



Plenary sitting

B8-1407/2015

15.12.2015

MOTION FOR A RESOLUTION

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

pursuant to Rule 135 of the Rules of Procedure

on Ibrahim Halawa potentially facing the death penalty
(2015/3016(RSP))

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on behalf of the GUE/NGL Group

European Parliament resolution on Ibrahim Halawa potentially facing the death penalty (2015/3016(RSP))

The European Parliament,

- having regard to its previous resolutions on Egypt, in particular of 15 January 2015;
- having regard to the EU Foreign Affairs Council conclusions on Egypt of August 2013 and February 2014;
- having regard to the EU-Egypt Association Agreement;
- having regard to the EU Guidelines on the Death Penalty and on Torture and other Forms of Ill-Treatment;
- having regard to the Constitution of Egypt, notably articles 73 (on freedom of assembly) and 93 (the binding character of international human rights law);
- having regard to the Egyptian Law 107 of 2013 on Regulating the Right to Public Gatherings, Processions and Peaceful Protests,- having regard to the presidential decree of December 2014 permitting foreign nationals charged with criminal offence to be returned to their home country;
- having regard to the African Charter on Human and Peoples' Rights, notably its article 6 prohibiting arbitrary detention and its article 7 stipulating that every individual shall have the right to have his case heard by a competent, independent and impartial judicial body;
- having regard to Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa;
- having regard to the Resolution on the Deteriorating Human Rights Situation in the Arab Republic of Egypt, adopted by the African Commission on Human Rights and Peoples' Rights on 28 February 2015;
- having regard to the International Covenant on Civil and Political Rights of 1966, the UN Convention on the Rights of the Child and the UN Convention against Torture to which Egypt is a party;
- having regard to the United Nations Universal Declaration of Human Rights of 1948;
- having regard to Rule 135 of its Rules of Procedure;

A. Whereas Ibrahim Halawa is an Irish citizen 20 years old, prisoner of conscience held in prison in Egypt and detained for peacefully exercising his right to freedom of expression and assembly in August 2013 in Cairo; whereas Ibrahim is potentially facing a death sentence; whereas Egypt recently executed 5 individuals in May 2015; whereas in May 2015 Egypt executed someone the same age as Ibrahim;

B. Whereas Ibrahim Halawa -as well as other 493 people, including 11 children-, is involved on a mass trial related to his participation in peaceful protests that took place in the Ramses area of central Cairo on 16th and 17th August 2013; whereas at least 97 people died in the aforementioned protests, most of them as a result of reckless use of force by the security forces;

C. Whereas Ibrahim was arrested at the age of 17 years old, a juvenile both under international and Egyptian law; whereas the competent Egyptian Court and Prosecution Services have failed to recognize him as a juvenile at the time of the arrest, consequently violating their obligations as a State Party under the Convention on the Rights of the Child; whereas inflicting death penalty on people under the age of 18 at the time of the offence is incompatible with Egypt's international obligations;

D. Whereas this arrest also involved his three older sisters, and took place while all of them were seeking refuge in a mosque after a violent crackdown against protesters from Egyptian security forces;

E. Whereas there was an exchange of fire between security forces and the outer areas of the aforementioned mosque; whereas several NGOs refer to testimonies of people present on the ground at that time, stating that there was no way the protestors were involved in firing against the security forces, as they were locked inside the inner part of the mosque; whereas Ibrahim was shot in his hand at the time of the arrest, and was not given access to medical care for his injury;

F. Whereas along the Prosecution, so far, there is no evidence that Ibrahim was involved in a single act of violence; whereas his sisters -arrested with him- were released and allowed to return to Ireland;

G. Whereas Ibrahim Halawa is considered by Amnesty International as a prisoner of conscience, detained solely for peacefully exercising his right to freedom of expression and assembly;

H. Whereas there are strong allegations that Ibrahim was subjected to torture and other ill-treatment upon arrest and during detention; whereas this includes: being whipped with chains and sticks, receiving blows to the head, being subjected to electric shocks and deprived of independent medical and legal assistance; whereas the majority of over 100 witnesses due to be called in the trial are police officers and/or government officials;

I. Whereas since his arrest there have been nine hearings on his case between 2014 and October 2015, none of them substantive and repeatedly postponed with little justification; whereas the Egyptian authorities continue to restrict access to the hearings violating Ibrahim's right to a public hearing;

