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Belarus in the aftermath of the Presidential election of 19 March 2006

Report
Political Affairs Committee
Rapporteur: Mr Andres Herkel, Estonia, Group of the European People's Party

Summary

The Assembly strongly condemns the undemocratic conduct of the Presidential election of 19 March 2006 in Belarus, which showed the blatant disregard by the Belarusian authorities of Council of Europe values and standards.

The electoral results did not reflect the real will of the Belarusian people. As a consequence, the popular protest which ensued was a legitimate and courageous gesture which deserves solidarity. The Assembly encourages Belarusian democratic forces to remain united and to continue in their efforts to raise support for democratic values among the Belarusian population at large.

The primary objective of the Assembly as regards Belarus should be ending the isolation of the Belarusian people by promoting contacts with democratic political forces, civil society and ordinary citizens. The Belarusian authorities should refrain from any further intimidation, harassment and persecution against peaceful protesters.

A. Draft resolution

1. The Assembly strongly condemns the undemocratic conduct of the Presidential election of 19 March 2006 in Belarus as well as the wave of intimidation, violence and persecution that has hit Belarusian democratic forces before, during and after the vote.

2. The Assembly recalls that, in its Resolution 1482 (2006) on the Situation in Belarus on the eve of the Presidential election, the Assembly affirmed that, in light of the situation in Belarus in the field of democracy, rule of law and human rights, there could not be any change in its policy towards the Belarusian regime and that the lifting of the suspension of Special Guest Status for the Belarusian Parliament was not on the agenda.

3. In that Resolution, the Assembly also clarified that *'should the Belarusian authorities give clear and conclusive signs of their commitment to move closer to Council of Europe standards in the fields of democracy, rule of law and human rights, the Assembly would be prepared to reopen appropriate communication channels. To this end, particular attention will be paid to whether all candidates have equal freedom to campaign, the overall fairness of the electoral campaign and the conduct of election procedures'*.

4. The Assembly deeply regrets that, despite its readiness to open communication channels, the March vote was used by the current Belarusian leadership as a further opportunity to show its blatant disregard for the standards and values promoted by the Council of Europe. Candidates did not have equal freedom to campaign and the conduct of the vote was fraudulent and totally lacked transparency. The limited role of independent observers – including international ones –, the lack of opposition representatives in the electoral commissions at all levels, the manipulative influence of the administration and the abuse of the practice of early voting, in particular, give rise to the most serious concerns, which should also be addressed through the revision of the relevant Belarusian legislation.

5. In these circumstances, and having taken note of the preliminary findings of the OSCE/ODIHR International Observation Mission, the Assembly is bound to conclude that the electoral results did not reflect the real will of the Belarusian people. As a consequence, the popular protest which ensued was a legitimate and courageous gesture which deserves the Assembly's solidarity and represents an important sign of political awareness. The Assembly further encourages Belarusian democratic forces to remain united and to continue in their efforts to raise support for democratic values among the Belarusian population at large. It reiterates that the primary objective of its policy should be ending the isolation of the Belarusian people by promoting contacts with democratic political forces, civil society and ordinary citizens.

6. In this respect, the Assembly restates the unique role that could be played by a Council of Europe's Information Office/Centre based in Belarus to support the democratisation process and demands that the establishment of such a structure becomes a priority for the Council of Europe.

7. Finally, the Assembly welcomes the decision of the European Union to enforce a package of selected restrictive measures towards the current Belarusian leadership, which are fully in line with PACE Resolution 1482 (2006), as well as to intensify its support for the Belarusian civil society and ordinary citizens, including by facilitating their right to travel and study in EU member states. Likewise, the Assembly welcomes the proposal of the European Parliament to set up an international commission to investigate the disappearances of Yuri Zakharenko, Victor Gonchar, Anatoly Krasovsky and Dmitry Zavadsky.

8. In light of the above, the Assembly reiterates the still relevant recommendations laid down in its Resolution 1482 (2006) and Recommendation 1734 (2006) on the Situation in Belarus on the eve of the Presidential election.

9. In addition, the Assembly calls on the Belarusian authorities to:

9.1. immediately release all those detained in connection with the March Presidential elections;

9.2. disclose information on all those who have been arrested and those who have received medical treatment after the dispersal of the peaceful demonstrations;

9.3. conduct a transparent investigation into the abusive use of force by police and security forces against peaceful demonstrators;

9.4. refrain from further intimidation, harassment and persecution against peaceful protesters and opposition supporters, including those taking the form of dismissal from employment, non-renewal of employment contracts or expulsion from universities;

9.5. open a genuine dialogue with relevant international institutions, including the European Commission for Democracy through Law (Venice Commission), with a view to amending the Belarussian Electoral Code to make it consistent with Council of Europe standards, well in advance of the next elections.

