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Rule of law in Russia

Greens/EFA motion for a resolution

The European Parliament,

- having regard to its previous resolutions on the Russian Federation with regard, in particular, to the ones of 17 September 2009, 12 November 2009, 17 June 2010 and 21 October 2010,
- having regard to the Partnership and Cooperation Agreement (PCA) between the European Communities and their Member States, of the one part, and the Russian Federation, of the other part, and the negotiations initiated in 2008 on a new EU-Russia agreement,
- having regard to the EU-Russia Human Rights Consultations,
- having regard to the Resolution 1738 (2010) of the Parliamentary Assembly of the Council of Europe and to the report of the Committee on Legal Affairs and Human Rights on Legal remedies for human rights violations in the North Caucasus region of 22 June 2010 and of 4 June 2010,
- having regard to International Covenant on Civil and Political Rights, in particular Article 14 stating that everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law, to which Russia is a party since 1973,
- having regard to Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Article 6 stating similarly that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law, to which Russia is a party since 1998,
- having regard to the Constitution of Russia, in particular Article 118 that states that Justice in the Russian Federation shall be administered by courts alone, and Article 120 that provides that judges are independent and are subordinate only to the Russian Constitution and the federal law,
- having regard to the press releases issued by EP President Buzek on the sixth anniversary of the tragedy of Beslan of 3 October 2010, on Anna Politkovskaya and on the guilty verdict of Mikhail Khodorkovsky and Platon Lebedev: fourth anniversary of the assassination of 6 October 2010 and on the suicide bomb

attack in Vladikavkaz, North Caucasus of 10 October 2010,

– having regard to the statement of the EU VP/HR of the Khodorkovsky/Lebedev case of 30 December 2010,

– having regard to Rule 110(2) of its Rules of Procedure,

A. whereas several trials and judicial proceedings over the last years called into question the independence and the impartiality of the judicial institutions of the Russian Federation; whereas political interference, procedural shortcomings, corruption, closeness, unfairness and threats towards the witnesses remain a severe impediment for delivery of justice in Russia,

B. whereas investigations into human rights abuses are often ineffective, flawed and result in impunity; whereas lack of transparency of official acts enable widespread abuses,

C. whereas the deaths of Anna Politkovskaya, Natalia Estemirova, Anastasia Barburowa, Stanislav Markelov and Sergei Magnitsky remain unaccounted for and judicial harassment of Mikhael Khodorkovsky, Platon Lebedev, Oleg Orlov, Igor Vladimirovich Izmistiev, Mikhail and Larisa Cheprunov, Aleksandr Kalistratov, Alexey Sokolov and Alexey Nikiforov has been in many occasion reported,

D. whereas Mikhail Khordorkovsky and his business associate Platon Lebedev were given a guilty verdict for embezzlement by Moscow's Khamovnichesky district court on 30 December 2010; whereas the prosecution, the trial and the verdict were internationally portrayed as politically motivated; whereas political interference and pressuring was criticised strongly by the international community,

E. whereas on 28 December 2010 Igor Vladimirovic Izmistiev was sentenced to life imprisonment by the Moscow city court; whereas Mr Izmistiev is the first senator to receive a life sentence; whereas concerns over procedural irregularities and political interference were raised at international level,

F. whereas the conduct of the cases against Mikhail Khodorkovsky and Platon Lebedev, as well as failure to commence the investigations into the deaths of Sergey Magnitsky, Anna Politkovskaya, Natalya Estemirova and Stanislav Markelov, taint the perception of Russia abroad,

G. whereas the European Parliament resolution Human Rights in the World 2009 and EU policy on the matter of 21 October 2010 called the EU Council to consider an entry ban and asset freeze for those Russian officials involved in the death of Magnitsky should no investigation be opened; whereas in the same resolution the European Parliament considered that the case of Magnitsky is an outstanding example of the serious shortcomings of the judicial system in Russia,

H. whereas the widespread use of Russian law on Extremist Activities has been used to target human rights activists, political opponents and religious groups; whereas the law is vague in its terminology and content and is used arbitrarily; whereas Articles 280, 281 and 282 of the Russian Criminal Code are of most concern in this regard; whereas trials concerning extremism and the aforementioned Articles contain shortcomings and manipulations of judicial procedure; whereas in 2010, the Federal List of Extremist Materials was updated 27 times, totalling now in 748 entries and the List of Extremist Organizations was updated in 2010, totalling now in 18 organisations,

