



Plenary sitting

B8-0099/2016

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 S&D Group

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 its previous resolution of 13 January 2015 on the case of the two Italian ‘marò’,
 - having regard to the Statement by the High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission, especially of 16 December 2014,
 - having regard to the answers given by High Representative/Vice-President Mogherini on behalf of the Commission to Parliamentary questions on 18 February 2015 and 5 October 2015,
 - having regard to the statement by the spokesperson for United Nations Secretary-General Ban Ki-moon of 6 January 2015 inviting the two countries – Italy and India – to try to reach a reasonable and mutually acceptable solution,
 - having regard to the Permanent Court of Arbitration (PCA) press release on 6 November 2015 regarding the arbitration between the Italian Republic and the Republic of India: the “Enrica Lexie” Incident
 - 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 Protocols thereto,
 - having regard to the Universal Declaration of Human Rights of the United Nations,
 - having regard to the UN Convention on the Law of the Sea (UNCLOS), in particular Article 97 thereof,
 - having regard to Rule 135 of its Rules of Procedure,
- A. whereas on 12 October 2013 the anti-piracy patrolling motor vessel (MV) Seaman Guard Ohio was apprehended by Indian coast guard with 14 Estonian and 6 British ship security guards on board;
- B. whereas the vessel was intercepted under the allegation by Indian authorities that the ship entered Indian territorial waters without authorization; whereas the ship remained at dock for 6 days after which the crew members were taken to a police department where they were illegally detained for 9 months;
- C. whereas on 30 December 2013 they were charged with illegal re-fuelling, illegal handling of firearms and illegal entry into territorial waters

- D. whereas on 10 July 2014 Tamil Nadu High Court dismissed all charges against them but an appeal was filed by the Tamil Nadu prosecution to overrule the decision;
- E. whereas on 11 January 2015 the Tuticorin Court in Tamil Nadu sentenced the 35 crew members, including the 20 EU citizens, to 5 years in prison; whereas they were immediately incarcerated;
- F. whereas the case of the two Italian Maros accused of killing 2 Indian fishermen whilst on anti-piracy operations is still pending since February 2012;
- G. whereas India has granted Massimiliano Latorre a period of leave in Italy for medical treatment and he is still in Italy up until April 30, 2016, whereas the second sailor on trial, Salvatore Girone, is being held in the Italian embassy in New Delhi,
- H. whereas on 26 June 2015 Italy submitted the dispute to arbitration (to an "Annex VII Tribunal") and on 21 July 2015 sought provisional measures at the International Tribunal for the Law of the Sea (ITLOS); whereas the case is now pending in front of the Permanent Court of Arbitration as a result of which India has now brought proceedings to a standstill
- I. whereas under international maritime law, penal and disciplinary proceedings against a defendant should be instituted before the authorities of the flag state, and no other national authorities are entitled to exercise jurisdiction or carry out investigative measures;
1. Regrets that the Indian authorities have illegally detained and breached the human rights of more than 20 European citizens (14 Estonian nationals and 6 British nationals) for over 2 years which has led to one crew member's attempted suicide;
 2. Regrets the manner in which this issue has been handled, including the lengthy judicial procedures and contradictory decisions, and supports the efforts of all parties involved to work urgently towards a reasonable and mutually acceptable solution;
 3. Recognises a connexion between the Indian authorities' sensitivity towards armed sea vessels and the unfortunate events which led to the death of two Indian fishermen;
 4. Reiterates its great sadness at the tragic death of the two Indian fishermen and extends its condolences; urges for a thorough, independent and transparent investigation to be carried to establish justice;
 5. Stresses that this should nevertheless be treated strictly within the rule of law, fully respecting the human and legal rights of those allegedly involved, which has not been the case until now;
 6. Welcomes the PCA as an independent intergovernmental organization with 117 Member States, including Italy and India; stresses that the PCA intends to hold a first procedural meeting with the Parties to discuss the procedural framework, including the applicable rules of procedure, and the timetable for written and oral pleadings;
 7. Calls upon the Indian authorities to immediately release all the above-mentioned EU

citizens, to allow them to return to their homelands and to apply the principle of national jurisdiction of the flag state in conformity with international law;

8. Reminds India of its obligations enshrined in a series of human rights charters, treaties and conventions that it has signed up to;
9. Encourages the EU High Representative for Foreign Affairs and Security Policy to take any necessary action in cooperation with the respective Member States to protect the two Italian marines, 14 Estonian and 6 British ship security guards in order to achieve a quick and satisfactory resolution to these cases; also invites the High Representative to look into the possibility for the EU to be a full Member of the PCA;
10. Reminds the Commission of the importance of stressing the human rights situation in the framework of relations with India and hence of considering further measures to facilitate a positive resolution to the case;
11. Recalls that the rights and security of EU citizens in third countries should be safeguarded by the EU Delegations on the ground, which should work actively for the defence of the fundamental human rights of EU citizens in detention in any third country;
12. Calls on EU and India to increase cooperation in matters of maritime security and counter piracy, including through the development of a common doctrine and standard operating procedures, in order to fully exploit the potential offered by India's role in the region as it is a natural partner for the EU in these fields; moreover strongly believes this will contribute to preventing similar cases of contention in the future
13. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the EU Member States, the United Nations Secretary-General, and the President and Government of India.