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The political use of justice in Russia

Greens/EFA motion for a resolution

The European Parliament,

- having regard to its previous resolutions on Russia,

- 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 court decision of 17 August 2012 of Moscow's Khamovnichesky district court which sentenced members of the female punk band Pussy riot to 2 years of imprisonment for hooliganism,

- having regard to the Statement by EU High Representative of the European Union for Foreign Affairs and Security Policy and Vice-President of the Commission Catherine Ashton on the sentencing of "Pussy Riot" punk band members in Russia from 17 August 2012,

- having regard to request of Russian Prosecutor general to vote on early dismissal of Fair Russia Member of the DUMA Gennady Gutkov on 12 September 2012,

- having regard to rule 110 (2) of its Rules of Procedures,

A. Whereas the Russian Federation as a full member of the Council of Europe and the Organisation for Security and Cooperation in Europe has committed itself to the principles of democracy, the rule of law and respect for human rights; whereas due to several serious violations of the rule of law and the adoption

of restrictive laws during the past months there are increasing concerns with regards to Russia's compliance with international and national obligations,

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

C. Whereas the deaths of Anna Politkovskaya, Natalia Estemirova, Anastasia Barburova, Stanislav Markelov and Sergei Magnitsky remain unaccounted,

D. Whereas Mikhail Khordorkovsky and his business associate Platon Lebedev were given a guilty verdict for embezzlement by Moscow's Khamovnichesky district court on 30th of 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 the above-mentioned cases as well as the prosecution of opposition leaders undermine the credibility of the judiciary and put into question its independence,

F. Whereas a list of 39 names seen by the political opposition and large parts of the civil society as political prisoners was handed out to the former President of the Russian Federation, Dimitri Medvedev with the call for their immediate release,

G. Whereas the continuous intimidation, harassment and arrests of the representatives of opposition forces and non-governmental organisations, the recent adoption of a law on the financing of NGOs, on the right of assembly, the law on defamation, the law on the internet restrictions as well as the increasing pressure on free and independent media and minorities in sexual orientation and religious belief result into a further degradation of the human rights and democratic principles in Russia,

H. Whereas these new or amended laws have been adopted by a partly illegitimate State Duma whose election where neither free nor fair as stated by the OSCE observation mission and concluded by the European Parliament,

I. Whereas Moscow Khamovnichesky district court sentenced three activists of the female punk band Pussy Riot to two years in prison on 17 August 2012 after having found them guilty of hooliganism motivated by religious hatred in February 2012 at Moscow's Christ the Savior Chathedral,

J. Whereas the DUMA is scheduled to vote on the 12th September 2012 to lift the immunity of and to dismiss from the DUMA Gennady Gudkov for business activities during his mandate which contradict Article 289 of the Russian Criminal Code; whereas for the sake of the rule of law anti-corruption rules should apply equally and impartially to all members of the DUMA; whereas other members of the Fair Russia faction as Dimitri Gudkov and Ilya Ponomarev face similar accusations,

K. Whereas a new federal bill is at an initial draft stage allowing the Duma even without formal court order to expel members that are violating ethic standards or may discredit the Duma or the government,

L. Whereas the case of Sergei Magnitsky is only one of several cases of abuse of power by the Russian law enforcement authorities, strongly violating the rule of law and leaving those guilty in his death still unpunished; whereas there are a multitude of other judicial cases where politically constructed reasons are being used to eliminate political competition and to restrain civil society,

M. 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 as criticized by the Venice Commission of the Council of Europe and is used arbitrarily,

N. 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 judgments of the ECHR have not been implemented; whereas responsibility for the failure to implement the judgments rests in considerable part with the judicial institutions and authorities,

O. 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;

1. Takes the view that Russia as a member of the Council of Europe and the Organisation for Security and Cooperation in Europe must fully comply with and uphold the obligations it has signed up to; outlines that recent developments have moved in the opposite direction to the reforms necessary to improve the democratic standards and the rule of law and the independence of the judiciary in Russia;

2. Recalls that former President Medvedev introduced a working group looking at reform of the electoral system, improvement of the rule of law and respect of fundamental rights in Russia; recalls that the European Parliament has urged the Russian authorities to pursue these reforms and has constantly offered EU support including through the framework provided by the Partnership for Modernisation;

3. Urges, in this regard, the Russian authorities to ask the Venice Commission of the Council of Europe to examine the new Russian laws restricting freedom of opinion. freedom of association, the right to elect and to be elected as well as the right of protection against arbitrary and unfair charges in order to find out whether they comply with European standards;

4. Expresses its concern about the deteriorating climate for the development of civil society in Russia in particular with regard to the recent adoption of a series of laws governing demonstrations, NGOs, defamation and the internet that contain ambiguous provisions and could lead to arbitrary enforcement; remind Russian authorities that a modern and prosperous society needs to recognise and protect the individual and collective rights of all its citizens;

5. Calls, in this respect, on the Russian competent bodies to amend the new laws on NGOs so as to safeguard citizens' associations receiving financial support from well-reputed foreign funds from political persecution;

6. Is deeply disappointed with the verdict of the Khamovnichesky District Court in Russia in the case of Nadezhda Tolokonnikova, Maria Alyokhina and Ekaterina Samutsevich, members of the punk band "Pussy Riot" on 17 August 2012 for "hooliganism motivated by religious hatred" to two years in a penal colony; takes the view that the verdict is part of a clampdown on political dissent and opposition forces that further shrinks Russian democratic space and deeply undermines the credibility of Russia's judicial system; strongly condemns this politically-motivated verdict and expects this conviction to be overturned in appeal with the release of the three Pussy Riot members;