10. The Assembly calls on its member states to:

10.1. facilitate access to university institutions for Belarusian citizens;

10.2. set up appropriate systems to allocate scholarships and traineeships to Belarusian students, including the Council of Europe and other international organisations of which they are members;

10.3. introduce flexible visa regimes in favour of those Belarusians representing civil society and students.

11. The Assembly also calls on its member states which are not EU members to align themselves with the package of sanctions recently decided by the European Union.

12. Being convinced that significant progress in the respect of democratic values, the rule of law and human rights in Belarus could not be achieved without the active support of the Russian Federation, the Assembly asks its Political Affairs Committee to establish a framework for dialogue and structured co-operation with the representatives of the Russian Federation to the Assembly, in order to find ways to achieve such support.

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

13.1 enable Belarusian students and young graduates to conduct internships and study periods at the Council of Europe;

13.2 encourage the further involvement of Belarusian civil society and NGOs in the activities of the Council of Europe.

14. The Assembly invites the Venice Commission to make proposals on how to amend the Belarussian Electoral Code, with particular reference to the issues of the role of independent observers, the composition of the electoral commissions and the practice of early voting, if necessary by liaising with the appropriate Belarussian authorities.

15. Finally, the Assembly invites the Youth Centres of the Council of Europe to encourage the further involvement in their activities of young people and youth organisations from Belarus.

B. Draft recommendation

Referring to its Resolution ... (2006) on Belarus in the aftermath of the Presidential election of 19 March 2006, the Assembly invites the Committee of Ministers to hold a debate with the Assembly on the differences in the evaluation of the election in Belarus between different groups of observers.

C. Explanatory memorandum

1. Introduction

1. Can there be a free democratic vote in a country where the independent media is virtually non-existent, state-media is subjected to political control, democratic forces are outlawed, independent trade unions have been reduced to a handful, political opponents are put in jail, and ordinary people and students are all too well aware that any expression of political dissent may lead to being dismissed from their jobs or expelled from university? These were the circumstances in which the presidential election of 19 March in Belarus took place.

2. The Assembly had taken stock of the situation in Belarus just a few weeks ahead of the presidential vote: it had stated that in light of the situation in Belarus in the field of democracy, rule of law and human rights, there could not be any change in its policy towards the Belarusian regime and that the lifting of the suspension of Special Guest Status for the Belarusian Parliament was not on the agenda. In contrast, the Assembly, and the Council of Europe as a whole, should intensify their support to democratisation in Belarus, through a wide range of activities aimed at developing contacts with democratic forces, civil society and Belarusian ordinary citizens.

3. However, Resolution 1482 (2006) on Situation in Belarus on the eve of the presidential election also clarified that *'should the Belarusian authorities give clear and conclusive signs of their commitment to move closer to Council of Europe standards in the fields of democracy, rule of law and human rights, the Assembly would be prepared to reopen appropriate communication channels. To this end, particular attention will be paid to whether all candidates have equal freedom to campaign, the overall fairness of the electoral campaign and the conduct of election procedures'*.

4. It is a matter of bitter disappointment that the March vote was yet another opportunity for the current Belarusian leadership to show its blatant disregard for the standards and values promoted by the Council of Europe. On the other hand, the popular support for democratic candidates shown by the collection of signatures, the mobilisation of supporters and the protest that followed the vote testify to an increased political awareness of the Belarusian citizens and of their willingness to move Belarus into the fold of the European family of democracies. Similarly, the decision of a wide range of parties to unite in support of a single presidential candidate is a sign of increased maturity of the Belarusian political forces, and represents an invaluable opportunity to advance the visibility of a democratic alternative.

5. In my capacity as a national parliamentarian I had the opportunity of observing the election in Belarus in the framework of the International Election Observation Mission (IEOM). I totally agree with the Preliminary Conclusions issued by OSCE/ODIHR and I shall not repeat its findings in detail in this report. I shall, however, highlight some aspects which I consider particularly relevant, to also guide the actions of the international community, and the Council of Europe in particular, for the months to come.

2. The election

6. The results of the election, as announced by the Central Election Commission (CEC), were 82.3 percent for incumbent President Lukashenko, 6.0 percent for Alexander Milinkevich, 3.5 percent for Sergei Gaidukevich and 2.3 percent for Alexander Kazulin. I have no hesitation in saying that these results do not reflect the free will of the Belarusian electorate: in addition to the general situation in the country, which could not be conducive to democratic elections due to the lack of freedom of speech, association and information, the electoral campaign was not fair; the vote itself was not transparent and fell short of international standards. This was due to a combination of a deliberate political will of the current leadership and shortcomings in the electoral legislation which left scope for abuse and manipulation.