I. whereas the European Court of Human Rights has condemned the Russian Federation for serious human rights violations in the North Caucasus in over 150 judgments; whereas the implementation of the judgments remains drastically substandard; whereas responsibility for the failure to implement the judgments rests in considerable part with the judicial institutions and authorities,

J. whereas judicial and law enforcement institutions have failed to halt the pervasive impunity for human rights violations in North Caucasus; whereas no legal remedy has been guaranteed for the serious human rights violations, attacks, killings, forced disappearances and cases of ill-treatment and arbitrary detention in some areas of the North Caucasus; whereas the normalisation in the North Caucasus is impossible without ensuring accountability for human rights violations and the reinstatement of the rule of law,

K. whereas independent journalists, civil society activists, lawyers and human rights defenders in the region have often been the victims of threats and acts of violence, harassment and intimidation and their activities limited or restricted by members of law enforcement bodies,

L. whereas on many occasions Russian President Medvedev has pledged to reinforce the rule of law stating that his task is to create absolutely independent modern courts that comply with the country's economic development level,

M. whereas the EU-Russia Partnership for Modernisation, concluded at the EU-Russia Summit of 7 December 2010, contains in its work plan concrete proposals and projects for cooperation and assistance in the field of human rights and rule of law,

N. whereas the EU can be able to develop a genuine partnership with Russia in areas of trade, security and justice only if the respect for the rule of law as well as independence and effectiveness of the judicial institutions is ensured,

O. whereas the EU Member States have failed to build a coherent human rights policy towards Russia; whereas inconsistencies and lack of coordination in the human rights policy of the EU Member States have resulted in weak EU position concerning protection and promotion of human rights in Russia,

1. Takes the view that the lack of independence of the judicial institutions is at the core of the impunity in Russia and expresses concern over reports of politically motivated trials, unfair procedures and failures to investigate serious crimes such as killings, harassments and other violence;

2. Urges the Russian judicial and law enforcement authorities to effectively, impartially and independently carry out their duties in order to bring perpetrators to justice; calls upon the Russian authorities to ensure that due process is respected in the prosecution of all defendants in the country's judicial system; urges Russia to undertake a thorough review of domestic legislation and legal practice rules;

3. Urges the Russian judicial authorities to bring to justice those responsible for harassment and intimidation of journalists, lawyers and human rights defenders and to hold authorities accountable for any failure to protect and guarantee their physical integrity in accordance with relevant international and regional human rights instruments;

4. Denounces the guilty verdict of Mikhail Khodorkovsky and his business associate Platon Lebedev of embezzlement by Moscow's Khamovnichesky district court on 30 December as politically motivated; strongly condemns political interference with the trial; deplors the multitude of flaws in the judicial proceedings and condemns the reported pressuring and threats towards witnesses by the Prosecution;

5. Considers that by flouting the rule of law, the second guilty verdicts of Mr Khodorkovsky and Mr Lebedev since 2005 serve a critical blow to the respect of rule of law and make meaningless the statements and the modernisation agenda of the President of the Russia, Mr Dimitry Medvedev;

6. Takes note of President Medvedev's decision to ask legal experts in the framework of the Presidential Human Rights Council to look into the case of Khodorkovsky/Lebedev and Sergey Magnitsky;

