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MOTION FOR A RESOLUTION

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

pursuant to Rule 115 of the Rules of Procedure

by Ryszard Czarnecki, Adam Bielan, Eoin Ryan

on behalf of the UEN Group

on Sudan and the International Criminal Court (ICC)

European Parliament resolution on Sudan and the International Criminal Court (ICC)

The European Parliament,

The European Parliament,

- having regard to the Rome Statute of the International Criminal Court and its entry into force on 1 July 2002,
- having regard to the EU Common Position on the ICC (2003/444/CFSP) of 16 June 2003 and of the EU Action Plan to follow up on the Common Position on the ICC of 4 February 2004,
- having regard to the adoption of UNSC resolution 1593 on 31 March 2005,
- having regard to the Prosecutor's bi-annual reports to the UNSC pursuant to UNSC resolution 1593,
- having regard to the Council Conclusions on Sudan/Darfur of December 2007 and January 2008,
- having regard to the Declaration by the Presidency on behalf of the European Union on the anniversary of the referral in the situation of Darfur/ Sudan to the ICC, adopted on 31 March 2008,
- having regard to the awarding of the 2007 Sakharov Prize to Salih Mahmoud Osman, a Sudanese human rights lawyer working in the Darfur region of Sudan, for his work in trying to bring justice to the victims of civil war in Darfur,
- having regard to its continuous support for the ICC, as expressed in resolutions: [on the ratification of the Rome Statute of the ICC of 16 December 1999 and of 18 January 2001](#), [on the entry into force of the Statute of the ICC adopted 28 February 2002](#)¹; [resolution](#) of 24 October 2002 on the General Affairs Council's position concerning the ICC²; of 26 September 2002 on the ICC³; of 4 July 2002 on the draft American Servicemembers' Protection Act (ASPA)⁴; ACP-EU JPA of 3 April 2003 adopted in Brazzaville⁵,
- having regard to its previous resolutions on the situation in Darfur, in particular its resolutions of 12 July 2007⁶, February 2007⁷, 28 September 2006, 6 April 2006⁸, 12

¹ [P5_TA\(2002\)0082; B5-0120/2002](#).

² P5_TA(2002)0521.

³ P5_TA(2002)0449.

⁴ P5_TA(2002)0367.

⁵ ACP-EU 3560/03/fin.

⁶ P6_TA(2007)0342.

⁷ P6_TA(2007)0052.

May 2005, as well as the ACP-EU JPA resolutions on the situation in Darfur of 28 June 2007, and on the situation in Sudan of June 2006,

- having regard to Rule 115(5) of its Rules of Procedure,

A. condemns all the suffering of the hundreds of thousands of women, men and children beaten, killed, raped, displaced or otherwise victimised by the conflict in Darfur, which is now estimated at up to 300 000 in the five years since violence broke out,

B. notes that the situation in Sudan has continued to spiral downwards since 2003 and that indiscriminate aerial attacks on civilians continue,

C. notes that the International Criminal Court (ICC) is an independent, permanent court that tries persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes, and that ICC is based on a treaty, joined by 105 countries,

D. notes that this year marks the 10th anniversary of the Rome Statute that was adopted in Rome in 1998 and recognising the important advances that the Court has made since the entry of force of the Statute in 2002,

E. stresses that the government of Sudan, as a member of the United Nations, is obliged to cooperate with the ICC by virtue of resolution 1593, which the Security Council adopted under its Chapter 7 powers,

F. recalls that, on 27 April, 2007, the Pre-Trial Chamber I of the ICC issued warrants of arrest against Ahmad Muhammad Harun, former Minister of State for the Interior of the Sudan and Ali Muhammad Ali Abd Al Rahman, otherwise known as Ali Kushayb—a Janjaweed/militia leader— and that they are both charged with 51 counts of war crimes and crimes against humanity, including murder, torture and inhumane treatment, rape and sexual violence and pillaging,

G. deeply dismayed by the fact that, since the issuance of the arrest warrants, the government of Sudan has repeatedly refused to cooperate with the International Criminal Court and has indeed multiplied acts of defiance towards the Court and the international community,

H. recalls that, in spite of the ICC arrest warrants, Ahmad Harun remains sitting Minister of State for Humanitarian Affairs and in charge of protecting the very persons he has allegedly victimized; that he was nominated to be the main focal point for the UN peace keeping mission in Darfur, UNAMID; that he was also promoted to become the chair of a governmental committee tasked with hearing human rights complaints; and that Ali Kushayb – who was in Sudanese custody on other charges at the time the warrants were issued - was released from jail in October 2007 despite being sought by the ICC,

I. whereas in June 2007 and again in December 2007 the Office of the Prosecutor has reported to the UN security Council the failure and unwillingness of the Sudanese Government to

⁸ P6_TA(2006)0142.

