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*Plenary sitting*

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**B8-1077/2016**

4.10.2016

## **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 Thailand, notably the case of Andy Hall  
(2016/2912(RSP))

**Lola Sánchez Caldentey, Malin Björk, Josu Juaristi Abaunz, Merja Kyllönen, Xabier Benito Ziluaga, Estefanía Torres Martínez, Miguel Urbán Crespo, Tania González Peñas, Takis Hadjigeorgiou, Marie-Christine Vergiat, Patrick Le Hyaric, Barbara Spinelli, Stelios Kouloglou**  
on behalf of the GUE/NGL Group

**B8-1077/2016**

**European Parliament resolution on Thailand, notably the case of Andy Hall  
(2016/2912(RSP))**

*The European Parliament,*

- having regard to its previous resolutions on Thailand, in particular those of 12 March 2014 on the situation and future prospects of the European fishing sector in the context of the Free Trade Agreement between the EU and Thailand and of 21 May 2015 on the plight of Rohingya refugees, including the mass graves in Thailand,
- having regard to the Universal Declaration of Human Rights,
- having regard to the 1966 International Covenant on Civil and Political Rights (ICCPR),
- having regard to the Charter of the United Nations,
- having regard to the UN Guiding Principles on Business and Human Rights and the UN Global Compact
- having regard to the UN Declaration on Human Rights Defenders of 1998 as well as the Resolution adopted by the General Assembly on 17 December 2015,
- having regard to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 on Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,
- having regard to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,
- having regard to the UN Convention Relating to the Status of Stateless Persons,
- having regard to the second Universal Periodical Review (UPR) of Thailand, adopted on 23 September 2016,
- having regard to the UN Human Rights Office press release of 20 September 2016,
- having regard to the Statement of the ILO Country Director for Thailand, Cambodia and Lao PDR of 21 September 2016 “Conviction of labour rights activist Andy Hall in Thailand by Maurizio Bussi”,
- having regard to the report by the NGO Finnwatch in January 2013 “Cheap Has a High Price”,
- having regard to the report by Human Rights Watch in May 2016 on “Human Rights in Supply Chains, A Call for a Binding Global Standard on Due Diligence”,

- having regard to the Statement by the HRVP Spokesperson on the constitutional referendum in Thailand of 8 August 2016
  - having regard to Rule 123(2) of its Rules of Procedure,
- A. Whereas on 20 September 2016, the Bangkok South Criminal Court found Human rights defender, Andy Hall, guilty of criminal defamation and crimes under the Computer Crimes Act, charges brought against him by Natural Fruit Company Ltd.; whereas the court sentenced him to 4 years imprisonment and a 200, 000 Thai baht fine, whereas his prison sentence was reduced by one year to three years due to positive cooperation with the judicial process and then suspended for two years because of his record as a human rights defender and never committing a crime before, a sentence Andy Hall will immediately appeal;
  - B. whereas on 18 September 2015, the Appeal Court in Bangkok ruled in favor of Andy Hall in dismissing one other criminal defamation case appealed from the Prakanong Court of first instance dismissal of October 2014 by both by Natural Fruit and Thailand's Attorney General; whereas this Appeals Court dismissal was then appealed again by both prosecuting parties to the Supreme Court also;
  - C. whereas in addition to these ongoing two serious criminal cases, Natural Fruit has also filed two civil claims for damages against Andy Hall totalling 400 million baht (approximately 10 million euros), still pending resolution of the final Supreme Court decisions in both criminal cases;
  - D. whereas Mr Hall has been investigating and providing raw migrant worker interview data as a researcher for Finnish NGO Finnwatch in late 2012 for the publication of a report 'Cheap Has a High Price' highlighting labor rights violations at Natural Fruit plant that Finnwatch wrote and published online in its own name, and not that of Andy Hall;
  - E. whereas the Thai Ministry of Labour and numerous migrant company employees from Natural Fruit Company Ltd. giving testimony at Andy Hall's numerous trial have confirmed the information in the Finnwatch reports of the alleged violations of workers' rights committed by Natural Fruit Company Ltd. as outlined in the report;
  - F. whereas the Migrant Workers Rights Network (MWRN), an organisation that Hall is advising, as well as Hall himself and 14 chicken farm workers, according to reports in international and Thai domestic media, face threats of similar and new criminal defamation and computer crimes lawsuits from a chicken supplier in Thailand supplying via Betagro Company Ltd. poultry in significant amounts to the European market;
  - G. whereas confiscation of migrant worker's passport, child labor and irregular labor, human trafficking, debt bondage, forced labour, high recruitment and broker fees, underpaid wages, inadequate bathroom facilities, poor workplace safety standards, excessive overtime, failures to provide legally mandated paid sick days, holidays and leave in plants, unlawful deductions from salaries, physical and mental abuse and discrimination are prevalently reported as occurring in Thai workplaces employing migrant workers, as also partly found in the Finnwatch report;
  - H. whereas Thailand is a major global food exporter but is known to experience widespread migrant worker exploitation issues in its export supply chains stemming from a

