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## **MOTION FOR A RESOLUTION**

with request for inclusion in the agenda for the debate on cases of breaches of human rights, democracy and the rule of law

pursuant to Rule 115 of the Rules of Procedure

by Cem Özdemir, Kathalijne Maria Buitenweg, Hélène Flautre, Angelika Beer, Raül Romeva i Rueda and Jean Lambert,

on behalf of the Verts/ALE Group

on Guantanamo

**European Parliament resolution on Guantanamo**

*The European Parliament,*

- having regard to the memorandum sent from the US Justice Department to the Department of Defence end of December 2001, stating that no US District Court could entertain appeals from "enemy aliens" detained at US Naval Base in Guantanamo Bay, Cuba
  - having regard to the ruling of the US Supreme Court on 28 June 2004 in the 'Rasul v. Bush' case, that the federal courts in fact do have jurisdiction to hear appeals from foreign nationals detained in Guantánamo Bay
  - having regard to the Combatant Status Review Tribunals (CSRT) which the US government set up in response to the Rasul v. Bush verdict, with panels of three military officers, to determine where the "enemy combatant status" had been rightly attributed
  - having regard to Federal Court judge Joyce Hens Green's ruling of 31 January 2005 that the Combatant Status Review Tribunals (CSRT) process was unlawful
  - having regard to the 1 August 2002 memorandum of the Justice Department narrowing the definition of torture, arguing that the President could authorize torture, suggesting defences for those accused of torture and promoting acts that amount to cruel, inhuman or degrading treatment, representing the position of the US administration until its withdrawal on 22 June
  - having regard to the Defence Authorization Bill signed by President Bush on 30 December 2005 containing the McKain amendment which outlaws the use of torture, as well as the Graham-Levin amendment, which establishes - according to the interpretation ("signing statement") of the White House - that aliens held at Guantanamo have no right to have their habeas corpus cases heard in the US civil courts
  - having regard to its resolution of 18 January 2005 on Afghanistan
- A. Whereas four years have passed from the time when the first prisoners captured in the "war against terror" were detained in Guantánamo Bay as 'enemy combatants'
- B. Whereas the selections of prisoners is based on clear ethno/religious discrimination, the Australian citizen Jonathan Hicks reportedly being the only remaining 'white' prisoner and whereas the recent study of Seton Hall University law school, New Jersey, established that of the 517 Guantanamo detainees having been heard by the military commissions in 2004, the majority are not accused of hostile acts against the United States or its allies, only 5 percent were captured by the US forces directly, only 10 have been charged with war crimes and according to Pentagon officials only 50 to 75 will ever be charged
- C. Whereas the remaining approximately 500 detainees, believed to include several people who were minors at the time of being taken into custody, have still not seen the review of their detention

- D. Whereas the Guantánamo prisoners are subjected to arbitrary arrest and incommunicado detention, torture and other ill-treatment, have no right to a fair trial and whereas the perpetrators of human rights violations among the security forces enjoy large scale impunity
1. is deeply concerned about the Graham-Levin amendment which strips the Federal Courts of their power to review detention at Guantanamo Bay for present and for future detainees, according to the interpretation giving in the "signing statement" of the White House
  2. states that the CSRTs violate all international standards on minimum conditions for a fair trial because they entirely lack independence from the executive, there is no right to appeal to an independent and impartial court, they prohibit access of the defendant to a counsel of choice, to 'secret evidence, and even to parts of the proceedings and the CSRTs can draw from evidence extracted under torture or other ill-treatment and those Commissions are only reserved to foreign nationals - violating the rights of equality before the courts
  3. shares American concerns about the dangers of international terrorism, but can under no circumstances accept the US government's disregard for international law in the "war against terror" and the serious crimes the US authorities are committing in Guantanamo and other detention centres inside and outside the US, thus undermining the very anti-terror efforts
  4. In this respect, is deeply concerned about the recent reports about forcible feeding of inmates on hunger strike, reportedly using cruel methods like tying them to a special chair for long periods of time to ensure they do not remove the feeding tubes and locking them in undercooled prison cells;
  5. calls on the US government to immediately release the identities of all remaining detainees kept at Guantanamo Bay and calls for the prompt closure of the Detention Centre
  6. demands either the release and repatriation of the detainees, subject to international law and standards, or the prosecution of those suspected of having committed internationally recognizable criminal offences in proceedings that meet international standards of fairness
  7. condemns any attempts by the US authorities to apply the death penalty on Guantanamo prisoners and reiterates its firm position against capital punishment in all circumstances
  8. calls on the US government to provide a genuine, unequivocal and continuing public commitment to oppose torture and other cruel, inhuman or degrading treatment regardless of where it takes place and take every possible measure to ensure that all bodies of government comply with this prohibition
  9. calls on the US government to grant unimpeded access to the detainees at Guantanamo Bay for the respective UN bodies and international human rights organisations
  10. calls on the US Government to revoke the Military Order on the Detention, Treatment and Trial of Certain Non-Citizens in the War against Terrorism and to abandon trials by

military commissions

11. calls on the US authorities to ensure that all allegations of torture and other ill-treatment involving US personnel are subject to prompt, thorough, independent and impartial civilian investigation in strict conformity with international law and standards concerning investigations of human rights violations and that the perpetrators are being brought to trial
12. underlines that those who have suffered unlawful arrest and /or torture or ill-treatment while in US custody should receive full reparation including restitution, compensation, rehabilitation, and guarantees of non-repetition, wherever they reside
13. calls on the EU Member States to engage with the US authorities in order to make sure that these rights will be respected for any European citizen or any detainee having close connections to a Member State who has been detained in Guantanamo
14. Instructs its President to forward this resolution to the Council, the Commission, the UNHRC and the Government of the United States of America.