorandum is being discussed.

2. Main issues

2.1. Capital punishment

10. In its Resolution 1671 (2009) on *The situation in Belarus*, the Assembly attached special importance to the introduction of a moratorium on capital executions, in the context of its relations with the Belarusian

authorities. As mentioned above, it was mainly the execution of two prisoners in March 2010 that prompted the debate under urgent procedure of April 2010 and led to the decision to put on hold the Assembly's activities involving high-level contacts between itself and the Belarusian authorities.

11. During my meetings in Minsk, I therefore focused on the issue of **capital punishment.** The authorities emphasised that the great majority of the Belarusian public opinion supports the death penalty. Reference was made to the 1996 referendum, according to which 80% of the public was in favour of the death penalty, and to more recent opinion polls.

12. There is an awareness that the introduction of a moratorium on capital punishment could be achieved simply by statute. However, the authorities told me that, at the moment, in parliament there would be no majority in support of a moratorium.

13. The office of the general prosecutor reiterated that, in accordance with the Criminal Code of Belarus, the death penalty is only possible for murder under aggravated circumstances and can by no means be applied to women, minors or men over 65. The office also informed that it demands capital punishment only for particularly gruesome crimes. It has no intention to issue any guidelines aimed at encouraging prosecutors to demand life imprisonment rather than capital sentences.

14. The Council of Europe Infopoint in Minsk is actively promoting the anti-death penalty campaign in Minsk and the regions, through the distribution of information materials, posters and the broadcasting of TV ads on a state channel. However, we were informed that Council of Europe posters of the anti-death penalty campaign are regularly vandalised.

15. In the authorities' opinion, the *ad hoc* parliamentary working group, which has been set up to discuss the issue of the death penalty, under the chairmanship of Mr Simoseiko, has already achieved an important result in launching a debate on pros and cons of capital punishment in the society.

16. This parliamentary working group co-organised with the Council of Europe a technical round table on "steps towards the abolition of the death penalty in Belarus", in Minsk, on 23 September 2010. Some 40 participants took part in the round table, including the members of the parliamentary group and its Chairman, the Minister of Justice, the Prosecutor General, MPs, judges from the constitutional and supreme courts, officials from the Ministry of Foreign Affairs as well as three civil society representatives. The Council of Europe's experts included Robert Badinter, former Minister of Justice of France, who proposed the abolition of the death penalty in his country.

17. According to information received, this meeting allowed Council of Europe experts to provide the Belarusian authorities with concrete advice on how to remove perceived obstacles to the abolition of capital punishment, strengthen public opinion support and mobilise professional groups in favour of abolition. I was informed that several participants, including the Minister of Justice and some members of the *ad hoc* parliamentary working group, underlined that the question of the abolition of the death penalty was internal to Belarus and that a decision would be taken irrespective of the country's relationship with the Council of Europe. For their part, the Council of Europe experts insisted that political courage and political leadership were necessary to take unpopular decisions and the question was whether the Parliament would have this courage. Mr Badinter underlined that, when he proposed the abolition of the death penalty in France, public opinion was also unfavourable.

18. Both at the round table and the exchange of views he had with our Committee one week later, on 1 October, Mr Samoseiko recalled that the question of the abolition was no longer "whether?" but "how?" and "when?" In Mr Samoseiko's words, the parliamentary group was established to examine "the abolition of the death penalty" and not its upholding. He also informed us that the parliamentary group planned to organise exchanges of views with parliamentarians from other countries of the former Soviet Union which had abolished the death penalty.

19. However, despite the efforts undertaken by the Chairman of the parliamentary *ad hoc* group and the successful organisation of the recent technical roundtable, it is unclear what the impact of such initiatives might be in the medium or long term. What is clear is that, for the time being and as long as the death penalty is on the books, Belarusian courts continue to hand down death sentences and new executions are imminent. Just a few weeks after my visit to Minsk, in September 2010, a man was sentenced to death and two other death sentences became final after the country's Supreme Court turned down appeals from the pair. The two men could be executed at any time. And, in accordance with the law and practice in the country, the executions will be secret and the bodies of the executed persons will not even be handed to their families (see Doc. 12223, 27 April 2010).

20. In a letter I sent to Mr Guminsky on 17 September, I expressed my concern over these recent death sentences and reiterated the Assembly's repeated request that the Belarusian authorities decree a moratorium on capital executions. Both my letter as well as Mr Guminsky's reply to it are appended to this memorandum (see Appendix 2).