7. Condemns the arrest of demonstrators in the framework of the "Pussy Riot" trial including leading members of the opposition and journalists and the excessive use of pre-trial detention against participants of the Bolotnaya demonstrations on 6th of May, urges Russian authorities to respect freedom of assembly and expression;

8. Welcomes the decision of the Supreme Court on 25 July 2012 to review both, the Khoderkovsky and Lebedev cases in line with the recommendation of the Presidential Commission on Human rights from December 2011; takes note of the shortening of Lebedev's sentence by three years; calls for continuation of a comprehensive review of these cases based on Russian international commitments to fair and

transparent trials;

9. Takes note of the Prosecutor General's request to vote on early termination of powers of Duma member Gennady Gudkov for business activity during to his parliamentary mandate in contradiction of Article 289 of the Russian Criminal Code; calls on Russia to refrain from using laws arbitrarily for the purpose of clamping down on Members of the opposition;

10. Is shocked by the sentence of "Other Russia" activist Taisiya Osipova to eight years in prison on drug charged despite disturbing irregularities that have occurred during the trial and former President Medvedev criticising the first verdict of 2010 to ten years as being too harsh,; points out that several other cases against opposition activists raise strong concern including the prosecution of opposition activist Alexei Navalny who faces up to ten years imprisonment if convicted for the involvement in the theft of timber worth 16 m roubles, the case of Garri Kasparov or the new criminal probes against Suren Gazaryan;

11. Deplores the arbitrary use of the in eight regions introduced law on homosexual propaganda against LGBT minorities and the prosecution and harassment of religious minorities such as Jehova's Witnesses and Falun Gong under the pretext of extremism;

12. Outlines that these cases add to the upsurge in politically motivated intimidation and prosecution of opposition activists in Russia; calls the Council for a coherent and proactive approach to the serious human rights violations in Russia and, on a case-by-case basis, an evaluation of the Council of the necessity of restrictive measures against offenders as a last resort measure provided that there is a clear evidence of an offence or a crime committed;

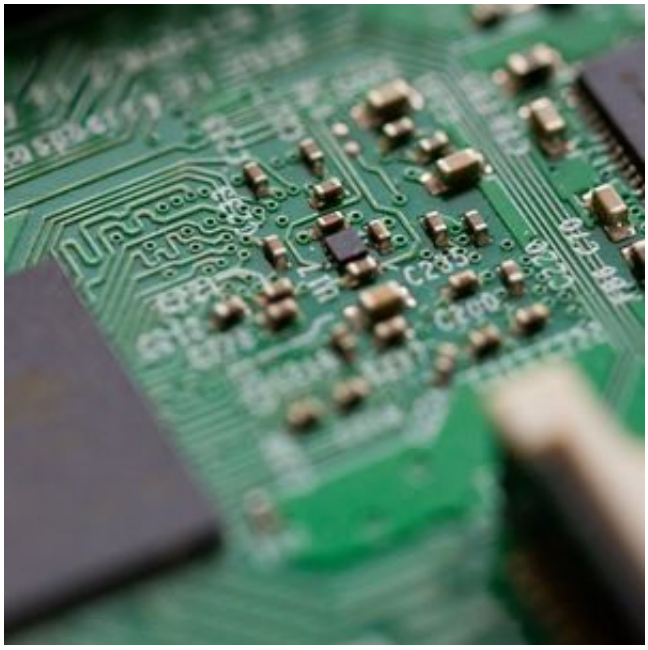
13. Calls on Russia to redirect its current course, to re-focus on its international obligations and to engage in serious commitments to improve the independence of its judiciary and the rule of law;

14. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Government and Parliament of the Russian Federation, the Council of Europe and the Organisation for Security and Cooperation in Europe.

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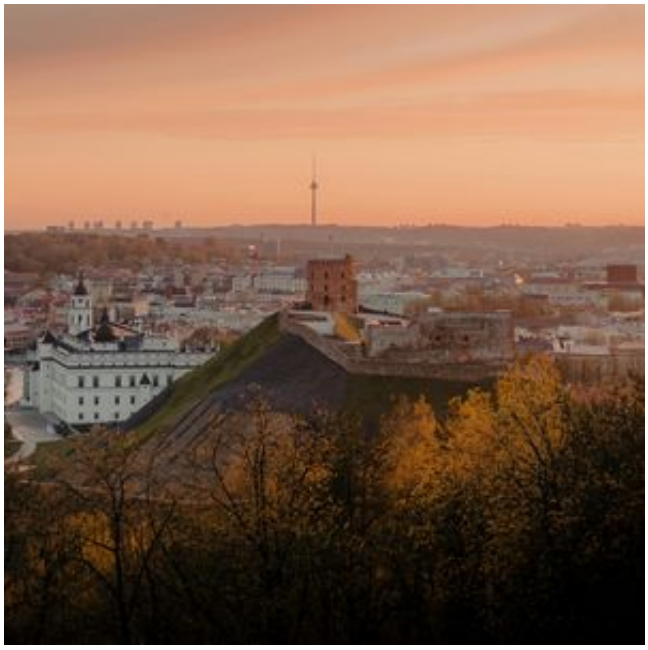
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