



Plenary sitting

B8-0090/2016

19.1.2016

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 135 of the Rules of Procedure

on EU citizens under detention in India, notably Italian, Estonian and UK citizens
(2016/2522(RSP))

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on behalf of the PPE Group

B8-0090/2016

European Parliament resolution on EU citizens under detention in India, notably Italian, Estonian and UK citizens (2016/2522(RSP))

The European Parliament,

- having regard to the Treaty on the Functioning of the European Union,
- having regard to the Charter of Fundamental Rights of the European Union,
- having regard to the European Convention on Human Rights and Fundamental Freedoms and the additional protocols thereto,
- having regard to the Universal Declaration of Human Rights,
- having regard to the UN Convention on the Law of the Sea,
- having regard to the Montreux Document of 17 September 2008,
- having regard to the written answer of 5 October 2015 given by the Vice-President/ the High Representative of the Union for Foreign Affairs and Security Policy to the European Parliament,
- having regard to the European parliament resolution on the case of the two Italian 'marò' (2015/2512(RSP)),
- having regard to all the statements of both the Commission and its Vice-President/ the High Representative of the Union for Foreign Affairs and Security Policy on the case of the Italian 'marò' Massimiliano Latorre and Salvatore Girone,
- having regard to its resolution of 10 May 2012 on maritime piracy,
- having regard to Rule 135 of its Rules of Procedure,

- A. whereas on 12 October 2013 the privately contracted anti-piracy ship *MV Seaman Guard Ohio* was intercepted within Indian territorial waters;
- B. whereas the 35 crew members including three Ukrainian nationals, six UK nationals, 14 Estonian nationals and 12 Indian nationals were arrested and interrogated after they failed to produce papers authorising them to carry weapons in India's territorial waters;
- C. whereas after nine months of imprisonment on 10 July 2014, the Madras High Court dismissed the charges against the crew and armed guards;
- D. whereas on 1 July 2015, the Indian Supreme Court heard an appeal filed by a local police branch against the 2014 judgment; whereas on this day the Supreme Court announced that it would not accept for consideration the case and returned it to the Trial Court of Tamil Nadu;
- E. whereas on 11 January 2016, the Tuticorin District Principal Sessions Court sentenced all 35 crew members to five years of 'rigorous imprisonment' and a fine of 3,000 rupees each;
- F. whereas of the 25 total private security personnel on board the *MV Seaman Guard Ohio*, 20 personnel are EU citizens;
- G. whereas the lawyers of the crew members have already announced that they will appeal the recent Court verdict;
- H. whereas AdvanFort, the US company who had employed the crew, has previously called on the Indian government to release the men, saying that any arms and ammunition aboard the ship were used solely to safeguard commercial ships against piracy and were stored legally; whereas AdvanFort has not provided for legal and financial aid for the crew members detained in India, except at the very beginning of the proceedings;
- I. whereas David Cameron, Prime Minister of the UK, made a personal appeal for release of the crew in late 2015 to Narendra Modi, Prime Minister of India;
- J. whereas in 2012, two Italian navy officers who were considered responsible for the killing of two local fishermen whilst on anti-piracy operations were arrested by the Indian police force; whereas their case has suffered considerable delays four years later no charge having been brought against them;

- K. whereas on 10 May 2012 Parliament adopted a resolution on maritime piracy, paragraph 30 of which states that 'on the high seas, according to international law, in all cases including actions taken in the fight against piracy, the national jurisdiction of the flag state applies on the ships concerned, as well as to the military staff deployed on board' and notes that 'no arrest or detention of a ship may be ordered, even as a measure of investigation, by any authorities other than those of the flag state';
- L. Whereas on 13 January 2015 the Parliament adopted a Resolution on the Case of two Italian *Marò* encouraging, *inter alia*, the EU High Representative of the Union for Foreign Affairs and Security Policy to take any necessary action to protect the Italian marines in order to achieve a quick and satisfactory resolution of the case;
- M. Whereas a proceeding in front of the International Tribunal for the Law of the Sea started to resolve the dispute according to the United Nation Convention on the Law of the Sea sign by both Member States and EU;
1. Underlines the excellent longstanding relations between the European Union and India and stresses the importance of these relations for both parts, reminds that since 2004, India is one of EU's Strategic Partners;
 2. Calls on Indian authorities to ensure that the cases of the *MV Seaman Guard Ohio* crew and the two Italian *marò* are dealt with in full respect for the human and legal rights of the defendants, in line with the obligations enshrined in a series of human rights charters, treaties and conventions India has signed up to;
 3. Regrets the verdict reached with regards to the *MV Seaman Guard Ohio* crew by the Tuticorin District Principal Sessions Court on 11 January 2016; is concerned by the treatment of the convicted crew in local prisons; express equal concern regarding the considerable delays in the cases of the two Italian *marò*;
 4. Strongly calls for an urgent mutually agreeable solution both in the case of the *MV Seaman Guard Ohio* crew and of the two Italian *marò* that would take into account the national jurisdiction of the flag state in conformity with international law;
 5. Stresses that the lengthy delay of the judicial proceedings and restriction of movement represent a serious breach of human rights;

6. Supports the affected Member States' efforts to find a solution to the cases, in particular, for what concern the Italian *Marò*, the possibility of the EU taking on the defence in front of the International Tribunal for the Law of the Sea should be explored;
7. Recalls that the rights and security of EU citizens in third countries should be safeguarded by the EU diplomatic representation, which should work actively for the defence of the fundamental human rights of EU citizens in detention in any third country;
8. Expresses its regrets for not having implemented the Resolution of 15 January 2015 and for not having responded to the parliamentary written question E-010560-15 submitted on 30 June 2015; calls on VP/HR, Federica Mogherini in consultation with the Member States whose citizens are concerned, to take all necessary action to seek the satisfactory resolution of the two cases that would lead to enabling the repatriation of the European citizens to their respective home countries without any further delay;
9. Asks the Commission and the Council to follow these cases in the framework of their bilateral relations with India;
10. Notes the loosely regulated practices surrounding private anti-piracy missions and therefore, the legal uncertainty surrounding cases like the *MV Seaman Guard Ohio crew and the two Italian marò*; encourages India, in this respect, to sign on to the Montreux Document of 18 September 2008 which defines how international law applies to the activities of private military and security companies (PMSCs) when they are operating in an armed conflict zone and contains a set of good practices designed to help states take measures nationally in order to fulfil their obligations under international law;
11. Instructs its President to forward this resolution to the Council, the Commission, the governments of the Member States and the Government and Parliament of India;