7. The pre-electoral period was characterised by a climate of palpable tension, fraught with incidents and episodes of harassment and **intimidation against the opposition**. The most outstanding examples were:

- the beating and arrest of presidential candidate Alexander Kazulin, on 2 March;

- the announcement by the security services (KGB) that protesters would be considered as terrorists and would therefore be liable to long-term detention;
- the arrest of hundreds of supporters of youth movements and the harassment of campaign workers; and
- the arrest and detention of Vinchuk Viachorka, leader of the Belarusian Popular Front Party (BNF) and aide to presidential candidate Alexander Milinkevich.

8. In addition, the scope for opposition candidates to **campaign fairly** was limited by:

- a restrictive and arbitrary interpretation of the applicable legislation;
- the mounting of the campaign 'Za Belarus' – which promoted the achievements of the current regime –, clearly in support of the incumbent President and not subjected to the restrictions of the Electoral Code;
- the 'equal time' afforded to each candidate to present their political platform on state television was laughable if compared to the hours of continuous pro-regime propaganda.

9. Also the conduct of the vote gives way to well-founded criticism: 31% of the electorate voted – and was forced to do so by the administration, state employers and state universities– through **early voting**. This procedure enables people to vote during the five days preceding election-day, without having to show any justification for choosing this option. No official protocols are required to document the record of voting on each day, and there are no provisions for the closing and overnight storage of the ballot box. Besides, the length of the early voting period made it challenging for independent monitors to observe. In my opinion, early voting should be exceptional and subjected to precise conditions established in the law.

10. As a result of this way of voting, the **role of independent monitors** was severely limited, without considering that some provisions of the Electoral Code are such as to deprive the observation process of a meaningful function: for instance, observers cannot be present next to ballot-issuing desks, polling booths or ballot boxes nor can their presence be guaranteed during the aggregation of results. It was also disconcerting that 19 members of the OSCE PA delegation as well as 8 OSCE/ODIHR short-term observers were not granted visas or entry into Belarus by the Ministry of Foreign Affairs. Amongst these were a number of PACE members.

11. Another problem that seriously undermined the transparency of the process was the lack of independence of the **electoral commissions** at all levels, which included many State officials and virtually no representative of the opposition.

12. Similarly, the **counting of the votes** was problematic and lacked transparency. OSCE/ODIHR observers assessed this process negatively in 47% of reports. The results were sometimes altered or completed in pencil; the majority of observers were prevented from standing close enough to see the marks on ballot papers; in most cases the number of votes for each candidate was not announced before completing the protocols and it was not clear how many votes had been received in the early voting and mobile boxes.

3. The aftermath of the elections

13. In the immediate aftermath of the elections, thousands of demonstrators lead by opposition leaders Alexander Milinkevich and Alexander Kazulin gathered in October Square for several nights in a row. On 25 March a peaceful demonstration was suppressed with violence. According to some estimates, more than 1 thousand people were arrested, including prominent foreigners and journalists. Also amongst them, was Alexander Kazulin, who is now waiting for trial. Some people were beaten and ill-treated. The whereabouts of many of them are still unknown.

14. Belarusian courts handed down prison sentences of up to 15 days for the protesters, on the grounds that they had taken part in unsanctioned rallies. The real persecution, however, is starting now, with people being sacked from their jobs in state enterprises or in the administration, and students being expelled from universities.

15. Unlike the Russian Federation and the CIS, European states and the European Union have condemned the conduct of the elections in Belarus and the violent suppression of legitimate demonstrations. The European Union, in particular, has decided to extend the visa-ban list for

Belarusians holding a prominent role in the current regime and to freeze the assets of Lukashenko abroad, while facilitating the visa-regime for ordinary Belarusian citizens.

16. For its part, the Belarusian democratic opposition supporting the Single Candidate Alexander Milinkevich has decided to remain united and call for a repeat of the election.

4. Conclusions and recommendations: what next?

17. Only a few days ago, Alexander Lukashenko swore in as President of Belarus for a third term. His mandate, however, has no democratic legitimacy.

18. The Council of Europe and its member states should continue to promote the values of democracy, rule of law and human rights. In this sense, support for the democratisation process in Belarus should be pursued as a priority for the Assembly and the Council of Europe as a whole.

19. It was a great disappointment that the **Russian Federation** recognised the legitimacy of the elections. Similarly the observers of the CIS Parliamentary Assembly made an assessment of the elections which did not reflect the reality of the situation. The Russian Federation is the key actor which could break the deadlock faced by the international community, including our Organisation, in dealing with Belarus. It should be one of the priorities of the forthcoming Russian chairmanship of the Council of Europe to bring this country closer to the family of European democracies and Council of Europe standards, consistent with Assembly Resolution 1455 (2005) on Honouring of obligations and commitments by the Russian Federation. The Russian Federation should be ready to understand that the Council of Europe does not intend to interfere with Belarus' internal affairs but promote values of respect of democracy and fundamental freedoms which should be universal and which are shared by the Russian Federation itself.