21. An exhibition by the Council of Europe and the EU Delegation entitled "*Death is not justice*" is being organized from 8 October to 11 December 2010 at the Museum of the Great Patriotic War in Minsk. The event aims at raising awareness in favour of the abolition of the death penalty in Belarus.

22. The Council of Europe and the European Union are not the only organisations leading the way in trying to combat the death penalty in Belarus. Amnesty International has been greatly involved in this area for some time. Representatives of Amnesty International said recently that they had begun talks with the Church as the organisation looks to build up "internal pressure" on the Belarusian authorities with a view to the introduction of a moratorium on the capital punishment. Amnesty International has stated that they are hoping that the Orthodox Church, which, though separate from the state and politics, is known to have a strong influence on public opinion, can help in the push for a moratorium. Church leaders have already agreed to hold a roundtable meeting involving the parliamentary working group on the death penalty.

23. During my visit to Minsk at the end of August 2010, I was told that, if everything goes smoothly, the parliamentary working group could organise a parliamentary debate on the abolition of the death penalty in Spring 2011. The outcome of this debate might be a legislative initiative to introduce a moratorium on executions.

2.2. Presidential elections

24. When I visited Minsk, I was told that the forthcoming **presidential elections** could take place at any time from 7 December 2010 to 7 February 2011. On 14 September 2010, Mr Guminsky wrote to me to inform me that, on that very day, the House of Representatives of the National Assembly of Belarus, at its fifth extraordinary session, set the date of the next elections of the President of the Republic of Belarus for 19 December 2010.

25. Two days later, on 16 September 2010, the Minister of Foreign Affairs of Belarus forwarded an official invitation to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to take part in the international observation of the presidential elections in Belarus. A similar invitation on behalf of the Belarusian Foreign Minister was forwarded to the CIS Executive Committee. For its part, the National Assembly of Belarus invited the OSCE Parliamentary Assembly and the CIS Inter-Parliamentary Assembly to observe the elections. The Belarusian authorities stress that they have not posed any limitations in terms of missions' duration or their size. Following its visit to Belarus on 27-29 September 2010, the OSCE/ODIHR Needs Assessment Mission recommended the deployment of 40 long-term observers to follow the election campaign throughout the country (to arrive in Minsk by 17 November), as well as of 400 short-term observers to monitor the election day procedures, including key elements of early voting, polling, counting of votes and tabulation of the results.

26. Our Assembly has not been invited to observe these elections. The Belarusian authorities state that they invite only the international organisations of which they are members.

27. According to information provided by the Central Electoral Commission (CEC), as of 12 October, approx. 150 domestic observers were registered with territorial electoral commissions (TECs), the absolute majority of whom represent public associations and labour unions. In accordance with recent amendments to the electoral legislation, local observers, in contrast to previous requirements to register in advance, can register without preliminary permission and start observing on the same day. They can also draw an act noting the shortcomings revealed (previously they could only make statements), to be considered and decided upon by the competent electoral commission.

28. Out of 17 candidates who had their initiative groups registered with the CEC with a view to collecting signatures in support of their candidacy, 11 of them submitted to the respective TECs more than the required 100,000 signatures by the deadline of 29 October 2010: the incumbent President, Alyaksandr Lukashenka, as well as Ryhor Kastusyou, Ales Mikhalevich, Uladzimir Nyaklyaeu, Uladzimir Pravalski, Yaraslau Ramanchuk, Vital Rimasheuski, Andrei Sannikau, Mikalai Statkevich, Dzmitri Uss and Viktar Tsyareshchanka. Three candidates – Syarhey Gaidukevich, Yury Glushakou and Syarhey Ryzhou – decided no longer to participate in the elections, and another three candidates – Pyotr Barysau, Syarhey Ivanou and Ivan Kulikou – failed to submit any signatures to TECs.

29. The validity of the signatures collected should be verified by the TECs by 13 November and the results will be announced by the CEC. Observers from the "Human Rights Defenders for Free Elections" (HRD) campaign have not been provided the opportunity to observe the process of checking the authencity of signatures submitted by candidates despite repeated requests. The TECs have rejected their requests arguing that the participation of observers in the process of verification of the authenicty of signatures is not prescribed by the legislation. For the HRD observers, this argument adds additional restrictions on the observers' rights in comparison with the exhaustive list contained in Article 13 of the Electoral Code. The procedure for the presidential candidates' registration will be carried out by the CEC from 14 to 23 November as soon as the procedure for the verification of signatures is completed.

