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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 122 of the Rules of Procedure

on Kenya: failure to arrest Sudan's President Omar Al-Bashir

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on behalf of the Verts/ALE Group

European Parliament resolution on Kenya: failure to arrest Sudan's President Omar Al-Bashir

The European Parliament,

- having regard to its previous resolutions on the Sudan's Darfur crisis,
 - having regard to the International Criminal Court arrest warrants issued against Sudanese President Omar Al-Bashir for crimes against humanity and genocide,
 - having regard to the UN Security Council resolution 1593/2005,
 - having regard to the EU High Representative Catherine Ashton's statement of 27 August 2010 urging Kenya to arrest President Al-Bashir and hand him over to the ICC,
 - having regard to the Comprehensive Peace Agreement signed between the Sudanese parties that ended the civil war in 2005,
 - having regard to its previous resolutions on the ICC and particularly on the first review Conference on the Rome Statute of the ICC, in Kampala, Uganda, in May 2010
 - having regard to the Kampala Declaration, adopted by consensus on 1 June 2010, reaffirming States commitment to the and its full implementation,
 - having regard to Rule 122(5) of its Rules of Procedure,
- A. Whereas the Kenyan government failed to arrest President Omar Al-Bashir of Sudan who took part in the Kenyan constitution promulgation ceremony in Nairobi, 27 August 2010, knowing that he had been indicted by the ICC for war crimes,
- B. Whereas President Omar Al-Bashir is subject to two arrest warrants issued by the ICC for atrocities committed in Darfur: the first issued in March 2009 on charges of war crimes and crimes against humanity, the second issued in July 2010 on charges of genocide; whereas Sudan has refused to cooperate with the ICC's work to ensure justice for the crimes committed in Darfur,
- C. Whereas the African Union has issued a statement defending Kenya's government position for hosting the Sudanese President and urging its members to vote against any UN resolution condemning Kenya,
- D. Whereas the AU maintains that Kenya abided by the Union's resolution adopted at the 13th Ordinary Session in Sirte, Libya, 2009, which stated that African countries would not arrest and surrender the Sudanese president to the ICC because the UN Security Council had declined to act on their request of deferring the decision for one year in order to allow a peaceful settlement of the Darfur crisis,

- E. Whereas Kenya has a clear obligation to cooperate with the ICC in relation to the enforcement of such warrants of arrest, which stems both from the United Nations Security Council Resolution 1593, whereby the United Nations Security Council urges all States and concerned regional and other international organizations to cooperate fully with the ICC and from article 87 of the Statute of the Court, to which the Republic of Kenya is a State Party,
- F. Whereas the African Union reiterated its call for the prosecution of Sudanese President Omar Al-Bashir to be deferred,
- G. Recalling that the ICC action on Darfur is the result of a referral to the court by the UN Security Council on the basis of chapter VII of the UN Charter, which is binding on Sudan and other countries of the AU,
- H. Regretting that the reluctance of the African Union to the establishment of an ICC office at the AU and threatening to sanction those African States who do not respect the AU decision,
1. Regrets Kenyan government decision to invite President Omar Al-Bashir in Nairobi for the signature of the new Kenyan Constitution, knowing that he had been indicted by the ICC for war crimes;
 2. Regrets that African Head of States and Governments unanimous decision to support President Omar Al-Bashir at the African Union conference on 3 July 2009 in Libya, violating African States treaty obligation that have signed the Rome Statute;
 3. Highlights that according to the African Union Constitutive Act, Member states must promote and protect human rights in line with the African Charter on Human and People's Rights and reminds that African countries are also signatories of International Human Rights Conventions;
 4. Is of the view that justice is a fundamental building block of sustainable peace and to put an end to impunity, without which peace, democracy, respect for human rights and rule of law will remain undermined and threatened;
 5. Calls upon the African Union to review its position and rise up against impunity, injustice, war crimes against humanity or genocide;
 6. Calls on African head of States and Governments, signatories of the Rome Statute to honour their commitment and cooperate with the ICC in its investigations of war crimes against humanity or genocide;
 7. Notes that President Al-Bashir has strong political support from African nations who believe that the ICC is singling out Africa whilst ignoring war crimes committed in other parts of the world;
 8. Regrets that some UN Security Council members are not signatory to the Rome Statute which established the ICC and calls on the EU to do all it can do to promote for more

signatures to the Rome Statute;

9. Urges the EU to engage a political dialogue with the AU on the implementation of the ICC decisions;
10. Instructs its President to forward this resolution to the Council, the Commission, the institutions of the African Union, the governments and parliaments of the Member States, the United Nations Security Council, the International Criminal Court, the Kenyan government and all parliaments and governments of IGAD.