

Brazil: extradition of Cesare Battisti

European Parliament resolution of 20 January 2011 on Brazil: extradition of Cesare Battisti

The European Parliament,

- having regard to its resolution of 5 February 2009 on the refusal to extradite Cesare Battisti from Brazil¹,
 - having regard to its recommendation to the Council of 12 March 2009 on the European Union-Brazil Strategic Partnership², and in particular paragraph 1(n) thereof, which expressly mentions the mutual recognition of final judgements,
 - having regard to the Framework agreement for cooperation between the European Community and the Federative Republic of Brazil,
 - having regard to the Treaty on European Union, and the principles enshrined therein concerning democracy and the rule of law, on which the EU is founded,
 - having regard to Rule 122(5) of its Rules of Procedure,
- A. whereas the partnership between the EU and Brazil is built on mutual confidence and on respect for democracy, the rule of law and fundamental rights,
- B. whereas economic, trade and political relations between Brazil and the EU are excellent and buoyant, and are founded on, inter alia, shared principles such as respect for human rights and the rule of law,
- C. whereas Cesare Battisti, an Italian citizen, was found guilty at seven trials and convicted *in absentia*, in final judgements handed down by the Italian courts, of four murders and of involvement in an armed group, robbery and possession of firearms, and sentenced to two terms of life imprisonment,
- D. whereas Cesare Battisti went into hiding until he was arrested in Brazil in March 2007,
- E. whereas Cesare Battisti lodged an application with the European Court of Human Rights in respect of his extradition to Italy, and whereas that application was declared inadmissible in December 2006,
- F. whereas the provisions and rules of the 1989 Extradition Treaty between Italy and the Federative Republic of Brazil seek to define cooperation arrangements between the authorities of the two states in the field of extradition, in full accordance with the guarantees provided for under their respective legal systems,

¹ OJ C 67 E, 18.3.2010, p. 146.

² OJ C 87 E, 1.4.2010, p. 168.

- G. whereas on 18 November 2009 the Brazilian Supreme Court decided to allow the extradition of Cesare Battisti and authorised the incumbent President of the Federative Republic of Brazil to release the prisoner to Italy, in accordance with the rules of the Extradition Treaty between Italy and Brazil,
 - H. whereas on 31 December 2010 the then-incumbent President decided to refuse the extradition of Cesare Battisti,
 - I. whereas that decision is being challenged by the Italian Government before the Brazilian Supreme Court,
 - J. whereas Cesare Battisti's lawyers have formally applied to the same court for his immediate release,
 - K. whereas on 6 January 2011 the President of the Brazilian Supreme Court refused the immediate release of Cesare Battisti and officially reopened the case, which will be considered in February when the Court resumes work,
1. Acknowledges that respect for the legality and independence of the judiciary, including fair treatment of those who have been convicted, is one of the basic values of the EU and of its Member States, as well as of Brazil;
 2. Points out that the partnership between the EU and the Federative Republic of Brazil is based on the mutual understanding that both parties uphold the rule of law and fundamental rights, including the right of defence and the right to a fair and equitable trial;
 3. Expresses confidence that, in the light of such considerations, the competent Brazilian authorities will exercise their right – and fulfil their duty – to process the Italian Government's new request that the decision on the extradition of Cesare Battisti be reviewed, and explore ways of ensuring that the bilateral treaty on extradition is interpreted correctly;
 4. Calls on the European External Action Service to conduct a political dialogue with Brazil and to ensure that every decision taken complies fully with the EU's basic principles and is conducive to good relations with the Member States;
 5. Instructs its President to forward this resolution to the Vice-President of the European Commission / High Representative of the Union for Foreign Affairs and Security Policy, the governments and parliaments of the Member States, the Brazilian Government, the President of the Federative Republic of Brazil, the President of the Brazilian Congress and the Chair of the Delegation for relations with the Mercosur countries.