



EUROPEAN PARLIAMENT

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Plenary sitting

16.4.2013

B7-0168/2013

MOTION FOR A RESOLUTION

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

pursuant to Rule 122 of the Rules of Procedure

on Guantánamo: hunger strike by prisoners
(2013/2601(RSP))

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on behalf of the Verts/ALE Group

European Parliament resolution on Guantánamo: hunger strike by prisoners (2013/2601(RSP))

The European Parliament,

– having regard to its previous resolutions on the Guantanamo prison camp, notably the one of 9 June 2011

- having regard to its resolution of 11 September 2012 on alleged transportation and illegal detention of prisoners in European countries by the CIA: follow-up of the European Parliament TDIP Committee report

- having regard to President Obama's Executive Orders of January 22, 2009 in which he ordered the closure of Guantanamo Bay detention facility by January 22, 2010

- having regard to the Joint Statement of the EU and its Member States and the USA on the Closure of the Guantanamo Bay Detention Facility, 15 June 2009, as well as the Conclusions of the Justice and Home Affairs Council of 4 June 2009 and information exchange mechanism

- having regard to the Statement by UN High Commissioner for Human Rights, Navi Pillay, on 5 April 2013 in which she declared that the Guantanamo detention regime is in “clear breach of international law” and should be closed

- having regard to the declaration of the head of the International Committee of the Red Cross, Peter Maurer, on 11 April 2013 in which he expressed opposition to the force-feeding of prisoners staging a mass hunger strike at the Guantanamo prison camp and urging President Barack Obama to do more to resolve the "untenable" legal plight of inmates held there

- having regard to the letter of 4 March 2013 by the Guantanamo prisoners' defence, protesting over the new policy of the camp authorities to "confiscate detainees' personal items, including blankets, sheets, towels, mats razors, toothbrushes, books, family photos, religious CDs, letters and legal mail", "restricting their exercise" and "searching the men's Qur'ans in ways that constitute desecration according to their religious beliefs"

-having regard to the Emergency Petition by the attorneys of Prisoner Musa'ab Omar Al Madhwani of 26 March 2013 demanding to provide their client with drinking water and sufficient clothing to keep him warm

- having regard to an Op-Ed published in the *New York Times* on 14 April 2013 by Prisoner Samir Mukbel in which he described the “painful and degrading” procedures he is undergoing in response to his decision to participate in the hunger strike

- having regard to Rule 122 of its Rules of Procedure,

A. whereas since approximately the middle of February 2013 many of the remaining 166 inmates, still being held at Guantanamo Bay prison camp are participating in a hunger strike

to protest their continued detention, at least 43 according to US government sources and approximately 130 according to the defendants' lawyers, (of whom 11 are being forced-fed, and 3 are in the meantime hospitalised)

B. whereas according to testimony from the defence, since a new commander assumed control of the prison at the beginning of the year, conditions imposed on the inmates reverted back to the harsh treatment of the first years, and whereas there are credible allegations that the prison administration is reacting to the hunger strike by denying proper drinking water and exposing the men to freezing

C. whereas on 13 April 2013, shortly after a delegation of the International Committee of the Red Cross had left the camp after completing a visit to examine the prisoners and study the circumstances of the growing hunger strike and criticised the force-feeding of some inmates, riots broke out when guards forced prisoners living in communal housing to move to individual cells; whereas some prisoners reportedly resisted with improvised weapons and the security personnel used shot guns though no serious injuries occurred;

D. whereas 86 prisoners of war being held at Guantanamo Bay have been cleared for release, a majority being from Yemen, and another 46 are being held "[without enough evidence](#)" to prosecute, but are supposedly still "[too dangerous to transfer](#)", while only [six](#) people are facing formal charges;

E. whereas an important reason for the hunger strike brought forward by defence lawyers and the ICRC is the inmates' desolation over the lack of any perspective to being released, notably after President Obama in January signed the [National Defence Authorization Act](#) (NDAA) into law, which included provisions which preserved Guantanamo Bay into foreseeable future, while shortly thereafter closing the [State Department Office](#) tasked with finding suitable, lawful locations to transfer the Guantanamo detainees;