cooperate with the Court and has noted that no steps were taken to arrest and surrender Ahmad Harun and Ali Kushayb,

J. notes with deep concern that, according to the Prosecutor's report to the Security Council, Ahmad Harun continues to be part of the system enabling current crimes committed in Darfur,

K. notes that the EU Council adopted conclusions in December 2007 and January 2008 condemning Sudan's failure to cooperate with the ICC and that in a Presidency declaration of 31 May 2008, the EU pledged to take "appropriate further measures against those who bear responsibility for Sudan's failure to cooperate with the ICC",

L. welcomes the fact that the ICC Prosecutor has announced that he is continuing his investigations in Darfur,

M. notes that on 5 June 2008, the ICC Chief Prosecutor, Luis Moreno Ocampo, will report for the seventh time to the UNSC on the progress of its investigations in Darfur and on the cooperation received from Sudanese authorities,

N. determined to support the ICC at this crucial juncture of its work and fully convinced that ending impunity for the planners and perpetrators of horrific crimes committed in Darfur is an essential component of the solution to the conflict in Darfur,

1. Strongly condemns Sudan's persistent failure to cooperate with the ICC and to arrest and hand over Ahmad Harun and Ali Kushayb to the ICC, in violation of UNSC resolution 1593 and in blatant disrespect of the hundred thousands of victims and their families and of the millions of people who have been forced to leave their homes since the beginning of the conflict;

2. Urges the authorities in Khartoum to arrest and surrender the two ICC suspects with no further delay, as to immediately break the cycle of impunity in Darfur and to cooperate with future ICC investigations in Darfur;

3. Commends Mr. Salih Osman, winner of the 2007 Sakharov Prize and human rights activist from the Darfur region of Sudan who for the last two decades has defended and provided legal representation to those who have been arbitrarily detained and tortured by the Sudanese government;

4. Urges EU Member States and EU candidate countries with a seat at the UN Security Council, namely Belgium, France, Italy, the United Kingdom and Croatia to take a principled stance during the Prosecutor's briefing on 5 June, in compliance with the EU Common Position on the ICC, and to adequately respond to the Prosecutor's findings by supporting the adoption of a resolution or a presidential statement calling on Sudan to immediately comply with UNSC resolution 1593 and with the Court's requests;

5. Calls on all other States represented at the UN Security Council to also support any cooperation request put forward by the ICC Prosecutor on behalf of the Court and in particular calls on China, Russia, South Africa and Libya to follow through their own words under Security Council resolution 1593 and to not obstruct Security Council's action on 5

June;

6. Urges the General Affairs and External Relations Council of 16 and 17 June and the European Council of 19 and June to discuss the report of the Prosecutor and move to action and adopt targeted EU punitive measures against a clearly identified group of Sudanese officials who bear responsibility for Sudan's non cooperation with the Court, including:

- Freezing and seizing of assets of individuals identified as those impeding cooperation with the ICC;
- Measures denying access to EU banks for any financial transaction and payment made by or on behalf of these individuals;
- Measures impeding business and other economic or trade relations between these individuals or any legal entity or corporation controlled by these individuals and European companies;
- Travel bans;

7. Urges the EU Special Representative for Darfur, in keeping with his mandate and with the EU Common Position on the ICC, to take a proactive role and use all available opportunities to raise with Sudanese interlocutors and other partners the need to immediately arrest and surrender Ahmad Harun and Ali Kushayb, to cooperate with the ICC and calls on him to regularly report to other EU institutions on developments in that regard;

8. Calls on the African Union and the Arab League to actively engage in Darfur by urging the Government of Sudan to cooperate with the Office the Prosecutor with the current and future investigations and calls on the EU presidency to include Sudan's cooperation with the ICC on the agenda of political dialogues and summits with key partners, such as China, the United States, the African Union or the Arab League;

9. Calls on EU observers to the peace talks to underscore the importance of ending impunity for building sustained respect for the rule of law and human rights in Sudan;

10. Calls on the Council and the Commission to keep the European Parliament regularly informed of their current and future efforts to press the Government of Sudan to cooperate with the ICC and commits to remain seized of the matter and use all available opportunities to raise the issue with both Sudanese officials and other partners;

11. Welcomes and supports the "Justice for Darfur" campaign, launched by a large group of Non-Governmental Organisations (including, among others, Amnesty International, the Cairo Institute for Human Rights Studies, the Coalition for the International Criminal Court, Parliamentarians for Global Action, Human Rights Watch, the FIDH, the Sudan Organization Against Torture), aimed at pressing Khartoum to comply with the Court's arrest warrants and to press Sudan to cooperate with the ICC;

12. Instructs its President to forward this resolution to the Commission and the Council, notably to the EU Special Representative for Darfur, to the governments of Sudan, of the EU Member States and of the Members of the UN Security Council, to the African Union institutions, to the Arab League institutions, and to the Prosecutor of the International Criminal Court.