30. The forthcoming presidential elections in Belarus will be held on the basis of the amended Electoral Code. The Electoral Code had been revised following recommendations from the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) concerning several important aspects, such as freedom to campaign and funding of election campaigns, the composition and appointment of electoral commissions, candidate registration, the integrity of early voting, appeal procedures and vote counting. The Venice commission, jointly with the OSCE/ODIHR prepared an opinion on these amendments, which entered into force on 4 January 2010, upon the request of our Committee and my own proposal.

31. According to this Joint Opinion,[2] which was presented orally to our Committee by the Secretary of the Venice Commission, Mr Markert, on 1 October 2010:

"[…]12. The Amendments provide a mixed response to the concerns of the OSCE/ODIHR and the Venice Commission. They represent a step towards removing some flaws in Belarus' election legislation, although they are unlikely to resolve the underlying concern that the legislative framework for elections in Belarus continues to fall short of providing a basis for genuinely democratic elections.

13. The following key observations should be made at the outset:

(i) The Amendments include significant improvements which warrant acknowledgement.

(ii) No legislation can guarantee elections in line with OSCE and Council of Europe commitments and other international standards, however good it may be. The quality of future elections in Belarus will depend not only on the quality of the legislation but also on its good faith implementation.

(iii) Any positive impact of the Amendments to date risks being undermined by the process by which votes are currently counted and results are processed, which was not amended despite the OSCE/ODIHR and Venice Commission recommendations in this regard." In this respect, the Joint Opinion underlines the following shortcomings which are raising at present concern over the conduct of the forthcoming presidential elections:

[…] 16. […] (iv) There have been no amendments to ensure that precinct commission members count the ballot paper in a transparent and properly observable manner.

(v) There have been no substantive amendments to ensure that election observers are given direct and effective opportunities to monitor the voting and counting process and the tabulation of results.

(vi) There is no adequate provision to ensure that observers and representatives of the mass media can obtain certified copies of minutes and other relevant documents, and all results protocols.

(vii) There have been no amendments to mandate the CEC and lower level election commissions to publish detailed preliminary and final results of the vote, by polling stations, without undue delay.

32. In responding to criticism about the lack of transparency in the counting of ballot papers, the Chairman of the CEC, Mrs Lidzia Yermoshyna, reported on 1 November that the CEC recommended the use of transparent ballot boxes.

[2] See CDL-AD (2010) 012.

33. The fact that the results of the votes in each polling station are not announced and that observers cannot observe vote counting was major concern raised by Mr Aleh Hulak, from the "Belarusian Helsinki Committee", during our exchange of views on 1 October 2010. He also expressed concern over the fact that very few representatives of opposition political parties were members of the electoral commissions, which were still largely dominated by the representatives of the authorities or organisations loyal to them.

34. For his part, Mr Samoseiko, Chairman of the Standing Committee on Legislation and Judicial and Legal Matters of the House of Representatives, stressed the progress made in the electoral process as regards improved access by candidates to the media and improved representation of political parties, including opposition parties, and non-governmental organizations, on electoral commissions.

35. As regards the issue of access to the media, according to information provided to me by the representative of Belarus to the Council of Europe, on 14 October, the CEC issued an order on the use of state-run mass media in the run-up to the elections. According to the CEC, each presidential candidate will be entitled to free air-time on major TV and radio channels (two 30-minutes appearances on both TV and radio), as well as free space in central printed media (4 nation-wide newspapers, 6 regional and 1 city papers) to publish their programmes. The candidates can also appear on other mass media using their personal financial funds as envisaged by the amended Electoral Code. The candidates will also have the right to participate in TV and radio debates. At least two candidates or their proxies will take part in the debates and each candidate shall have the right to choose his opponents on his own. The participation in the debates will be decided on a voluntary basis by each candidate. The order of candidates' statements will be decided by the drawing of lots. The CEC has also set up, by its own decision, a special supervisory board that will control compliance with the rules of conduct of election campaigning in mass media and consider media-related complaints.

