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B7-0194/2013

MOTION FOR A RESOLUTION

to wind up the debate on the statement by the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy

pursuant to Rule 110(2) of the Rules of Procedure

on asset recovery by Arab Spring countries in transition
(2013/2612(RSP))

**Hélène Flautre, Nicole Kiil-Nielsen, Franziska Katharina Brantner,
Isabelle Durant, Jean-Paul Basset, Judith Sargentini, Eva Joly**
on behalf of the Verts/ALE Group

B7-0194/2013

**European Parliament resolution on asset recovery by Arab Spring countries in transition
(2013/2612(RSP))**

The European Parliament,

- having regard to its previous resolutions on Arab Spring countries in transition with regard, in particular, to that of 14 March 2013 on the situation in Egypt¹,
- having regard to the recommendations of the Committee on Political Affairs, Security and Human Rights of the Parliamentary Assembly of the Union for the Mediterranean of 12 April 2013,
- having regard to the co-Chairs' conclusions following the EU-Tunisia Task Force meeting of 29 September 2011 and to the co-Chairs' conclusions following the EU-Egypt Task Force meeting of 14 November 2012,
- having regard to Council Regulation (EU) No 101/2011 of 4 February 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia and Council Regulation (EU) No 1100/2012 amending it,
- having regard to Council Regulation (EU) No 270/2011 of 21 March 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt and Council Regulation (EU) No 1099/2012 amending it,
- having regard to Council Decision 2011/137/CFSP of 28 February 2011 concerning restrictive measures in view of the situation in Libya and Council Decisions 2011/625/CFSP and 2011/178/CFSP amending it, to Council Regulation (EU) No 204/2011 of 2 March 2011 concerning restrictive measures in view of the situation in Libya and Council Regulation (EU) No 965/2011 amending it, and to Council Implementing Regulations (EU) No 364/2013 and No 50/2013 implementing Article 16(2) of Regulation (EU) No 204/2011 concerning restrictive measures in view of the situation in Libya,
- having regard to the existing EU legal instruments aimed at improving confiscation and asset recovery in the framework of Council decisions 2001/500/JHA, 2003/577/JHA, 2005/212/JHA, 2006/783/JHA and 2007/845/JHA, and the proposal for a directive of the European Parliament and of the Council on the freezing and confiscation of proceeds of crime in the European Union (COM(2012) 85) of 12 March 2012,
- having regard to the 2003 United Nations Convention against Corruption (UNCAC), which entered into force in 2005 and to which the EU acceded with Council Decision 2008/801/EC of 25 September 2008,
- having regard to the United Nations Convention on Transnational Organised Crime

¹ Texts adopted, P7_TA(2013)0095.

(Palermo Convention) of 2000,

- having regard to United Nations Security Council resolutions 1970 (2011), 1973 (2011) and 2009 (2011) on Libya,
 - having regard to United Nations Human Rights Council resolution 19/38 of 19 April 2012 on the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation,
 - having regard to the Stolen Asset Recovery Initiative (StAR), a joint programme of the World Bank and the United Nations Office on Drugs and Crime,
 - having regard to the Action Plan on Asset Recovery of the G8 Deauville Partnership with Arab Countries in Transition of 21 May 2012,
 - having regard to the first Arab Forum on Asset Recovery (AFAR), co-organised by Qatar and the US presidency of the G8 on 11-13 September 2012, and to its final report,
 - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas it is of the utmost importance for the EU to show its concrete and genuine commitment to coming to terms with, and departing from, its past approach towards the countries of the southern rim of the Mediterranean, which was characterised by strong political and economic relations with the local elites in disregard of their lack of democratic legitimacy and widespread human rights violations;
- B. whereas asset recovery is an important and sensitive economic issue for the southern neighbours concerned, given the potential for these assets and the moral implications; whereas asset recovery conveys a strong message against the impunity of those involved in corruption, and contributes also to reducing instability in the international financial system by dealing with funds that are often involved in speculative financial operations;
- C. whereas the international community has established a solid system of international agreements and standards dealing with corruption, money laundering and law enforcement, with special regard to the 2003 United Nations Convention against Corruption; whereas asset recovery lies at the point where these efforts intersect; whereas Article 51 of the UNCAC declares that the return of assets ‘is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard’, while Article 46.1. stresses that ‘States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention’;
- D. whereas the practical competence for asset recovery lies first and foremost with the national authorities in requested states ; whereas, in the context of the EU, while the freezing of assets lies within the Union’s competence, recovering and repatriating those assets is a competence of the Member States in accordance with their national legislation; whereas asset recovery, by its very nature, requires a strong political will and genuine

cooperation among multiple national agencies in requested and requesting countries;