J. Whereas Ibrahim's denial of access to his lawyers represents a grave breach of his rights;

K. Whereas a mass trial with 494 individuals cannot meet international fair trial standards and protections under international law; whereas all the defendants must be present

in court so as to hear and challenge the prosecution case and present a defence in person or through a lawyer, call witnesses on their behalf and to examine witnesses against them; whereas previous mass trials in Egypt had been condemned by the EU, the African Commission on Human Rights and the United Nations;

L. Whereas Ibrahim has been detained in horrific conditions with limited access to clean drinking water and proper food; whereas Ibrahim has been moved five times to gradually deteriorating prisons, and each time he is moved he is given what is known as a "welcoming" or al-tashifra in Arabic meaning the prison guards beating up new prisoners up to establish authority; whereas Ibrahim has been on hunger strike since 21 October 2015 to protest his detention and it has been reported that both his mental and physical condition, have significantly deteriorated which is a situation of the utmost urgency concerning risks to a young citizen;

M. Whereas Egypt has failed to implement the Provisional Measures requested by the African Commission on Human and Peoples' Rights in March 2015 concerning Ibrahim and the other juveniles' involved in the case;

N. Whereas Egypt has released a number of foreign nationals under a Presidential Decree issued in November 2014 under the Egyptian Law 140 on the deportation of foreign criminals, allowing foreigners charged with criminal offences to be deported to their home country;

O. Whereas Egypt is one of the countries believed to sentence people to death who allegedly committed crimes as children, along with Saudi Arabia, Iran, Maldives, Nigeria, Pakistan, Sri Lanka, Yemen, Sudan and Iran;

P. Whereas Egypt is the most populous Arab country, with over 80 million people, and is a pivotal country in the southern Mediterranean; whereas it is facing serious security concerns due to the impact of the situation in neighbouring countries; whereas political, economic and social developments in Egypt have significant implications for the whole region and beyond;

Q. Whereas, according to the 2013 report by the UN Entity for Gender Equality and the Empowerment of Women, 99 % of Egyptian women have experienced some form of sexual harassment and over one third of women are victims of domestic violence; whereas activists and members of LGBTi community in Cairo state that social prejudice has increased during last year;

R. Whereas the Egyptian government has conducted a large-scale campaign of arbitrary detention of government critics -including journalists, human rights defenders, and members of parties of the opposition;

S. Whereas on export licences of any equipment used for repression to Egypt, the HR/VP confirmed on 27 October 2015 that the conclusions of the EU Foreign Affairs Council (FAC) of 21 August 2013, reiterated in February 2014 constituted a political commitment against any military support to Egypt;

T. Whereas it is over four years since Hosni Mubarak stepped down after the demonstrations in Tahrir Square and the uprisings throughout Egypt calling for fundamental

reforms in the country's political, economic and social system, for an end to the corrupt regime, and for democracy, respect for human rights and better living conditions;

U. Whereas on 3 July 2013 Egyptian army chief General Abdel Fattah el-Sisi led a coalition to remove the democratically elected President of Egypt, Mohamed Morsi, from power and suspended the Egyptian constitution; whereas the military retaliated and arrested Muslim Brotherhood leaders; whereas key Arab countries in the region, such as Saudi Arabia and UAE, backed the coup d'état to counterbalance the influence of Muslim Brotherhood while boosting Saudi Wahhabism in the region; highlights the fact that targeting Muslim Brotherhood will not in any case help on the fight against fundamentalism;

V. Whereas DAESH controls most part of Sinai Peninsula; whereas DAESH claimed responsibility for shooting down the Russian Aircraft which crashed in Sinai killing all 224 people on board on 31 October 2015;

W. Whereas the crossing between the Gaza Strip and Egypt remains mostly closed;

X. Whereas on 24 November 2013 Law No 107 on organising the right to peaceful public meetings, processions and protests was passed by a presidential decree; whereas this Protest Law has become a fast track to prison for peaceful demonstrators, who are being treated like criminals; whereas the UN Secretary-General has reiterated the concerns expressed by the United Nations High Commissioner for Human Rights that the law passed could lead to serious breaches of the right to freedom of peaceful assembly;

