



OSCE ADVOCATES FOR THE ABOLITION OF THE DEATH PENALTY

The OSCE Parliamentary Assembly adopts a resolution calling for an immediate moratorium on executions

A resolution on a moratorium on the death penalty and towards its abolition was adopted during the annual session of the Parliamentary Assembly of the Organization for Security and Co-operation in Europe (OSCE), held between 29 June and 3 July 2009 in Vilnius, Lithuania.

The resolution, adopted as part of the Vilnius declaration on 3 July 2009, voices the concerns of the OSCE Parliamentary Assembly around the application of the death penalty and urges its participating states to establish an immediate moratorium on executions.

Paragraphs 40-43 of the resolution specifically urge OSCE participating states Belarus and USA to adopt an immediate moratorium on executions, and call on Kazakhstan and Latvia to amend provisions in their national legislation that still allow for the imposition of the death penalty for certain crimes under exceptional circumstances.

In its final paragraphs, the resolution acknowledges the importance of activities to raise awareness against the reintroduction of the capital punishment and further encourages OSCE participating states and NGOs to promote the abolition of the death penalty.

TEXT OF THE RESOLUTION ON A MORATORIUM ON THE DEATH PENALTY AND TOWARDS ITS ABOLITION, ADOPTED BY OSCE PARLIAMENTARY ASSEMBLY IN VILNIUS ON 3 JULY 2009

- 1. Recalling the Resolution on Abolition of the Death Penalty adopted in Paris at the Tenth Annual Session in July 2001,*
- 2. Recalling the Resolution on The Prisoners Detained by the United States at the Guantánamo Base adopted in Rotterdam at the Twelfth Annual Session in July 2003, which "underlining the importance of the defence of democratic rights, not least confronted with terrorism and other undemocratic methods," urged the United States of America to "refrain from the use of the death penalty",*
- 3. Recalling the Resolution on Strengthening Effective Parliamentary Oversight of Security and Intelligence Agencies, adopted in Brussels at the Fifteenth Annual Session in July 2006, which expressed alarm at "certain practices which violate most fundamental human rights and freedoms and are contrary to international human rights treaties, which form the cornerstone of post-World War II human rights protection" including "extradition to countries likely to apply the death penalty or use torture or ill-treatment, and detention and harassment on the grounds of political or religious activity",*
- 4. Recalling the Resolution on the implementation of OSCE commitments adopted in Kyiv at the Sixteenth Annual Session in July 2007, which "reaffirms the value of human life and calls for the abolition in the participating States of the death penalty, replacing it with more just and humane means of delivering justice",*
- 5. Noting that, on 18 December 2007, the United Nations General Assembly adopted the historic resolution*

62/149 calling for a worldwide moratorium on executions with a view to abolishing the death penalty, which was adopted by an overwhelming majority, with 104 United Nations member States in favour, 54 countries against and 29 countries abstaining,

6. Noting that resolution 63/168 on the implementation of the 2007 General Assembly resolution 62/149 was adopted by the United Nations General Assembly on 18 December 2008, with 106 votes in favour, 46 against and 34 abstentions,

7. Recalling the inclusion of the issue of capital punishment in the catalogue of OSCE human dimension commitments by the 1989 Vienna Concluding Document and the 1990 Copenhagen Document,

8. Recalling paragraph 100 of the St. Petersburg Declaration of the OSCE Parliamentary Assembly of 1999 and paragraph 119 of the Bucharest Declaration of the OSCE Parliamentary Assembly of 2000,

9. Noting that the death penalty is an inhuman and degrading punishment, an act of torture unacceptable to States respecting human rights,

10. Noting that the death penalty is a discriminatory and arbitrary punishment and that its application has no effect on trends in violent crime,

11. Noting that, in view of the fallibility of human justice, recourse to the death penalty inevitably carries a risk that innocent people may be killed,

12. Recalling the provisions of Protocol No. 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which prohibits Council of Europe Member States from applying the death penalty,

13. Recalling the provisions of the Second Optional Protocol to the International Covenant on Civil and Political Rights of 1989, and the World Conference on Capital Punishment held in Strasbourg in 2001 as well as the Additional Protocol No. 6 to the European Convention on the Protection of Human Rights and Fundamental Freedoms aiming at the universal abolition of the death penalty,

14. Noting that the 1998 Rome Statute excludes the death penalty, even though the International Criminal Court, along with the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone, the Special Panels for Serious Crimes in Dili, Timor-Leste, and the Extraordinary Chambers in the Courts of Cambodia, have jurisdiction over crimes against humanity, genocide and war crimes,

15. Noting that in October 2008 the European Union and the Council of Europe, in a joint declaration, established a "European Day against the Death Penalty",

16. Recalling that at the OSCE Human Dimension Implementation Meetings in Warsaw, in 2006, 2007 and 2008, several civil society organisations, including Hands Off Cain, Amnesty International, Penal Reform International, the World Coalition Against the Death Penalty and the International Helsinki Federation for Human Rights, expressed their support for the Resolutions on a global moratorium on the death penalty presented to the United Nations General Assembly,

