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MOTION FOR A RESOLUTION

to wind up the debate on the statement by the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy

pursuant to Rule 110(2) of the Rules of Procedure

on asset recovery by Arab Spring countries in transition
(2013/2612(RSP))

**Véronique De Keyser, Pino Arlacchi, Ana Gomes, Göran Färm,
María Muñoz De Urquiza, Raimon Obiols, Pier Antonio Panzeri,
Norbert Neuser**
on behalf of the S&D Group

**European Parliament resolution on asset recovery by Arab Spring countries in transition
(2013/2612(RSP))**

The European Parliament,

- having regard to its previous resolutions, in particular that of 14 March 2013 on the situation in Egypt¹,
- having regard to the co-Chairs' conclusions following the EU-Tunisia Task Force meeting of 28 and 29 September 2011,
- having regard to the co-Chairs' conclusions following the EU-Egypt Task Force meeting of 14 November 2012,
- having regard to Council Regulation (EU) No 101/2011 of 4 February 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia and Council Regulation (EU) No 1100/2012 amending it,
- having regard to Council Regulation (EU) No 270/2011 of 21 March 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt and Council Regulation (EU) No 1099/2012 amending it,
- having regard to Council Decision 2011/137/CFSP of 28 February 2011 concerning restrictive measures in view of the situation in Libya and Council Decisions 2011/625/CFSP and 2011/178/CFSP amending it, to Council Regulation (EU) No 204/2011 of 2 March 2011 concerning restrictive measures in view of the situation in Libya and Council Regulation (EU) No 965/2011 amending it, and to Council Implementing Regulations (EU) No 364/2013 and No 50/2013 implementing Article 16(2) of Regulation (EU) No 204/2011 concerning restrictive measures in view of the situation in Libya,
- having regard to the United Nations Convention against Corruption of 2003, which entered into force in 2005 and was approved on behalf of the European Union by Council Decision 2008/801/EC of 25 September 2008,
- having regard to the United Nations Convention on Transnational Organised Crime (Palermo Convention) of 2000,
- having regard to United Nations Security Council resolutions 1970 (2011), 1973 (2011) and 2009 (2011) on Libya,
- having regard to United Nations Human Rights Council resolution 19/38 of 19 April 2012 on the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international

¹ Texts adopted, P7_TA(2013)0095.

cooperation,

- having regard to the Stolen Asset Recovery Initiative (StAR), a joint programme of the World Bank and the United Nations Office on Drugs and Crime,
 - having regard to the Action Plan on Asset Recovery of the G8 Deauville Partnership with Arab Countries in Transition of 21 May 2012,
 - having regard to the Final Report of the Arab Forum on Asset Recovery of 13 September 2012,
 - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas asset recovery by Arab Spring countries in transition is a moral imperative and is a highly political issue in the EU's relations with its southern neighbourhood; whereas it is also an important economic issue for the southern neighbours concerned owing to the potential for these assets, when returned and used in a transparent and effective manner, to contribute to their economic recovery; whereas asset recovery has a significant preventive effect, as it sends a strong message against the impunity of those involved in corruption, and is therefore a major factor contributing to the establishment of democracy and the rule of law in Arab Spring transition countries; whereas asset recovery also has the important effect of addressing the endemic problem of money laundering, and of strengthening the stability of the international financial system;
- B. whereas there exists a comprehensive international legal framework based on international agreements and standards dealing with corruption, money laundering and law enforcement, with special regard to the United Nations Convention against Corruption (UNCAC) of 2003, which confers clear obligations on States Parties, including establishing the means to overcome bank secrecy and adapting domestic legal systems in order to accommodate asset recovery processes; whereas Article 51 of the UNCAC declares that the return of assets 'is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard', while Article 46.1. stresses that 'States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention';
- C. whereas practical competence for asset recovery lies first and foremost with national authorities in requested states; whereas, in the EU context, while the freezing of assets comes within the Union's competence, recovering and repatriating those assets is a competence of the Member States on the basis of their national legislation; whereas asset recovery, by its very nature, requires cooperation among multiple national agencies in requested and requesting states;
- D. whereas the process of asset recovery is usually a complex, sensitive and lengthy procedure; whereas applicable legal provisions cannot be circumvented and individuals cannot be deprived of their legal rights in this process; whereas the diversity and complexity of national legislation in requested states, on the one hand, and the lack of adequate legal expertise and limited institutional capacity in requesting states, on the other, are major obstacles to successful initiatives in this field;