- E. whereas following the Arab Spring revolutions in Egypt and Tunisia, the EU promptly froze the assets of the former dictators, their families and a number of other people associated with their regimes; whereas a similar EU decision was adopted, in accordance with UN Security Council resolution 1970 (2011), in the case of Libya; whereas the new legislative framework adopted by the Council on 26 November 2012 allows EU Member States to release frozen assets, on the basis of recognised judicial decisions, to Egypt and Tunisia;
- F. whereas the EU-Tunisia Task Force Co-Chairs' Conclusions of 29 September 2011 stated that 'the Task Force is committed to do everything possible to assist the authorities to return to the Tunisian people what was stolen by the corruption of the previous regime. In order to facilitate the return of these assets, the EU announced that it will provide assistance to the Tunisian authorities, notably by setting up an asset recovery support team, with experts based in Tunis and Brussels';
- G. whereas the EU-Egypt Task Force co-Chairs' conclusions stated that 'the freezing and recovery of misappropriated assets is a major political issue for Egypt and for the EU' and that 'the EU will continue to take a leadership on the issue of asset recovery and work closely with international partners, such as Switzerland, the international financial institutions, notably the World Bank StAR initiative and the G8, to map the state of play, propose concrete next steps and enhance coordination';
- H. whereas Egypt, Libya and Tunisia have made considerable efforts to ensure that misappropriated assets stolen by former dictators and their regimes are repatriated to those countries; whereas several key international actors – including the EU, G8 members, and Switzerland – responded positively to these efforts; whereas, however, few concrete results have been achieved in this context so far, and growing, legitimate frustration is perceptible among the governments and civil societies of the requesting countries;
- I. whereas the High Court in London ruled that a GBP 10 million London mansion purchased by the eldest son of deposed Libyan dictator Moammar Gaddafi rightfully belongs to the people of Libya; whereas on 27 March 2013 a delegation from the World Bank-UN joint StAR programme which met with the Libyan authorities in Tripoli reaffirmed its involvement in tracking Libyan assets and in working to ensure the return of all funds stolen by Gaddafi's regime;
- J. whereas in April 2013 the Lebanese authorities returned to their Tunisian counterparts close to USD 30 million illicitly deposited in the former Tunisian ruler's bank accounts;
- K. whereas the proactive engagement of the financial centres concerned and the involvement and contribution of civil society organisations, in both requesting and requested states, are crucial components of successful asset recovery initiatives;
- L. whereas communication and transparency are key to asset recovery efforts in terms of disseminating best practice and creating incentives by promoting success stories;
- M. whereas debt contracted by authoritarian regimes against the interests of their population

and not spent in their interest constitutes odious debt; whereas civil society organisations and parliamentarians from Tunisia and Egypt have called for an independent audit of their national debt; whereas Tunisian President Marzouki, in his speech at the European Parliament on 1 February 2013, called for European Member States to follow the example of Germany by converting part of the Tunisian external debt contracted during the Ben Ali regime into development assistance; whereas over 100 Members of the European Parliament have signed a petition calling for the suspension of the payment of the Tunisian external debt pending an independent audit, in order to identify the odious and illegitimate part of this debt; whereas a quarter of the Tunisian external debt is held by France and the European Investment Bank, according to the World Bank;

1. Stresses that the return of misappropriated assets stolen by, and the identification of the odious debt contracted under, former dictators and their regimes in Arab Spring countries in transition are, beyond their economic significance, a moral imperative and a highly politically sensitive issue owing to their implications in terms of justice and accountability being restored in the spirit of democracy and the rule of law, as well as of the EU's political commitment and credibility, and therefore constitute a key dimension of the Union's partnership with its southern neighbourhood, with special regard to Egypt, Libya and Tunisia;
2. Underlines the fact that, even if the process of asset recovery follows national legal provisions, and relevant competences lie primarily with national authorities in Member States, other European countries and beyond, the EU has a vital role to play in stimulating and facilitating this process with regard, in particular, to countries with which framework agreements are in force and to multilateral political and economic organisations of which the EU is a member;
3. Regrets the fact that, despite considerable efforts made by the Egyptian, Libyan and Tunisian authorities and a strong political will stated by all sides, so far very limited success has been experienced by practitioners who are attempting to engage in the recovery of misappropriated assets, mainly because of the multiplicity and complexity of the provisions and procedures in various national legal systems, legal rigidity, and the lack of expertise on the part of the Arab Spring countries concerned as regards the complex legal, financial and administrative procedures in European and other jurisdictions;
4. Deplores the fact that the EU and its Member States have, as a whole, largely failed to live up to the legitimate expectations of the countries concerned that they will take all the necessary steps to ensure a timely recovery of the illicitly acquired funds, and that the very credibility of the EU's revised policy towards the Arab Spring countries is being undermined in consequence;
5. Calls on the EU and its Member States to step up efforts in the field of asset recovery by Egypt, Libya and Tunisia; stresses that asset recovery is an essential dimension of the Union's support for democratic transition and economic recovery in these countries and can further strengthen mutual confidence between the two sides in the spirit of partnership with societies which is a cornerstone of the reviewed European Neighbourhood Policy;
6. Welcomes the new legislative framework adopted by the Council on 26 November 2012, which facilitates the return of misappropriated funds to Egypt and Tunisia by authorising

