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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 Pasqualina Napoletano, Michael Cashman

on behalf of the PSE Group

on the case of Medhi Kazemi

European Parliament resolution on the case of Medhi Kazemi

The European Parliament,

- having regard to the European Convention on Human Rights, and notably its Article 3, prohibiting the removal, expulsion or extradition of persons to countries where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment,
 - having regard to the Charter of Fundamental Rights, and notably to Article 18 on the Right to asylum and Article 19 on the Protection in the event of removal, expulsion or extradition,
 - having regard to the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees,
 - having regard to the Council Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted and (Qualifications directive) and to the Council Regulation (EC) No 343/2003 on the criteria and mechanisms to determine the Member State responsible for assessing asylum applications (Dublin regulation), as well as to other EU Asylum instruments,
 - having regard to the letter of the European Parliament President to the UK Prime Minister of 10 September 2007 on the case of Pegah Emambakhsh, an Iranian lesbian woman who risked to be sent back to Iran after her request for asylum was turned down,
 - having regard to Rule 115(5) of its Rules of Procedure,
- A. whereas Medhi Kazemi, a 19 years old gay Iranian citizen, has requested asylum in the United Kingdom and had his application turned down; whereas, fearing deportation, he fled to the Netherlands, where he applied for asylum; whereas Dutch authorities are right now examining his request and deciding on the basis of EU asylum law on whether to send him back to the UK,
- B. whereas, should the Dutch authorities decide not to use the possibility foreseen by art. 3 (Chapter II) of the Dublin Regulation (the so-called "sovereignty clause") and consequently to send him back to the UK, UK authorities would be left with the final decision on his possible deportation to Iran,
- C. whereas Iranian authorities routinely detain, torture and execute persons, notably homosexuals; whereas Medhi's partner has already been executed, while his father has threatened him with death,
- D. whereas in the similar case of Pegah Emambakhsh the UK authorities decided, after

international pressure, not to deport her back to Iran, but that still it is not clear what her fate will be,

- E. whereas more attention should be devoted to the correct application of EU asylum law in Member States, notably in relation to sexual orientation,
1. Expresses its serious concern regarding the fate of Medhi Kazemi;
 2. Asks for the proper and full application of the Qualifications Directive, that recognises persecution for sexual orientation as a ground to grant asylum and provides that Member States shall consider the individual case and the situation in the country of origin, including laws and regulations and the manner in which they are applied;
 3. Believes that the EU and its Member States cannot apply European and national laws and procedures in a way resulting in the expulsion of persons to a third country where they would risk persecution, torture and death, as this would amount to a violation of European and international human rights obligations;
 4. Appeals to the Commission, the Council and to the Member States involved to find a common European solution to ensure that Medhi Kazemi is granted asylum or protection on the EU soil and not sent back to Iran, where he would be executed, hereby ensuring that article 3 of the ECHR is fully respected by all European authorities and notably, in this case, by the UK;
 5. Asks EU institutions and Member States to take action to avoid that similar situations happen in the future, through cooperation and EU guidelines to find solutions in similar cases; asks the Commission to monitor and evaluate the application of EU asylum law in Member States, and in particular in relation to sexual orientation, and report to the EP; underlines that the Commission has announced for 2008 amendments to the Dublin Regulation and the Qualifications Directive, which shall address the issues raised in this resolution;
 6. Instructs its President to forward this resolution to the Council, the Commission, the parliaments and the governments of the Member States, the UNHCR as well as Medhi Kazemi.