- E. whereas following the Arab Spring revolutions in Egypt and Tunisia, the EU promptly froze the assets of former dictators, their families and several other persons associated with their regimes; whereas a similar EU decision was adopted, in accordance with UN Security Council resolution 1970 (2011), in respect of Libya; whereas the new legislative framework adopted by the Council on 26 November 2012 allows EU Member States to release frozen assets, on the basis of recognised judicial decisions, to Egypt and Tunisia;
 - F. whereas the EU-Tunisia Task Force co-Chairs' conclusions of 29 September 2011 stated that 'the Task Force is committed to do everything possible to assist the authorities to return to the Tunisian people what was stolen by the corruption of the previous regime. In order to facilitate the return of these assets, the EU announced that it will provide assistance to the Tunisian authorities, notably by setting up an asset recovery support team, with experts based in Tunis and Brussels';
 - G. whereas the EU-Egypt Task Force co-Chairs' conclusions stated that 'the freezing and recovery of misappropriated assets is a major political issue for Egypt and for the EU' and that 'the EU will continue to take a leadership on the issue of asset recovery and work closely with international partners, such as Switzerland, the international financial institutions, notably the World Bank StAR initiative and the G8 to map the state of play, propose concrete next steps and enhance coordination';
 - H. whereas Egypt, Libya and Tunisia have made considerable efforts to ensure that misappropriated assets stolen by former dictators and their regimes are repatriated to those countries, including setting up dedicated national investigative commissions tasked with tracing, identifying and recovering such assets, and initiating legal cases in the courts of EU Member States; whereas several key international actors – including the EU, G8 members and Switzerland – have responded positively to these efforts; whereas, however, few concrete results have been achieved in this area so far;
 - I. whereas the proactive engagement of financial centres and the involvement and contribution of civil society organisations, in both requesting and requested states, are crucial components of successful asset recovery initiatives;
 - J. whereas communication is key in asset recovery efforts in order to disseminate best practice and create incentives by publicising success stories; whereas, however, misleading statements about the quantity of assets to be recovered may create unrealistic expectations among the public in the southern partner countries concerned, which could be counterproductive;
- 1. Stresses that, beyond its economic significance, the return of misappropriated assets stolen by former dictators and their regimes to Arab Spring countries in transition is a moral imperative and a highly political issue, since it is symbolic of justice and accountability being restored in the spirit of democracy and the rule of law, and of the EU's political commitment and credibility, and therefore constitutes a key part of the Union's partnership with its southern neighbourhood, with special regard to Egypt, Libya and Tunisia;
 - 2. Emphasises that, even though the process of asset recovery takes place in accordance with national legal provisions and the relevant competences lie above all with national

authorities, the EU has a vital role to play in stimulating and facilitating this process;

3. Notes that, despite the considerable efforts made by the Egyptian, Libyan and Tunisian authorities and the strong political will on all sides, practitioners engaged in the recovery of misappropriated assets have experienced very little success, owing mainly to the diversity and complexity of the relevant provisions and procedures in the various national legal systems, legal rigidity, the lack of expertise on the part of the Arab Spring countries concerned regarding legal, financial and administrative procedures in European and other jurisdictions and the lack of resources available to them;
4. Calls for a quantum leap in the efforts being made by the EU and its Member States in the field of asset recovery by Egypt, Libya and Tunisia; stresses that asset recovery is an essential part of the Union's support for democratic transition and economic recovery in these countries and can strengthen mutual confidence on both sides in the spirit of partnership with societies, which is a cornerstone of the revised European Neighbourhood Policy;
5. Welcomes the new legislative framework adopted by the Council on 26 November 2012, which facilitates the return of misappropriated funds to Egypt and Tunisia by authorising Member States to release frozen assets on the basis of recognised judicial decisions and by encouraging the exchange of information between the relevant authorities of Member States, on the one hand, and of Egypt and Tunisia, on the other; stresses, however, the need to achieve concrete results and to include Libya fully in this process;
6. Welcomes the close cooperation between EU institutions and other key international actors in asset recovery by Egypt, Libya and Tunisia, with special regard to the Stolen Asset Recovery Initiative (StAR) of the World Bank and the United Nations Office on Drugs and Crime; stresses the importance of making full use of existing mechanisms, at both national and international level, in parallel with adopting the necessary new legislation and adjusting existing legislation within national legal systems in this area;
7. Calls for the establishment without delay of an EU mechanism composed of a team of investigators, prosecutors, lawyers and other experts from Member States, the other European countries concerned and the United States, with the aim of providing legal and technical advice and assistance to Arab Spring countries in the process of asset recovery; requests that this mechanism be duly financed by the relevant financial instrument within the field of the Union's external relations; underlines, in the context of complex, sensitive and lengthy judicial procedures, the importance of this EU mechanism being sustainable; notes also the possibility of additional funding for this mechanism, at a later stage, through co-financing agreements with requesting states;
8. Encourages the Parliamentary Assembly of the Union for the Mediterranean to address the issue of asset recovery by Arab Spring countries in transition, with the aim of involving members of national parliaments from both shores of the Mediterranean in this process;
9. Acknowledges and fully supports the contribution of civil society organisations, in both requesting and requested countries, to the process of asset recovery, in particular by providing information to the relevant authorities, encouraging cooperation among key national and international actors, monitoring the return of assets and ensuring that returned

assets are used in a transparent and effective way in the requesting state;

10. 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 Parliament and Government of Switzerland, the Congress and President of the United States, and the Parliaments and Governments of Egypt, Libya and Tunisia.