Y. Whereas Egypt and the EU are bound by the legally binding treaty in the form of the Association Agreement which came into force in 2004; whereas the EU is Egypt's first economic partner and its main source of foreign investment; whereas the EU-Egypt Association Agreement preamble emphasizes the importance of the principles of the United Nations Charter, in particular the observance of human rights, democratic principles and economic freedom. Respect for human rights and democratic principles constitute an essential element of the Agreement; whereas the EU's engagement is intended to be dependent on progress regarding commitments on democracy, rule of law and human rights;

1. Expresses its concern about the arbitrary detention of Irish citizen Ibrahim Halawa in Egypt and calls for his immediate release; as well as the release of all others detained for peacefully exercising their rights to freedom of expression and assembly;

2. Regrets the multiple and grave breaches of Ibrahim rights under international law. Denounces the failure of the Egyptian authorities to uphold the right to a fair trial for him and his 493 co-defendants. Is particularly concerned about the repeated denial of access to lawyers and the pre-trial detention period which violates Egyptian domestic and international obligations;

3. Urgently requests the Egyptian Government to transfer Ibrahim to Ireland under the terms of Egyptian Law 140;

4. Calls on the European External Action Service to closely monitor Ibrahim Halawa's trial and report back, and asks the HR to guarantee that diplomatic action is taken to protect Mr. Halawa's rights under international law are no more damaged and regrets that the HR has not been more vocal on attacks on human rights defenders and the blatant disregard for due

process by the Egyptian authorities in recent court rulings;

5. Is concerned about the detention conditions of Ibrahim and reported abuses against him. Calls on the prison authorities to allow proper and independent medical access due to his prolonged hunger strike;

6. Is deeply concerned that, if convicted, Ibrahim, arrested as a juvenile, could be facing the death penalty in contravention of both international and Egyptian law;

7. Calls on the Egyptian authorities to put an end to all acts of harassment and repression, including at judicial level, against activists, journalists, the political opposition, human rights defenders and trade unionists; calls on the authorities to uphold the constitutional guarantees related to fundamental rights;

8. Reminds Egypt of its international obligations under the Convention on the Rights of the Child as they apply to Ibrahim and to comply with the request of the African Commission on Human Rights and People's Rights to uphold the right to a fair trial for all citizens before independent courts of law;

9. Expresses deep concern at the deliberate use of mass death sentences -with 368 death sentences so far this year, and 12 executed people to date- as an instrument of arbitrary and politically motivated prosecution by the state in order to clamp down on political dissent; rejects the mass death sentences against supporters of the Muslim Brotherhood after shockingly unfair trials;

10. Reiterates its strong opposition to the use of the death penalty in all cases and under all circumstances and calls on the Egyptian authorities to introduce a moratorium on executions as a first step towards the abolition of capital punishment;

11. Denounces the repressive protest law of November 2013 as well as the 1914 Assembly Law, severely restricting the right to peaceful assembly;

12. Denounces the continuing onslaught against young activists by the Egyptian authorities as an attempt to crush the spirit of the country's young minds, crushing an entire generation's hopes for a brighter future;

13. Reiterates its support for the demands made by the Egyptian people for freedom, human dignity, social justice, democracy, respect for human rights, better living conditions and a secular state, and in particular for their demands for wage increases to match price increases, and for housing, health and effective job opportunities;

14. Calls for the adoption of Foreign Affairs Council conclusions and opposes any new initiative in the EU's engagement with Egyptian authorities prior to this policy review process; calls the EU to take all the diplomatic necessary measures to effectively ensure the respect of Human Rights in Egypt, accordingly to the preamble of the EU-Egypt association Agreement;

15. Deplores the security cooperation and arms deals by EU Member States with Egypt and calls for an EU-wide ban on export of any form of security equipment and military aid to Egypt;

16. Reiterates its call to the Egyptian authorities on the Rafah border to be fully operational, being this a need for the Gaza's 1.9 million Palestinians;

17. Regrets the fact that despite the recent law on sexual harassment, violence against women has been worsening; urges the Egyptian authorities to cease criminalising LGBTI people for expressing their sexual orientation and exercising their right of assembly on the basis of the 'debauchery law';

18. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the parliaments and governments of the Member States, the President and Government of the Arab Republic of Egypt and the African Commission on Human Rights and Peoples' Rights;