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MOTION FOR A RESOLUTION

Pursuant to Rule 115 of the Rules of Procedure

by Pasqualina Napoletano and Marc Tarabella

on behalf of the PES Group

**on the lifting of the parliamentary immunity of three MPs in
Cambodia**

PE 356.363

B6-0207/2005

European parliament resolution on the lifting of the parliamentary immunity of three MPs in Cambodia

The European Parliament,

- having regard to its previous resolutions on Cambodia and in particular those of 12 March 2003 and of 11 February 2004,
 - having regard to the cooperation agreement between the European Community and the Kingdom of Cambodia, which entered in force on 1 November 1999,
 - having regard to the 2000-2003 EC-Cambodia Strategy Document and the 2005-2006 National Indicative Programme,
 - having regard to the Declaration of the Council Presidency on behalf of the European Union of 10 February 2005 on the suspension of the parliamentary immunity of three members of the opposition,
 - having regard to the statement of the Special Representative of the Secretary General for Human Rights in Cambodia concerning the recent anti-democratic developments in Cambodia,
 - having regard to Rule 115(5) of its Rules of Procedure,
- A. whereas on 3 February 2005 the National Assembly of Cambodia lifted the parliamentary immunity of three members of the Parliament belonging to Sam Rainsy Party: Sam Rainsy, Cheam Channy and Chea Poch,
- B. whereas the vote in the National Assembly was taken in closed session with votes being hand-counted, without the presence of journalists and diplomats and without minutes from this session being made public,
- C. whereas all three parliamentarians now face criminal suits under charges ranging from defamation to the forming of a secret military force to overturn the government,
- D. whereas Cheam Channy was arrested on the same day, after a warrant had been issued by the Office of the Military Prosecutor, and transferred to the military prison in Phnom Penh under allegations of organising an anti-governmental militia,
- E. whereas senior Cambodian People's Party officials have publicly declared that the authorities have found no evidence of an armed force being created,
- F. whereas the lack of independence and of impartiality of Cambodia's judiciary system is a well-known matter,

- G. whereas national Cambodian law precludes prosecution of civilians before military courts and international law allows it only under exceptional circumstances, while ensuring full guarantees of a fair trial,
 - H. whereas former King Norodom Sihanouk's plea to the Prime Minister, seeking to restore Sam Rainsy' immunity was turned down on the grounds that only the court may ask Parliament to reverse its decision,
 - I. whereas the Sam Rainsy Party has been prevented from sitting in any of the National Assembly Committees, thus denying them the possibility of serving effectively as representatives of the people who cast their votes for them,
 - J. whereas in past years human rights activists, opposition journalists, trade unionists and other opposition supporters have been intimidated, arrested and killed, which has led to a climate of growing political violence in the country,
1. Condemns this new attack against opposition leaders taking place in a country where the freedom of expression and the observance of human rights are under increasing threat;
 2. Recalls that immunity is intended to protect members of parliament from possibly groundless proceedings or politically motivated accusations made in bad faith;
 3. Stresses that peaceful co-existence of various political forces, full adherence to the rule of law, respect for human rights and democratic processes and neutral public administration are in the interest of all Cambodian people;
 4. Believes that this action undermines the democratic progress already accomplished by Cambodia;
 5. Considers that criminal charges brought by the leaders of the ruling coalition against opposition party members constitute a major setback for democracy in Cambodia casting doubts on the government's commitment to genuine pluralistic democracy;
 6. Calls upon the authorities of Cambodia to abide by their international commitments and in particular by the International Convention on Civil and Political Rights, ratified in 1992;
 7. Calls for the immediate and unconditional release of Cheam Channy, who, as a civilian, should not be subject to military jurisdiction;
 8. Urges the Government of Cambodia to put an end to the persecution of political opponents and human rights activists in the country;
 9. Calls on the National Assembly of Cambodia to restore the immunity to all three members of the Parliament immediately and to ensure that members of the opposition are allowed to sit in its parliamentary committees;

10. Calls on the Commission, the Council and the Member States governments, in view of the ASEAN-EU Ministerial Meeting to be held in Jakarta on 10 and 11 March 2005, to raise the concerns about the current political situation and the threats to democracy resulting from attempts to silence the political opposition in Cambodia;
11. Calls for the European Union to become actively involved in actions aimed at improving human and civil rights in Cambodia and to make further provision of its aid conditional on Cambodia's respect for human rights and the rule of law;
12. Regrets that the aid provided so far to Cambodia by the EU did not lead to improvements in living conditions in the country where, on the contrary, poverty, illiteracy and mortality rates are increasing;
13. Urges the European Commission to focus its assistance on civil society and local NGOs while insisting on increasing its effectiveness and ensuring that international aid reaches those most in need;
14. Calls on the European Union to consider with the UN and other international donors imposing appropriate sanctions against Cambodia unless and until breaches of human and civil rights have been stopped;
15. Suggests that an ad-hoc EU delegation should visit Cambodia as soon as possible to evaluate the political situation in the country;
16. Instructs its President to forward this resolution to the Council, the Commission, the Secretary-General of the UN, the High Commissioner for Human Rights, the Government of Cambodia, the governments of the ASEAN Member States and the Sam Rainsy Party.