36. As regards the role of the opposition, the latter continues to be fragmented. Opposition parties have not tried to present a single, common candidate for the presidential election. However, each party has presented only one candidate.

2.3. Fundamental freedoms

37. It is part of my mandate to assess whether Belarus has made any progress since Assembly Resolution 1671 on *The situation in Belarus* was discussed in June 2009, with Mr Rigoni as Rapporteur. During my visit to Minsk, I therefore also inquired into the other issues raised in that resolution regarding in particular political freedoms, including the issue of alleged political prisoners, freedom of association, freedom of the media and the issue of disappeared persons.

38. As regards the latter issue, the authorities informed me that investigations continue but have so far given no results. When I presented orally my findings from my visit to the Committee on 7 September in Belgrade, my colleagues insisted on the need to obtain updated information on the issue of **disappeared persons.** I would therefore be grateful to the Belarusian authorities if they can pass such information on to the Committee in time for the presentation of my memorandum to the Committee in January 2011.

39. There has been no further development as regards the consideration of **allegations of political prisoners** and this is an issue on which I will need to come back in my contacts with the authorities and civil society representatives after the presidential elections.

40. As regards **freedom of association**, opposition political parties, such as the Belarusian Christian Democracy party (BCD), and independent non-governmental organisations, such as *Nasha Viasna,* have been denied registration on various grounds (wrong addresses, dates of birth, inadequacy of the premises, etc.).

41. At the end of October 2010, the Ministry of Justice refused for the third time to register the BCD on the ground that a number of its founders had renounced their membership. For its part, the party reported numerous cases when heavy pressure was exerted upon its members in various districts in order to renounce their party affiliation. A number of European governments (Germany, Lithuania, Finland) and Members of the European Parliament ,as well as international human rights organisations, have raised the issue of registration of the BCD with the authorities of Belarus. I also intend to raise this issue with the Belarusian authorities in my future contacts. In the meantime, the co-chairman of the BCD, Mr Vital Rymasheuski**,** is running as a presidential candidate. Upon my proposal, the Chairman of the Committee has invited him to be present at our meeting on 18 November, as a representative of the extra-parliamentary opposition.

42. Regrettably, Article 193.1 of the Criminal Code, which provides for criminal liability for participation in the activities of a non-registered organisation, has not been repealed or modified, even if in the last two years it has been used only twice. However, following Resolution 1671 (2009), adopted on the basis of Mr Rigoni's report, the authorities had said that they were prepared to repeal Article 193.1 of the Criminal Code and include a similar provision in the Civil Code, transposing liability from the criminal to the civil field. It seems that at present this issue is no longer on the agenda.

43. As regards **freedom of the media**, during my visit in Minsk, I expressed my concerns over the new Internet law which obliges Internet cafés to register the identity of every internet user.

44. On 27 October 2010, a roundtable discussion on Internet developments in Belarus was organized in Minsk jointly by the Office of the OSCE Representative on the Media Freedom and the Belarusian Information Ministry. During the roundtable and her meetings with government officials, the OSCE Representative on the Media Freedom, Ms Dunja Mijatovic, raised her "concerns about some provisions of the new legislation, such as the requirement for mandatory identification of all users, and the vaguely defined limitations and bans on illegal information."[3] She also called upon the government "not to design or apply new legislation that would limit freedom of the media on the Internet", adding that the Belarusian side agreed to consult her Office and civil society when reviewing current and adopting future Internet legislation.

45. During my visit to Minsk, I also expressed my serious concerns regarding the practice of the Ministry of Information to issue 'warnings' against media which allegedly report wrong information. After two warnings, the media in question can be shut down or suspended at any time. The Minister of Information told me that these 'warnings' were considered as "a sort of free legal advice": the media in question has the choice either to correct the wrong information or to take the Ministry of Information before a court. I was told that the media in question always chooses to correct the allegedly wrong information. The Ministry of Information, therefore, has never used the possibility it has to suspend or to close the activities of such media after two warnings. I am particularly worried about this practice since it may lead to self-censorship. This was also said during the roundtable on Media freedom in the run-up to the presidential elections in Belarus, organised by the ALDE group during the October 2010 part-session of the Assembly.

