



EUROPEAN PARLIAMENT

2009 - 2014

Session document

7.9.2010

B7-0510/2010

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

Filip Kaczmarek, Tunne Kelam, Roberta Angelilli, Elena Bănescu, Sari Essayah, Eija-Riitta Korhola, Martin Kastler, Mario Mauro, Erminia Mazzoni, Bernd Posselt, Cristian Dan Preda, Potito Salatto, Bogusław Sonik

on behalf of the PPE 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 Rule 122(5) of its Rules of Procedure,

A. whereas the Kenyan government invited and welcomed President Omar Al-Bashir of Sudan to take part in the 27 August 2010, Constitution promulgation ceremony 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 Kenyan Prime Minister admitted that inviting President Al-Bashir was a mistake and that the failure of the Kenyan authorities to arrest him constitutes a serious breach of Kenya's international obligations under not only the ICC statute, but also under its national legislation, including its new Constitution, which recognises the direct applicability of international law;

D. whereas the former UN Secretary General Kofi Annan demanded that Kenya should make clear its position on the ICC and reaffirm its commitment to the ICC;

E. whereas in his congratulation statement on the promulgation of the new Constitution, President Obama expressed disappointment that Kenya hosted Sudanese President Omar Al-Bashir in defiance of the ICC arrest warrants for war crimes, crimes against humanity and genocide;

F. whereas the African Union has issued a statement defending Kenya for hosting the

Sudanese President and has urged its members to vote against any UN resolution condemning Kenya;

G. 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;

H. 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;

I. Whereas Sudan will, according to CPA signed in 2005, hold a referendum in January 2011 for self determination in Southern Sudan, and whereas it is essential to guarantee Sudan's preparedness for it and that the needed international support is available to handle possible unrest and for helping to monitor the elections and support the result;

1. Condemns in the strongest possible terms the crimes committed against the people of Darfur;

2. Expresses its regret for Kenya's decision to invite President Omar Al-Bashir during the signing of the new Constitution that brings a new democratic governance era to the country;

3. Regrets that some UN Security Council members are not signatory to the Rome Statute which established the ICC and may not have any grounds to pass any judgement on Kenya for hosting President Omar Al-Bashir;

4. Calls on Kenya also to honour its commitment to cooperate with the ICC in its investigations focused on the serious crimes committed following Kenya's 2007 general elections;

5. Calls on the government of Kenya to continue its constructive dialogue with the concerned Sudanese parties until peace is attained in that country;

6. Calls on African states, in particular those neighbouring Sudan, to find ways for Sudanese parties to work together to resolve their differences without going back to war again;

7. Urges the EU to engage the AU Commission so that African states oblige in complying with and implementing the ICC decisions;

8. Calls on the EU to strongly support the CPA implementation in Sudan and to engage in monitoring the referendum from the registration of voters until the end;

9. 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.