Swaziland, the case of human rights activists Thulani Maseko and Bheki Makhubu

European Parliament resolution of 21 May 2015 on Swaziland, the case of human rights activists Thulani Maseko and Bheki Makhubu (2015/2712(RSP))

The European Parliament,

– having regard to the Cotonou Agreement,
– having regard to the Universal Declaration of Human Rights,
– having regard to the International Covenant on Civil and Political Rights,
– having regard to the African Charter on Human and Peoples’ Rights,
– having regard to the Swaziland Industrial Relations Act, 2000 (amended),
– having regard to the International Labour Organisation (ILO) Decent Work Country Programme for Swaziland,
– having regard to the Universal Periodic Review (UPR) of Swaziland before the UN Human Rights Council, held on 4 October 2011,
– having regard to the EU’s Generalised System of Preferences (GSP), as approved by Parliament on 31 October 2012,
– having regard to the EU statement made at the 103rd session of the International Labour Conference in Geneva on 6 June 2014,
– having regard to the statement made by the Spokesperson for the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy on 30 July 2014 on the sentencing of The Nation magazine editor Bheki Makhubu and human rights lawyer Thulani Maseko,
– having regard to African Commission on Human and Peoples’ Rights (ACHPR) resolution 286 on freedom of expression in the Kingdom of Swaziland,
– having regard to the Local EU Statement of 1 April 2014 on the recent arrest and continued detention of *The Nation* magazine editor Bheki Makhubu and human rights lawyer Thulani Maseko,

– having regard to the press release issued on 28 March 2014 by the ACHPR Special Rapporteur on Freedom of Expression and Access to Information in Africa on the arrest of Mr Thulani Rudolf Maseko and Mr Bheki Makhubu,

– having regard to Rules 135(5) and 123(4) of its Rules of Procedure,

A. whereas Swaziland is an absolute monarchy under King Mswati III, who instituted a state of emergency in 1973 which is still in place 41 years later, who exercises absolute authority over the cabinet, the parliament and the judiciary, and under whose rule there has been a significant deterioration in the human rights situation and living standards and a rise in chronic poverty, while respect for the rule of law has diminished, as evidenced in particular by the outlawing of political parties; whereas violations of the fundamental rights of workers have become systemic and whereas, over the past decade, the Swazi Government has infringed trade union and human rights and failed to respect interventions by the ILO on the application of its Convention 87;

B. whereas Thulani Maseko, a lawyer working for the Trade Union Congress of Swaziland, was arrested on 17 March 2014 after writing an article criticising the lack of independence of the judicial system in Swaziland; whereas, on 19 March 2015, following the publication of a prison letter denouncing his conditions of detention, he was brought before a disciplinary committee in prison without the presence of a lawyer and was then forcefully moved to solitary confinement; whereas, although he has challenged this decision, no date has yet been announced for his High Court hearing;

C. whereas Bheki Makhubu, a columnist and editor-in-chief of *The Nation*, considered to be the country’s sole independent newspaper, was arrested on charges of ‘scandalising the judiciary’ and ‘contempt of court’ following the publication of the article criticising the judicial system;

D. whereas, on 17 July 2014, Thulani Maseko and Bheki Makhubu were convicted for contempt of court by the High Court of Swaziland and sentenced to two years’ imprisonment, a ruling which seems disproportionate compared with the usual sentence – 30 days’ imprisonment with the option of paying a fine – imposed in similar cases; whereas the judge presiding the trial, Mpendulo Simelane, had been named in one of the articles published by Mr Maseko’s newspaper, and whereas this represents a clear conflict of interest and an impediment to a fair trial;

E. whereas the judicial harassment of critical voices in Swaziland is not limited to the case of Mr Maseko and Mr Makhubu, but is part of a disturbing trend of curtailing freedom of expression in the country, where 32 laws place restrictions on freedom of expression and access to information and political parties have been banned since 1973;

F. whereas in addition to using contempt of court charges against their critics, the Swaziland authorities are actively using the 2008 Suppression of Terrorism Act (STA) and the 1938 Sedition and Subversive Activities Act (SSA Act) to intimidate activists and restrict the exercise of the right to freedom of expression, association and peaceful assembly, and whereas the authorities also initiated trial proceedings under the SSA Act against Mr Maseko in September 2014, on a sedition charge first raised against him in 2009;
whereas international organisations have condemned the provisions of the STA as incompatible with Swaziland’s human rights obligations on a number of grounds;

G. whereas in April 2014 seven people were arrested and charged with acts of terrorism simply for wearing political T-shirts; whereas, when addressing the parliament on 7 August 2014, Swaziland’s Prime Minister, Barnabas Sibusiso Dlamini, said that two union leaders who had attended the African Summit in Washington DC should be strangled for criticising the government and that only recognised unions should be allowed to celebrate May Day;