46. Despite the inclusion of two main independent newspapers (*Narodnaya Volya* and *Nashe Niva*) in the state distribution system (which was already taken into account in Resolution 1671 (2009)), 13 opposition newspapers are still excluded. The inclusion of *Narodnaya Volya* and *Nashe Niva* in the state distribution system has not had a substantial impact on their sales. The authorities told me that this was due to the public's disinterest; independent media, for their part, told me that the authorities interfere with the distribution and availability of these publications. *Narodnaya Volya* and *Nashe Niva* have already received two warnings by the Ministry of Information: they could, therefore, be suspended or shut down at any time.

47. During her recent visit to Minsk the OSCE Representative on Media Feedom called on the Belarusian authorities to "lift all current administrative restrictions applied against independent media. Warnings and closures of newspapers have an enormous chilling effect and should not be used or provided for in the law." She also called on the authorities to "take urgent measures to support the much weakened independent media and enable the creation of independent self-regulatory mechanisms that are not part of the government bodies". Ms Mijatovic said she was "encouraged by the readiness of high-level officials to discuss the problems faced by independent media in Belarus in an open and constructive manner" but added that there was a "lack of progress in bringing the media situation more in line with the OSCE commitments". She also expressed her office's readiness to offer support and advice as the country liberalises and modernises its media policy.

48. A week after my return from Minsk, on 3 September 2010, Oleg Bebenin, one of the founders and leaders of the Charter 97 website, which is critical of the government, was found hanged in his country house in the outskirts of Minsk. Since questions have been raised about the circumstances surrounding Mr Bebenin's death, I issued a press statement as soon as I was informed about his death, inviting the authorities to conduct a full, transparent and exhaustive investigation into this tragic event. This matter was also discussed at the meeting of the Political Affairs Committee on 7 September 2010 in Belgrade. In a letter I addressed to Mr Guminsky on 17 September 2010, I therefore asked him to inform the Committee of the measures the Belarusian authorities have taken in the meantime to ensure a full, transparent and exhaustive investigation into the journalist's death in time for the October 2010 part-session of the Assembly (4-8 October).

[3] All references to the OSCE Representative on Media Freedom are taken from the official website of the OSCE : www.osce.org

49. Mr Guminsky replied to me on 30 September 2010, in time for the Committee's meeting during the October part-session of the Assembly, and I thank him for this. In his reply, which is appended to the present information note (see Appendix 2), he informed me that, according to the statement posted as early as 6 September 2010 on the official website of the Prosecutor-General's Office of Belarus, "the information available points to the fact that Mr. Oleg Bebenin committed suicide. At the same time, active verification efforts are being carried out in order to establish other circumstances of what happened, the motives of which are being established. All expert evaluations possible at this stage are being carried out, and persons in Mr. Bebenin's milieu are being actively questioned."

50. Mr Guminsky indicated that the Belarusian authorities have invited two criminal investigation experts from OSCE participating States to review the material on this case. The OSCE Secretariat accepted the invitation and appointed two experts in forensic medicine and criminal investigations who are currently examining and reviewing evidence related to the death of Ms Bebenin. I welcome the decision of the Belarusian authorities to involve international experts in the investigation related to the journalist's death and look forward to being further informed in due course of the outcome of the investigation.

51. I hope that, in the presence of two prominent journalists from Belarus, Mr Babok and Mr Aliaksandrau, our Committee will have the possibility of obtaining updated information on all the above-mentioned issues regarding freedom of the media in general, as well as in particular during the present electoral campaign.

2.4. Belarus between the East and the West

52. During my visit to Minsk, several interlocutors underlined the special geopolitical position of Belarus between the East and the West. Since its independence, the country's economic growth has been strongly reliant on cheap gas and energy from the Russian Federation. In recent years, Belarus has tried to reduce this dependence by tightening contacts with countries which could export energy or energy technologies, such as Iran, Venezuela, North Korea but also some EU countries.

53. From a political point of view, tensions with the Russian Federation had been growing for months prior to my visit and were at the heart of the political debate in the country during my visit. At the Political Affairs Committee meeting on 7 September, I briefly informed my colleagues of the main stages in this process: tensions had apparently begun with Belarus' refusal to recognise the independence of Abkhazia and South Ossetia and President Lukashenka's decision to give asylum to the ousted Kirghiz President. Tensions further grew with a tug-of-war with *Gasprom* on the cost of gas. They probably reached their peak with the broadcasting on the Russian NTV channel – which can normally be seen in Belarus – of a documentary called 'the Godfather', which severely criticised President Lukashenka.