F. whereas the [NDAA has made it virtually impossible](#) for inmates to return home, stating detainees cannot return to a country where a "threat that is likely to substantially affect" the government's ability to "exercise control" over the repatriated individual may exist;

G. Whereas the US Congress has on the other hand enacted legislation blocking the transfer of detainees at Guantanamo to the United States;

H. whereas in the case of the five alleged "high value detainees" for whom proceeding are already underway, confidentiality of the defence has been completely compromised, with material and thousands of emails disappearing from computers and listening devices being disguised as smoke detectors; whereas -as a result - the proceedings have been postponed indefinitely by the responsible judge;

I. whereas President Obama and Vice-President Biden have both acknowledged that Guantanamo is the "greatest propaganda tool that exists for recruiting of terrorists around the world";

1. re-iterates its position that all states should comply with the rule of law and respect the obligations under international human rights law, refugee law and humanitarian law;

2. deeply regrets that the US administration has not honoured its decision of 2009 to close Guantanamo and that President Obama has not used his presidential powers to its fullest in

order to end the indefinite, arbitrary detention without charge of over 160 prisoners of war;

3. expresses its grave concern over the mental and physical conditions of the detainees, most of whom - if not all - have been submitted to torture and inhumane and degrading treatment, while the majority, far from having any terror intentions happened to be in the wrong place at the wrong time and had been sold to the US forces for a bounty;

4. Supports the position of the ICRC to reject force-feeding as a violation of basic freedoms of the individual, is dismayed to see that instead of showing serious intentions to improve the situation for the illegally detained, the authorities at Guantanamo are reacting with repression and imposing additional hardship and suffering;

5. calls on the US government to order the relevant authorities to react swiftly, lawfully and humanely in a manner consistent with international standards of medical ethics with the aim to remedy the immediate causes of the hunger strike before irreparable harm occurs to the prisoners;

6. Calls on President Obama to put an end to the 11 year aberration from the rule of law in Guantanamo Bay and to start repatriating the remaining men to their home countries or other countries for resettlement or to charge them in a court that fulfils fair trial standards; requests President Obama to appoint an individual within his Administration who is specifically empowered to oversee the closing of Guantanamo, with practical authority

7. Recalls the EU Member States' readiness to help the US close down the Guantanamo prison and calls on the VP/HR to coordinate a joint EU Member States' initiative to urge the US President to act as well as offering to receive additional Guantanamo inmates on European soil, especially the approximately dozen men cleared for release who cannot return to their home countries

8. Calls on the EU to ensure that its Member States, associates and partners which have agreed to host former Guantánamo detainees actually afford them full support as regards living conditions, efforts to facilitate their integration into society, medical treatment including psychological recovery, access to identification and travel documents, the exercise of the right to family reunification and all other fundamental rights granted to people holding political asylum status

9. welcomes the willingness of the United States to contribute to the costs incurred by EU Member States in relation to receiving ex-detainees as stipulated in the Joint EU-US statement of 15 June 2009 and calls on the American administration to live up to the responsibility to support former detainees not only during the resettlement phase but also thereafter

10. Calls on its Delegation with the United States to urge their Congressional counterparts to remove the restrictions on transfers from Guantanamo in the National Defense Authorisation Act 2014

11. Calls on the EU Member States to ensure that full and independent investigation is carried out concerning violations of international and human rights law on European soil in the remit of the so-called war against terrorism

12. Calls on the US to secure accountability for any abuses it has practised, to ensure that

relevant domestic and international law is applied with a view to ending legal black holes, to end military trials, to apply criminal law fully to terrorist suspects and to restore review of detention, habeas corpus, due process, freedom from torture and non-discrimination between foreign and US citizens

13. Recalls the 2009 commitment of the United States to develop a new and more sustainable approach to security-related issues and expresses its great disappointment that President Obama who had promised to stop the rendition and secret detention programs of his predecessor is not only continuing the policy of arbitrary detentions but has combined it with an enhanced program of extrajudicial killings

14. Instructs its President to forward this resolution to HR/VP For Foreign and Security Policy, the Commission, the governments and parliaments of the member states, the UN Commissioner for Human Rights, the President of the ICRC, and the Government and Congress of the United States of America.