20. In January the Assembly adopted Resolution 1482 (2006) and Recommendation 1734 (2006) on Situation in Belarus on the eve of the presidential elections. Many of the recommendations laid down herewith refer to the post-election situation and I shall not repeat them in my proposed draft text. I shall, instead add some proposals relating to:

- the support of the restrictive measures adopted by the European Union;
- the facilitation of contacts with ordinary Belarusian people and students;
- the need to revise the Belarusian Electoral code, before new elections are held.

21. I am aware that the Belarusian opposition, the European Parliament and the US Congress have called for a repeat of the election. I agree in principle, but without a radical change of circumstances in Belarus and the revision of the Belarusian Electoral Code, new elections at this stage are bound to give the same biased results.

Reporting Committee: Political Affairs Committee.

Reference to Committee: Ref. No 3208 on 10 April 2006

Draft Resolution and draft Recommendation adopted with 1 against and 1 abstention by the Committee on 11 April 2006

Members of the Committee: Mr Abdülkadir **Ateş** (Chairman), Mr Konstantin **Kosachev** (Vice-Chairman), Mr Zsolt Németh (Vice-Chairman), Mr Giorgi Bokeria (Vice-Chairman), Ms Birgir Ármannsson, Mr Giuseppe Arzilli, Mr Claudio Azzolini, Mr Miroslav **Beneš**, Mr Radu-Mircea Berceanu, Mr Gerardo Bianco, Mr Alexandër Biberaj, Mr Luc Van den Brande, Ms Beáta Brestenká, Ms Anna **Čurdová**, Mr Noel Davern, Mr Dumitru **Diacov**, Mr Michel Dreyfus-Schmidt, Mr Adri Duivesteijn, Ms Josette **Durrieu**, Mr Mikko Elo, Mr Joan Albert **Farré Santuré**, Mr Per-Kristian **Foss**, Mr Jean-Charles Gardetto, Mr Charles Goerens, Mr Daniel Goulet, Mr Andreas **Gross**, Mr Jean-Pol Henry, Mr Joachim **Hörster**, Mr Renzo Innocenti, Mr Ivan **Ivanovski**, Mr Tadeusz **Iwiński**, Mr Elmir Jahić, Mr Ljubiša Jovašević, Mr Ivan Kalezić, Mr Oleksandr Karpov, Mr Oskars **Kastēns**, Mr Yuriy Kostenko, Ms Darja Lavtižar-Bebler, Mr Göran **Lindblad**, Mr Younal Loutfi, Mr Mikhail Margelov, Mr Tomasz Markowski, Mr Dick Marty, Mr Frano Matušić, Mr Murat **Mercan**, Mr Jean-Claude Mignon (alternate: Mr Denis **Badré**), Mr Marko **Mihkelson**, Ms Nadezhda Mikhailova (alternate: **Mr Ivan Ivanov**), Mr Mirzazade, Mr João Bosco **Mota Amaral**, Ms Natalia Narochnitskaya (alternate: Mr Ilyas **Umakhanov**), Ms Carina **Ohlsson**, Mr Boris **Oliylyk**, Mr Theodoros **Pangalos**, Ms Elsa Papadimitriou, Mr Christos Pourgourides, Mr Gordon Prentice (alternate: Mr John **Austin**), Mr Gabino Puche, Mr Lluís Maria **de Puig**, Mr Jeffrey Pullicino Orlando, Lord Russell-Johnston (alternate: Baroness **Knight**), Mr Peter Schieder, Mr Ingo Schmitt (alternate: Mr Johannes **Pflug**), Ms Juana Serna (alternate: Ms Maria **Aburto**), Mr Adrian **Severin**, Ms Hanne **Severinsen**, Mr Samad **Seyidov**, Mr Leonid Slutsky (alternate: Mr Victor **Kolesnikov**), Mr Michael Spindelegger, Mr Rainder **Steenblock**, Mr Zoltán Szabó, Baroness Taylor of Bolton (alternate: Lord **Tomlinson**), Mr Mehmet **Tekelioğlu**, Mr Tigran **Torosyan**, Mr José **Vera Jardim**, Ms Biruté **Vesaitė**, Mr Varujan Vosganian, Mr David Wilshire (alternate: Mr Denis **MacShane**), Mr Bart van Winsen, Mr Wolfgang **Wodarg**, Ms Renate Wohlwend (alternate: Ms Doris **Frommelt**), Mr Marco Zacchera, Mr Krzysztof **Zaremba**.

Ex-officio: MM. Mátyás Eörsi, Mats Einarsson,

N.B. : The names of the members who took part in the meeting are printed in **bold**

Head of the Secretariat : Mr Perin

Secretaries to the Committee: Mrs Nachilo, Mr Chevtchenko, Mrs Sirtori-Milner