54. As for the European Union, only a few weeks ago, on 25 October 2010, the Foreign Affairs Council meeting adopted its annual conclusions on EU relations with Belarus. The Council reiterated *"the importance of the EU's critical engagement policy towards Belarus and note[d] the continuation of high-level EU–Belarus political dialogue, the intensified technical cooperation and participation of Belarus in the Eastern Partnership, as ways of building mutual understanding and creating opportunities to address issues of concern*." It reaffirmed "*its readiness to deepen its relations with Belarus depending on developments in Belarus towards democracy, human rights and the rule of law as well as its readiness to assist the country in attaining these objectives*." Nevertheless, the Council stated that: "*it remains concerned over the democracy and human rights situation in Belarus and deeply regrets the lack of progress in the areas expressed in its previous conclusions, including the need for further reforms of the Electoral Code, the freedom of expression and of the media, the freedom of assembly and association. The Council looks forward to further rounds of Human Rights dialogue. Recalling the European Union's firm opposition to the death penalty, the Council deplores the execution of two Belarusian citizens carried out in March 2010, regrets the recent death sentences in Belarus and continues to urge Belarus to introduce a moratorium on the use of death penalty with a view to its abolition*."

55. In the light of this situation, the Council decided not to lift the restrictive measures in place against certain officials of Belarus and therefore decided to extend them until 31 October 2011. However, in order to encourage progress in the areas identified by the EU, the Council decided at the same time to extend the suspension of the application of the travel restrictions until the same date. At the end of that period, the Council will review the restrictive measures in the light of the situation in Belarus. The Council may decide to reapply or lift travel restrictions at any time, in the light of actions by the Belarusian authorities in the sphere of democracy and human rights.

56. With respect to the forthcoming presidential elections in Belarus, the EU Council called on the Belarusian authorities to ensure that the elections are conducted in line with international norms and standards for democratic elections and Belarus' commitments in the OSCE and the UN. The Council welcomed the decision by the Belarusian authorities to invite an OSCE/ODIHR-led international election observation mission and invited the Belarusian authorities to fully cooperate with the OSCE-ODIHR. It also urged the responsible Belarusian authorities to fully implement the recommendations repeatedly made by the OSCE/ODIHR. The EU will closely monitor the developments and assess the situation after the elections: *"Clear and visible progress in the conduct of the elections would give new impetus to the European Union's engagement policy towards Belarus*."

57. It is also worth noting that the launching of a Euro-NEST assembly by the European Parliament, initially foreseen for March 2010, was postponed because of the disagreement between the European Parliament and the authorities of Belarus on the formula of the latter's representation. In sum, the European Parliament insisted on the need for a mixed representation of Belarus, including not only MPs but also personalities from the extra-parliamentary opposition, a proposal that was rejected by Belarus.

58. The issue of EU-Belarus relations, including the Eastern Partnership Initiative, was discussed during the visit to Minsk, on 2 November 2010, of the Foreign Ministers of Germany and Poland who met with both President Lukashenka and representatives of the extra-parliamentary opposition and presidential candidates'. The two ministers, in delivering a "European message" prior to the forthcoming presidential elections insisted on the need for the latter to be free and fair.

3. Next steps

59. I will continue to follow closely the developments in Belarus in the run-up to the presidential elections of December 2010 and I intend to inform the Committee accordingly at its meeting during the January 2011 part-session.

60. I subsequently plan to present a comprehensive draft report on the situation in Belarus to the Committee at its meeting in March 2011 with a view to an Assembly debate at the Spring 2011 part-session.

APPENDIX 1 – PROGRAMME VISIT MRS HURSKAINEN – 22-25 August 2010

Sunday August 22

13.40 Arrival

Monday August 23

09.00 - 09.45 Meeting with the Deputy Chairman of the House of Representatives of the National Assembly of the Republic of Belarus, Mr Guminsky

09.50 - 10.30 Meeting with the Head of the parliamentary working group on the study of the death penalty issue, Mr Samoseiko

10.35 - 11.10 Meeting with the leadership and members of the House of Representatives Standing Committee on Human Rights, National Relations and Mass Media

11.20 - 12.10 Meeting with the Chairman of the Council of the Republic of the National Assembly of the Republic of Belarus, Mr Rubinov

