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Recent actions by the Russian Federation against Lithuanian judges, prosecutors and investigators involved in investigating the tragic events on 13 January 1991 in Vilnius

European Parliament resolution of 28 November 2019 on recent actions by the Russian Federation against Lithuanian judges, prosecutors and investigators involved in investigating the tragic events of 13 January 1991 in Vilnius (2019/2938(RSP))

(2021/C 232/09)

The European Parliament,

— having regard to its previous resolutions on the Russian Federation,

— having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights),

— having regard to the Universal Declaration of Human Rights,

— having regard to the International Covenant on Civil and Political Rights,

— having regard to the European Convention on Mutual Assistance in Criminal Matters,

— having regard to the Charter of Fundamental Rights of the European Union,

— having regard to the UN Basic Principles on the Independence of the Judiciary,

— having regard to the recent exchange of views in the Committee on Civil Liberties, Justice and Home Affairs on 12 November 2019 ([1]),

— having regard to Rule 132(2) and (4) of its Rules of Procedure,

A. whereas as a direct consequence of the Molotov-Ribbentrop Pact, the communist USSR annexed the Republic of Lithuania, in addition to other countries;

B. whereas the Russian Federation, having made commitments under the Universal Declaration of Human Rights and the European Convention on Human Rights, and as a full member of the Council of Europe and the Organisation for Security and Co-operation in Europe, has committed itself to the principles of democracy, the rule of law and respect for fundamental freedoms and human rights;

C. whereas between 11 and 13 January 1991 the armed forces of the USSR committed an act of aggression against the independent state of Lithuania and people who were peacefully trying to defend the Vilnius TV tower, which left 14 people dead and nearly 800 injured; whereas the suppressive actions of the Soviet armed forces continued until the attempted coup that took place in August 1991 in Moscow;

D. whereas the bloodshed was denounced worldwide, including by the Head of the Supreme Council of the Russian Soviet Federative Socialist Republic during a mass demonstration in Moscow a few days later;

E. whereas the Russian Federation, in the Treaty between the Republic of Lithuania and the Russian Soviet Federative Socialist Republic on the Basis for Relations between States of 29 July 1991, recognised the restoration of the independent Republic of Lithuania on 11 March 1990;

([1]) https://www.europarl.europa.eu/ep-live/en/committees/video?event=20191112-0900-COMMITTEE-LIBE

F. whereas the Russian Federation assumed the rights and obligations of the former Soviet Union and is its successor state;

G. whereas, on 27 March 2019, the Vilnius Regional Court issued a ruling in the so-called '13 January case', in which Dmitry Yazov, former Defence Minister of the Soviet Union, Vladimir Uskhopchik, the Soviet army's former Vilnius garrison commander, Mikhail Golovatov, former commander of the KGB's special forces and 64 Russian, Belarussian and Ukrainian citizens were found guilty of war crimes and crimes against humanity for their involvement in the act of aggression against the state of Lithuania;

H. whereas all perpetrators of this attack were on trial *in absentia*, except for two, Yuri Mel and Gennady Ivanov, former Soviet army officers, and the defendants received sentences of up to 14 years in prison; whereas the judgments delivered in spring 2019 concern the tragic events following the Lithuanian declaration of independence of 11 March 1990 and the Soviet attempts to force Lithuania to revoke its declaration of independence, which started with an economic blockade in the first half of 1990 and culminated in a brutal effort to overthrow the Lithuanian Government in January 1991;

I. whereas, in carrying out the pre-trial investigation for the 13 January case, the authorities of the Republic of Lithuania actively requested that the competent authorities of the Russian Federation provide legal assistance in these criminal proceedings, but the Russian Federation did not cooperate;

J. whereas the Russian Federation is considered to be actively harbouring and protecting the chief executive officers and perpetrators of the acts of armed aggression against innocent and unarmed civilians, such as the chief military officer during the events of January 1991, Mikhail Golovatov, and is taking all possible measures to help them avoid liability;

K. whereas the initial Russian reaction to the court ruling was negative, with the Russian State Duma claiming the trial to be 'politically motivated', 'an attempt to rewrite history' and the Russian Foreign Ministry announcing 'not to leave it without further reactions';

L. whereas, between July 2018 and April 2019, the Investigative Committee of the Russian Federation initiated criminal proceedings against the prosecutors, investigators and judges of the Republic of Lithuania who were involved in investigating and judging the 13 January case, based on Articles 299 and 305 of the Criminal Code of the Russian Federation, which provide for criminal liability for 'bringing a knowingly innocent person to criminal responsibility' and for 'the delivery by a judge (judges) of a knowingly unjust judgment, decision or any other juridical act';

M. whereas this politically motivated criminal prosecution initiated by the Russian Federation may result in efforts to misuse the Interpol system and other bilateral and multilateral cooperation agreements in order to restrict the rights of the investigating prosecutors and trial judges in the 13 January case during searches, interrogation and arrests; whereas the Russian Federation may attempt to seek international arrest warrants against the Lithuanian officials involved in these proceedings;

N. whereas a propaganda and disinformation campaign is being conducted in the state-controlled media of the Russian Federation, as well as by its official representatives, aimed at developing conspiracy theories regarding the 13 January case, and is part of the hybrid threats against the EU and democracies;