H. whereas, on 8 October 2014, Winnie Magagula, Swaziland’s Minister of Labour and Social Security, suspended all federations with immediate effect, dissolving the Trade Union Congress of Swaziland (TUCOSWA), the Amalgamated Trade Unions of Swaziland (ATUSWA), the Federation of Swaziland Employers and Chamber of Commerce (FSE&CC) and a number of other statutory bodies, and whereas Article 5 of ILO Convention No 87 on freedom of association, ratified by the Government of Swaziland, recognises the right of workers’ organisations to join federations and confederations of their own choice;

I. whereas the Government of Swaziland completely ignored the recommendations and repeated calls from the international trade union movement to respect rights guaranteed under international conventions ratified by Swaziland, in particular ILO Convention No 87, and instead completely suspended the right of workers to freely associate and carry out trade union activities;

J. whereas, following a fact-finding mission to Swaziland organised by the International Trade Union Confederation on 14-16 May 2015 to assess the progress of freedom of association and to visit political and human rights activists, TUCOSWA has finally been registered again; whereas, despite this, the authorities have given no assurances that they will not interfere with the running and organisation of trade unions, and the police have in fact presented themselves at trade union meetings;

K. whereas, on 15 July 2014, the EU concluded negotiations on an Economic Partnership Agreement (EPA) with the SADC EPA Group (including Swaziland), which is set to come before the European Parliament in the second half of 2015 for possible approval;

L. whereas in November 2014 Swaziland lost its preferential trade agreement with the USA under the African Growth and Opportunity Act (AGOA) after the government failed to take reform measures, which it had voluntarily undertaken to do in 2013, including addressing restrictions on freedom of association, assembly and expression, such as the imprisonment of Mr Maseko and Mr Makhubu, and amending the Suppression of Terrorism Act, the Public Order Act and the Industrial Relations Act;

M. whereas under the 11th European Development Fund (EDF) the EU has allocated EUR 62 million in respect of the National Indicative Programme for the 2014-2020 period, with priorities including promoting good governance, transparency, accountability, judicial independence, the rule of law and the strengthening of security;

1. Calls for the immediate and unconditional release of Mr Maseko and Mr Makhubu, given that their imprisonment relates directly to the legitimate exercise of their right to freedom of expression and opinion; calls also for the immediate and unconditional release of all prisoners of conscience and political prisoners, including Mario Masuku, President of the
People’s United Democratic Movement, and Maxwell Dlamini, Secretary-General of the Swaziland Youth Congress; condemns the harsh conditions of detention of both prisoners and calls on the authorities of Swaziland to guarantee their physical and psychological integrity in all circumstances;

2. Recalls the commitments made by Swaziland under the Cotonou Agreement to respect democracy, the rule of law and human rights principles, which include freedom of expression and freedom of the media; expresses its deep concern about the erosion of democracy and basic rights in Swaziland and the increasingly brutal manner in which the government is responding to its critics;

3. Notes that the sentence handed down to Mr Maseko and Mr Makhubu is much more severe than other sentences in similar cases, and considers this to be a clear attempt to silence the activists and serve as a deterrent to others, as stated by the responsible judge; demands that the Government of Swaziland bring an immediate end to the authorities’ intimidation of journalists, lawyers, independent-minded judges, trade union officials and parliamentarians, who have been threatened with violence, arrest, prosecution or other forms of pressure as a consequence of their advocacy of human rights, respect for the rule of law or political reforms;

4. Calls on the Government of Swaziland to engage in genuine dialogue with unions about legislative reforms that will ensure respect for workers’ rights, in line with international obligations;

5. Calls on the Swaziland authorities to take concrete measures to respect and promote freedom of expression, guarantee democracy and plurality, and establish a legislative framework allowing the registration, operation and full participation of political parties, in line with international and regional human rights obligations and the Constitution of Swaziland, notably Article 24 thereof;

6. Stresses that the independence of the judiciary is a fundamental democratic principle, which must be respected;

7. Considers the imprisonment of political activists and the banning of trade unions to be in clear contravention of commitments made by Swaziland under the Cotonou Agreement to respect democracy, the rule of law and human rights, and also under the sustainable development chapter of the SADC Economic Partnership Agreement, for which the European Parliament’s support will depend on respect for the commitments entered into, including the commitment to abide by international conventions, in particular core ILO standards such as Conventions Nos 87 and 98;

8. Recalls that the EU grants GSP trade preferences to Swaziland in order to provide trade incentives with a view to ensuring respect for core human and labour rights and good governance; considers that the banning of trade unions and the imprisonment of political opponents run counter to these aims;

9. Calls, therefore, on the Commission to honour its obligation to monitor Swaziland’s adherence to human rights and to labour and environmental conventions under the GSP, and to open an investigation to determine whether there has been a serious and systematic violation of the labour rights protected under the GSP;
10. Instructs its President to forward this resolution to the Council, the Commission, the
Vice-President of the Commission/High Representative for Foreign Affairs and Security
Policy, the Government of Swaziland, the governments of the member states of the South
African Development Community, the International Labour Organisation, the African
Union and the United Nations Secretary-General.