12.15 - 13.00 Meeting with the Deputy Minister of Foreign Affairs of the Republic of Belarus, Mr Voronetski

15.00 - 15.40 Visit of the Infopoint on the Council of Europe and meetings with the staff

16.00 - 17.00 Meeting with Ambassador Haller, OSCE Head of Office, OSCE

Tuesday August 24

09.00 - 09.45 Meeting with Natalia Petkevic, Deputy Head of the Administration of the President of the Republic of Belarus

10.00 - 10.45 Meeting with the Minister of Justice of the Republic of Belarus, Mr Golovanov

11.00 - 11.45 Meeting with:

Vadim Borovik, International Youth Union “Edinenie”
Vladimir Borschev, Belarusian Union of Afghan War Veterans
Igor Buzovsky, Belarusian Republican Youth Union
Nadezhda Ermakova, Belarusian Women’s Union
Vasily Zadnepryany, Republican Party of Labour and Justice
Elena Klujkova, Belarusian Social Sports Party
Igor Kostevich, Belarusian Republican Scout Association
Leonid Matusevich, Belarusian Agrarian Party
Mickail Obrazov, Republican Coordinating Council of Political Parties and Public Associations
Grigory Sokolovsky, Belarusian Association of Journalists
Yuriy Solovjev, Belarusian Public Association “Ecology Initiative”
Nikolay Ulakhovich, Belarusian Patriotic Party
Nikolay Chegrinets, Union of Writers of Belarus
Olga Shmigelskaya, League of Youth Voluntary Service

12.00 - 12.45 Meeting with Minister of Information of Belarus, Mr Proleskovski

16.00 - 17.30 Meeting with opposition representatives:

Sergei Kalyakin, “Just World” party
Anatoly Lebedko, United Civic Party
Alexander Milinkevich, movement “For Freedom”
Vital Rymasheuski, Belarusian Christian Democracy

Stanislav Shushkevic, Belarusian Social Democratic Party
Aleksei Yanukevich, Belarusian National Front

17.30 - 18.30 Meeting with NGOs/independent media:

Andrei Aliaksandrau, Belarusian Association of Journalists, Vice Chairman
Andrei Bastunets, Belarusian Association of Journalists, Vice Chairman
Viacheslav Khodosovskiy, Belorusy I Rynok newspaper, Editor-in-Chief
Andrei Dynko, Nash Niva newspaper, Editor-in-Chief
Ales Lipay, BelaPAN Information Company, General Director
Michał Janczuk, Belsat TV Channel, Representative in Belarus

Wednesday August 25

09.00 - 10.00 Meeting with the Deputy Prosecutors General of the Republic of Belarus Mr Viktor Konon and Mr Aleksey Stuk

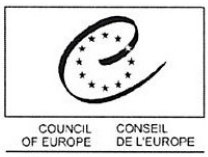
11.00 - 12.45 Visit to the State museum of national historic architecture in Strochitsy

14.35 Departure

APPENDIX 2 – EXCHANGE OF LETTERS Mrs HURSKAINEN / MR GUMINSKY

Parliamentary Assembly
Assemblée parlementaire

http://assembly.coe.int



Political Affairs Committee
Commission des questions politiques

Ad hoc Sub-Committee on Belarus

The Chairperson

Helsinki, 17 September 2010

Dear Mr Guminsky,

First, I would like to thank you for facilitating my visit to Minsk in August 2010 which enabled me to update myself on the overall situation in your country. I also thank you for your letter dated 14 September, which I received today, informing me about the date of the next Presidential election in your country.

As you are aware, one of the issues I raised during my visit was freedom and independence of the media, which is a core issue for the Council of Europe.

I was therefore concerned to learn about the death of Oleg Bebenin, a co-founder of the Charter 97 website in Belarus, on 4 September 2010. Since questions have been raised about the circumstances surrounding Mr Bebenin's death, I issued a press statement as soon as I was informed about his death, inviting the authorities to conduct a full, transparent and exhaustive investigation into this tragic event. I should add that this matter was also discussed at the meeting of the Political Affairs Committee on 7 September 2010 in Belgrade.

On my own behalf and on behalf of the committee, I would ask you to inform us of the measures the Belarusian authorities have taken in the meantime to ensure a full, transparent and exhaustive investigation into the journalist's death in time for the October 2010 part-session of the Assembly (4-8 October).