O. whereas the rule of law, including judicial independence, is one of the common values on which the EU is founded; whereas the Commission, together with Parliament and the Council, is responsible under the Treaties for guaranteeing respect for the rule of law as a fundamental value of the Union and for making sure that EU law, values and principles are respected;

P. whereas the judges of any Member State are also judges of the European Union as a whole;

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Q. whereas the independence of the judiciary underpins the rule of law and is essential to the functioning of democracy and the observance of human rights; whereas the independence of the judiciary is enshrined in Article 47 of the Charter of Fundamental Rights and Article 6 of the European Convention on Human Rights;

R. whereas the UN Basic Principles on the Independence of the Judiciary stipulate that it is the duty of all governmental and other institutions to respect and observe the independence of the judiciary; whereas they also state that there must not be any inappropriate or unwarranted interference with the judicial process ([2]);

S. whereas the Universal Declaration of Human Rights enshrines in particular the principles of equality before the law, of the presumption of innocence and of the right to a fair and public hearing by a competent, independent and impartial tribunal established by law;

T. whereas Article 1 of the European Convention on Mutual Assistance in Criminal Matters — which has been ratified by the Russian Federation — stipulates that 'the Contracting Parties undertake to afford each other, in accordance with the provisions of this Convention, the widest measure of mutual assistance in proceedings in respect of offences the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting Party';

U. whereas the Russian Federation is breaching more and more international law and commitments and takes positions that run counter to good neighbourly relations, thus undermining any prospect for future cooperation;

1. Expresses its solidarity and sympathy to the families of the victims of the 13 January case;

2. Notes that the actions of the authorities of the Russian Federation with respect to Lithuanian judges and prosecutors violate fundamental legal values, in particular the independence of the judiciary, as well as the principle that human rights and freedoms may only be restricted lawfully for the purposes for which such restrictions are imposed by international law;

3. Recalls that the criminal prosecution of prosecutors and judges for their professional activities is a form of unacceptable external influence that interferes with the primacy of law;

4. Stresses that proceedings in such criminal cases against prosecutors and judges cannot be considered legitimate;

5. Strongly condemns these violations of fundamental principles and norms of international law committed by the Russian authorities and objects to these politically motivated instances of criminal prosecutions;

6. Expresses its solidarity with the Lithuanian prosecutors, investigators and judges indicted by the Russian Federation in this case and with the efforts of the Lithuanian Government to bring this case to light and to limit the harm and danger facing those unlawfully accused by the Russian authorities;

7. Stresses that the universally recognised guarantees for the independence of judges and prosecutors prohibit interfering in any way in the administration of justice by the court or exerting even the slightest influence on a judgment, as well as prosecuting a judge for a judgment rendered thereby or interfering in the work of the prosecutor's office in investigating cases;

8. Calls on the public authorities of the Russian Federation to terminate the criminal proceedings initiated against the Lithuanian prosecutors, investigators and judges in the 13 January case;

9. Calls on the authorities of the Russian Federation, in implementing the Treaty between the Republic of Lithuania and the Russian Soviet Federative Socialist Republic on the Basis for Relations between States of 29 July 1991, to assess the accountability of the persons who led or participated in the act of aggression of 11-13 January 1991 against the state of Lithuania, and to assist the law enforcement authorities of the Republic of Lithuania in seeking justice in the 13 January case;

([2]) https://www.ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx

10. Calls on the authorities of the Russian Federation and Belarus to comply with the Republic of Lithuania's requests for mutual legal assistance in the 13 January case;

11. Calls on the Russian authorities to cease the irresponsible disinformation and propaganda statements made by Russian Federation officials regarding the 13 January case;

12. Calls on the Member States, if requests for mutual legal assistance are received from the Russian Federation in connection with the criminal prosecution in the Russian Federation of the Lithuanian prosecutors and judges involved in the 13 January case, to treat this case as politically motivated, to cooperate closely with the Lithuanian authorities, and to refuse legal assistance to the Russian Federation in this case;

13. Calls on the Commission for the Control of Interpol's Files (CCF), in charge of preventing abusive arrest warrants of a political nature, to be alert to any international arrest warrant requested against the accused Lithuanian officials; calls on all Member States and other signatories of the ICPO-Interpol Constitution to ignore all international arrest warrants against the accused Lithuanian officials; calls on Interpol to ignore all Russian requests for warrants related to the 13 January case;

14. Calls on all Member States to refrain from transferring any personal data to Russia that could be used in criminal proceedings against Lithuanian judges, prosecutors and investigators;

15. Calls on the Member States to fully cooperate at European level with regard to their policies towards Russia, as more consistency and better coordination is essential in order to achieve more effective EU policy, and to make greater efforts to build resilience and work towards practical solutions that support and strengthen democratic processes and an independent judiciary;

16. Calls on the Presidents of the Council and the Commission, the VP/HR and the Member States to continue to follow such cases closely, to raise these issues in different formats and meetings with the Russian Federation, and to report back to Parliament on exchanges held with the Russian authorities, while making the latter fully aware of the unity and solidarity of the European Union in this case, as in other related cases; urges the Member States to raise this case when communicating with the Russian authorities;

17. Instructs its President to forward this resolution to the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the Council, the Commission, the governments and parliaments of the Member States, the Council of Europe, the Organisation for Security and Co-operation in Europe, and the presidents, governments and parliaments of the Russian Federation and Belarus.