Member States to release frozen assets on the basis of recognised judicial decisions and by encouraging the exchange of information between the relevant authorities of Member States, on the one hand, and of Egypt and Tunisia, on the other; stresses, however, the need to achieve concrete results within a reasonable timeframe and to fully include Libya in this process;

7. Encourages the National Asset Recovery Offices of all Member States to work closely together and to develop their relations with the relevant authorities in Arab Spring countries in order to assist them in addressing the complex legal procedures; calls on the European External Action Service to take a proactive leadership role, notably in coordinating Member States' efforts, providing capacity-building, and encouraging cooperation among all the states concerned;
8. Welcomes, in this connection, the initiative of Canada, France, Germany, Italy, the UK, Japan, Switzerland and the United States to issue a guide providing a comprehensive description of their national legal systems with regard to asset recovery, in order for requesting countries to gain a better understanding of what is legally possible, what kind of information is available, what types of investigation can be conducted and how to proceed in order to obtain effective asset recovery through mutual legal assistance; encourages all Member States to do likewise;
9. Welcomes the cooperation between EU institutions and other key international actors in asset recovery by Egypt, Libya and Tunisia, with special regard to the Stolen Asset Recovery Initiative (StAR) of the World Bank and the United Nations Office on Drugs and Crime; stresses the importance of making full use of existing mechanisms, at both national and international level, in parallel with adopting necessary new legislation or adjusting existing legislation in national legal systems in this regard;
10. Welcomes the G8 initiative in the form of the Action Plan on Asset recovery of the Deauville Partnership, which identifies concrete measures to promote cooperation and case assistance, capacity-building efforts and technical assistance, and suggests the establishment of a collaborative regional initiative, the Euro-Arab Asset Recovery Forum, for discussion and cooperation on continued efforts;
11. Calls for the immediate establishment of an EU mechanism composed of a team of investigators, prosecutors, lawyers and other experts from Member States and other European and non-European countries concerned, including Canada and the United States, with the aim of providing legal and technical advice and assistance to Arab Spring countries in the process of asset recovery; requests that this mechanism be duly financed by the relevant financial instrument within the field of the Union's external relations; underlines, in the context of complex, sensitive and lengthy judicial procedures, the importance of the sustainability of this EU mechanism;
12. Calls on the European Union to draw lessons from its experience of asset recovery involving the Arab Spring countries, including with regard to shortcomings in the EU and Member States' legal and policy frameworks, as well as at international level, on this matter; calls on the European Commission and the External Action Service to draft a communication outlining possible initiatives at EU and international levels to ensure swift and efficient recovery of illicitly acquired assets following democratic transition processes

in third countries and to ensure that there are no safe havens for assets stolen by corrupt regimes within the European financial system in particular and around the globe in general;

13. Encourages the Parliamentary Assembly of the Union for the Mediterranean to address the issue of asset recovery by Arab Spring countries in transition, with the aim of involving members of national parliaments from both shores of the Mediterranean in this process;
14. Urges the Arab League to define, adopt and quickly implement mechanisms of cooperation on asset recovery, and calls on the Gulf countries in particular to enhance their cooperation and to offer their legal assistance to Arab Spring countries in addressing the process of asset recovery;
15. Believes that a portion of Arab spring countries' debt could very well fall under the legal definition of illegal, illegitimate or odious debt, and therefore calls for the identification of the odious debt;
16. Calls for a moratorium on the payment of interest on the Tunisian external debt, pending an independent audit of all external loans contracted by the state or benefiting from state guarantees between 1987 and February 2011, in order to identify the odious and illegitimate part of the debt; calls for the European Investment Bank, France and other major European creditors to carry out an autonomous, detailed audit of their loans contracted with Tunisia under the Ben Ali regime; encourages them in this context to examine the possibility of converting part of their debt into development assistance; calls on the Commission to support this conversion process, including through co-funding;
17. Stresses the importance of the contribution of civil society organisations, in both requesting and requested states, to the process of asset recovery, as well as with regard to the identification of the odious part of external debts, in particular in providing information to relevant authorities, encouraging cooperation between key national and international actors, monitoring the return of assets, and ensuring that returned assets are used in a transparent and effective way in the requesting state;
18. Instructs its President to forward this resolution to the Council, the Commission, the High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission, the parliaments and governments of the Member States, the parliaments and governments of Switzerland and Canada, the Congress and President of the United States, the parliaments and governments of Egypt, Libya and Tunisia, and the European Investment Bank.