17. Noting that 138 States in the world have abolished the death penalty *de jure* or *de facto*; of which 92 States abolished it for any offence, 10 keep it only for exceptional crimes such as those committed in wartime, and 36 have not carried out executions for at least 10 years or are committed to implementing a moratorium,

18. Welcoming Georgia's constitutional amendment regarding the complete abolition of the death penalty, signed on 27 December 2006,

19. Welcoming the abolition of the death penalty in Kyrgyzstan, as established by the new article 14 of the Constitution, approved on 15 January 2007,

20. Welcoming the abolition of the death penalty in Uzbekistan, with effect since 1 January 2008,

21. Noting that in some OSCE participating States the death penalty is retained in law, but that there is a moratorium on executions in Kazakhstan, the Russian Federation and Tajikistan, while executions may be carried out during wartime in Latvia,

22. Noting that an amendment of 21 May 2007 to the Constitution of the Republic of Kazakhstan abolished the death penalty in all cases save for acts of terrorism entailing loss of life and for especially grave crimes committed in wartime,

23. Noting that within the OSCE only two of the 56 participating States nevertheless continue to apply the death penalty,

24. Deeply concerned about the fact that people are still being sentenced to death and executions carried out in Belarus and in the United States of America,

25. Noting that, according to the report published by Amnesty International in March 2009, "Ending executions in Europe – Towards abolition of the death penalty in Belarus", in Belarus "there is credible evidence that torture and ill-treatment are used to extract 'confessions'; condemned prisoners may not have access to effective appeal mechanisms; and the inherently cruel, inhuman and degrading nature of the death penalty is compounded for death row prisoners and their relatives by the secrecy surrounding the death penalty. Neither prisoners nor their

- families are told the execution date in advance and prisoners must live with the fear that every time their cell door opens they may be taken for execution”,
26. Noting that both the Parliamentary Assembly of the Council of Europe and the European Union have repeatedly urged Belarus to abolish the death penalty,
27. Noting that details about the death penalty in Belarus are secret and that, according to the Criminal Executive Code, the death penalty is carried out in private by means of shooting, the administration of the detention facility informs the judge about the executions and the judge informs the relatives; the body of an executed person is not given for burial to his or her relatives and the place of burial is not communicated,
28. Noting that in Belarus capital punishment, under the Constitution, is an exceptional and provisional measure to be taken only in extreme cases, and that Belarus has taken substantial steps to limit the handing down of death sentences by halving the number of articles in the Criminal Code that provide for imposition of the death penalty,
29. Noting that, on 11 March 2004, the Constitutional Court stated that the abolition of the death penalty, or as a first step, the introduction of a moratorium, could be enacted by the head of state and by parliament,
30. Noting that Belarus has failed to publish comprehensive statistics about the number of death sentences passed and executions carried out, in contravention of its commitment as a participating State of the OSCE to “make available to the public information regarding the use of the death penalty” as stated in the Document approved at the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, on 29 June 1990,
31. Noting that, of the 50 states which make up the United States of America, 38 have the death penalty, while four of them have not held executions since 1976, and federal law provides for 42 offences which may be punished by death,
32. Noting that in the United States of America the number of executions and death sentences has significantly dropped in recent years and many states are considering adopting a moratorium or its abolition, which reflects decreasing public support for the death penalty,
33. Welcoming the fact that some states, including Montana, New Jersey, New York and North Carolina have moved against the death penalty through measures including a moratorium on executions or its abolition,
34. Noting that the United States Supreme Court has recently issued landmark judgements that have put more safeguards in place and take into account evolving standards of justice,
35. Welcoming the decision by the Governor of New Mexico in March 2009 to ban capital punishment in his state, as “inconsistent with basic American principles of justice, liberty and equality”,
36. Noting that, on 19 March 2009, a United States Senator introduced a “Federal Death Penalty Abolition Act” to abolish the death penalty at the federal level, The OSCE Parliamentary Assembly:
37. Condemns all executions wherever they take place;
38. Calls upon participating States applying the death penalty to declare an immediate moratorium on executions;
39. Encourages the participating States that have not abolished the death penalty to respect safeguards protecting the rights of those facing the death penalty as laid down in the United Nations Economic and Social Council Safeguards;
40. Calls on Belarus to take immediate steps towards abolition of the death penalty by promptly establishing a moratorium on all death sentences and executions with a view to abolishing the death penalty as provided by the United Nations General Assembly resolution 62/149, adopted on 18 December 2007, and resolution 63/168, adopted on 18 December 2008;
41. Calls upon the Government of the United States of America to adopt a moratorium on executions leading to the complete abolition of the death penalty in federal legislation and to withdraw its reservation to Article 6(5) of the International Covenant on Civil and Political Rights;
42. Calls upon the Republic of Kazakhstan, with a view to the complete abolition of the death penalty, to amend its Criminal Code in accordance with its constitutional amendment of 21 May 2007;
43. Calls upon Latvia to amend its Criminal Code in order to abolish the death penalty for murder with aggravating circumstances if committed during wartime;
44. Calls upon the retentionist participating States to encourage ODIHR and OSCE Missions, in co-operation with the Council of Europe, to conduct awareness-raising activities against recourse to the death penalty, particularly with the media, law enforcement officials, policy-makers and the general public;
45. Further encourages the activities of NGOs working for the abolition of the death penalty.