7. Expresses concern over reported procedural irregularities and political interference that were raised at the case of Igor Vladimirovic Izmestiev and urges the Ombudsman of the Russian Federation to reopen the files in order to start the review of the prosecution, the trial and the sentencing;
8. Urges Ombudsman of Russian Federation to commission a review of the charges and ongoing proceedings at the circuit court No 363 of the Khamovniki district of Moscow, against the 2009 Laureate of the European Parliament Sakharov Prize for Freedom of Thought, Mr Oleg Orlov, Chairman of Human Rights Center Memorial, who stands accused of slander against the Chechen president Ramzan Kadyrov after stating that he holds Mr Kadyrov responsible for kidnapping and murder of a leading member of Memorial in Chechnya, Ms Natalia Estemirova on 15 July 2009 in Grozny; recalls that to no effective investigation of the aforementioned murder has been carried out; whereas Mr Oleg Orlov is facing up to three years in jail;
9. Reiterates its call on the Council, in the absence of positive moves from the Russian authorities to cooperate and investigate the case of Sergey Magnitsky, to insist that the Russian authorities bring those responsible to justice and to consider imposing an EU entry ban for Russian officials involved in this case and encourages the EU law enforcement agencies to cooperate in freezing bank accounts and other assets of these Russian officials in all EU Member States;
10. Condemns judicial harassment of legitimate demonstrators of the so called Strategy 31 - rallies held in support of Article 31 of the Russian Constitution guaranteeing freedom of assembly in Russia; denounces all sentences imposed on demonstrators with regard, in particular, to the one of 15 days given to Former Deputy Prime Minister, Mr Borys Nemtsov, due to his attendance of the December Strategy 31 demonstration in Moscow;
11. Urges the Council to fully implement the aforementioned European Parliament resolution Human Rights in the World 2009 and EU policy on the matter, of 21 October 2010; invites the Council to promptly present to Parliament a plan of action with regards the implementation of Paragraph 120 of this report and regularly inform the Parliament of the progress of the implementation;
12. Condemns the widespread use and abuse by the judicial institutions of the vague Russian Law on Countering Extremist Activity, Article 280 'Public Appeals for a Forcible Change of the Constitutional System of the Russian Federation', Article 281 'Sabotage' and 282 'Incitement of National, Racial, or Religious Enmity' of the Russian Criminal Code in particular;
13. Condemns the 12 ongoing criminal cases against Jehova's Witnesses; denounces in particular the case against Mr Aleksandr Kalistratov, Chairman of the Gorno-Altaysk Local Religious Organization, for distributing religious literature, under Article 282(1) of the Russian Criminal Code, which includes incitement to hatred or enmity and denigration of human dignity; furthermore denounces similar charges against Mikhail and Larisa Cheprunov;
14. Urges the Ombudsman of Ingushetia to effectively investigate the disappearances of Zalina Idrisovna Elkhoroeva and Mr Israil Torshkhoev in recent months as well as torture in illegal detention of Adam Khamkhoiev, in Ingushetia;
15. Calls Russia to bring to justice those responsible for the enforced disappearance or extrajudicial killing of Ali Dzhaniyev, Yusup Dobriev, Yunus Dobriev and Magomed Adzhiev who have remained unknown since 28 December 2009 in St Petersburg, and Zelimkhan Akhmetovich Chibiev, Magomed Khaybulaevich Israpilov, Dzhamal Ziyaniyevich Magomedov, Akil Dzhavatkhonovich Abdullaev and Dovar Nazimovich Asadov, who have remained unknown since the night of 24–25 September; similarly calls Russia to bring to justice those responsible for the public threats expressed against Ingush human rights defender Magomed Mutsolgov and the severe assault against Dagestani human rights defender

Sapiyat Magomedova;

16. Calls Russia to bring to justice those responsible for the illegal detention and torture of Islam Umarpashaev, 24 years old Chechen who was illegally detained from 11 December 2009 to 2 April 2010;

17. Stresses that full investigation and inquiry must be carried out to ensure accountability for the Beslan siege 1-3.9.2004; insists on the need to restore the rights of victims and the families of the victims, and award adequate compensation for them;

18. Calls on the Russian authorities and judicial institutions to fully implement all the judgments of the European Court of Human Rights and to protect complainants against harassment and threats; stresses that independent and thorough investigation must be carried out in cases where the European Court of Human Rights considers prior investigations inadequate; strongly supports the recommendations of Dick Marty's report on 'Legal remedies for human rights violations in the North Caucasus' of 4 June 2010;

19. Deplores the decision of the Russian authorities to deny entry to Guardian's correspondent Luke Harding on his return to Moscow on 5 February after a visit to the United Kingdom, and to put him on a flight back to London in spite of the fact that he had the required accreditation and visa;

20. Urges Russia to ratify the Rome Statute of the International Criminal Court and the UN Convention for the Protection of all Persons from Enforced Disappearance and underlines the importance of strengthening universal jurisdiction to ensure accountability for grave violations of human rights law;

21. Reiterates its call for the stepping-up of the Human Rights consultations so as to make it more effective and result-oriented with the participation of Russian ministries of Justice and the Interior and the Ministry of Foreign Affairs in Brussels and Moscow and with the full involvement of the European Parliament at all levels;

22. Is of the view that the work plan of the Partnership for Modernisation contains positive steps in the field of rule of law as the set-up of an appeal system for criminal and civil court cases, underlines the need to further develop and elaborate the work plan in the field of human rights, rule of law and the fight against corruption;

23. Stresses that rule of law must be at the core of the new comprehensive partnership and cooperation agreement with the Russian Federation, with regard, in particular, to the inclusion of an operational human rights clause;

24. Urges the EU Member States to put in place a coherent and consistent human rights policy towards Russia based on mutual respect of rule of law, democracy and human rights;

25. Instructs its President to forward this resolution to the Council, the Commission and the Member States and the Government and the Parliament of the Russian Federation.

Recommended

Position Paper

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