I also learnt with concern, a few days ago, that the death sentence has once more been handed down by a Belarusian court. I take this opportunity to reiterate our Assembly's repeated request that your authorities decree a moratorium on capital executions. I trust that the technical round table organised by the Council of Europe in Minsk next week to discuss steps towards the abolition of the death penalty in Belarus will significantly facilitate the process of rapidly overcoming your authorities' perceived obstacles to the introduction of a moratorium with a view to the subsequent complete abolition of the death penalty.

I look forward to receiving your reply,

Yours sincerely,

Sinikka Hurskainen
Rapporteur on the situation in Belarus

To: Mr Victor Guminsky
Deputy Chairman
House of Representatives
of the National Assembly of the Republic of Belarus
MINSK - BELARUS
c/o: Mr Andrei BUSHILO, Representative of Belarus to the Council of Europe
E.mail: belmission_coe@mai.by

Unofficial translation

National Assembly of the Republic of Belarus
House of Representatives

Minsk, September 30, 2010

Dear Mrs Hurskainen!

Thank you for your letter of September 17. I understand your interest in the issues raised therein, and I'm ready to provide you with some comments.

Concerning the death of journalist Oleg Bebenin I would like to inform you of the following. The Belarusian side is conducting the most thorough and transparent investigation into Mr. Bebenin's death. As was noted in the statement posted as early as 6 September 2010 on the official website of the Prosecutor-General's Office of Belarus, " "the information available points to the fact that Mr. Oleg Bebenin committed suicide. At the same time, active verification efforts are being carried out in order to establish other circumstances of what happened, the motives of which are being established". All expert evaluations possible at this stage are being carried out, and persons in Mr. Bebenin's milieu are being actively questioned.

However it should be understood that carrying out the procedures needed for an exhaustive investigation in any country – and here Belarus is no exception – takes a certain amount of time.

The Belarusian side has approached the conduct of the investigation in the most responsible and scrupulous way. In confirmation of its openness Belarus has taken the unprecedented step by inviting two criminal investigation specialists from OSCE participating States to review the material on this case.

We hope that as a result of the visit the findings of the invited experts will help to eliminate biased assessments and preconceived interpretations of the circumstances of Mr. Bebenin's death.

Regarding the death sentences delivered by the Belarusian courts I would like to inform you of the following. As you are well aware, in accordance with the Criminal Code of the Republic of Belarus, the death penalty is only possible for a single type of the most serious crimes - murder, and only under aggravated circumstances, and cannot be used by no means in respect to women, minors and men over 65.

Mrs Sinikka Hurskainen
Rapporteur on Belarus
of the Parliamentary Assembly
Political Affairs Committee,
Member of the Parliament of Finland

Strasbourg

In practice, application of the death penalty by courts in Belarus is virtually reduced to single exceptional cases, whereas the overall gravity of the murder circumstances is assessed (as a rule repeated murders, committed with particular cruelty and cynicism, which caused grave consequences). Also taken into account is the degradation of the criminals for whom serial killings for profit or other vile motives present the natural state of existence in the society.

In this regard, court sentences to capital punishment represent not only a relevant legal assessment of the utmost gravity and dangerous nature of specific crimes, but also an objective necessity to prevent the emergence of such anti-social phenomena.

Thereby, before the abolition of the death penalty in accordance with Belarusian legislation, the courts have the right to impose the death penalty, and justice bodies - to carry them out. In the present context the relevant institutions are acting within their competence and are not guided by political considerations.

However, the Belarusian authorities, and in particular the Parliament of Belarus, continue to pay due attention to this issue in order to gradually approach to the examination of the question on the introduction of a moratorium on the death penalty. The next step in this direction was the round table "On the way towards abolishing the death penalty in Belarus" organized in Minsk on September 23, 2010 by the Directorate General of Human Rights and Legal Affairs of the Council of Europe in cooperation with the parliamentary working group on the study of the death penalty as a penal instrument applied in Belarus.

I would ask you to inform the members of the PACE's Polltical Affairs Committee of the above-stated, and hope for continuation of the productive cooperation.

Deputy Chairman
Of the House of Representatives
National Assembly of the Republic of Belarus
Head of the Delegation of the National Assembly
of the Republic of Belarus
for contacts with the PACE Victor Guminski