breakdown in the rule of law, lack of a long term migration policies and regulations that equally promotes national, economic and human security, widespread corruption and weak law enforcement; whereas Refresco, a leading supplier of private-label soft drinks, previously bought from Natural Fruit Company Ltd. via Israeli company Prodalim; whereas Refresco also delivers for European retail chains like Lidl, Aldi, Carrefour or Dia ; whereas companies should uphold a genuine Human rights due diligence process in accordance with the UN Guiding Principles on Business and Human Rights;

- I. whereas increasing number of legal cases are currently brought against Human rights defenders in Thailand; whereas according to the UN Human Rights Office, this year alone 10 Human rights defenders, including eight women, have been charged with criminal offences for reporting Human rights violations;
- J. whereas the law on criminal defamation together with clauses of the Computer Crime Act are currently worded overly broadly thus contravening the principles of legality and are being used to target Human rights defenders; whereas Thailand's laws that allow for criminal punishment and imprisonment for defamation are disproportionate in penalty and in breach of international human rights obligations;
- K. whereas on 27 July 2016 the government charged three human rights defenders, Pornpen Khongkachonkiet, Somchai Homloar and Anchana Heemina, under these same laws, for publication of a report that documented 54 cases of alleged torture and other ill-treatment by the Thai authorities in the country's restive deep South since 2004; whereas on the same date the government similarly charged Naritsarawan Kaewnopparat, the niece of an army conscript who was killed after being severely punished by soldiers on a military base; whereas none of the perpetrators have been held accountable for the death of her uncle;
- L. whereas on 27<sup>th</sup> September 2016 the Government forced the closure of a press conference by Amnesty International on torture in Thailand with foreign participants through means to threaten overseas activists and researchers from speaking citing a breach of employment and immigration laws;
- M. whereas following the assault in May 2014 by some armed men in a village of Loei Province opposed to a local copper-gold mine, only two of more than 100 assailants were brought up on criminal charges for the attack and were sentenced to just under two years and three years' imprisonment respectively, and ordered to pay nine villagers a relatively small fine in compensation ;
- N. whereas the struggle against this mine is also an emblematic example of the lack of concern of the government towards civilians and activists facing day-to-day threats, violence and judicial harassment ; whereas the company in charge of the mine exploitation, Tungkum Ltd., has vehemently denied wrongdoing and has brought at least 19 criminal and civil complaints against villagers protesting, including most recently a criminal defamation complaint against a 15-year-old girl who narrated a Thai PBS broadcast the issue of the gold mine and environment ;
- O. whereas on 8 April 2016, an unidentified gunman opened fire on land-rights activist, Supoj Kansong, in Surat Thani Province; whereas he is the fifth member of the Southern Peasant Federation of Thailand (SPFT) who are in a dispute with the Government and a palm oil company, to have been attacked since 2010 ;

- P. whereas there are multiple other examples of judicial harassment on Human rights activists by large companies that are being supported by the government, like the Australian firm Kingsgate Consolidated Limited ;
- Q. whereas the UN Declaration on Human Rights Defenders states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels” and that “the State shall take all necessary measures to ensure the protection” of these defenders;
- R. whereas on 1 September 2015, the Phuket Provincial Court acquitted two journalists of criminal defamation and violations of the Computer Crime Act after the Royal Thai Navy complained the journalists defamed it when, on 17 July 2013, the journalists reproduced a paragraph from a Pulitzer prize-winning Reuters article that alleged “Thai naval forces” were complicit in Human trafficking ;
- S. whereas although Thailand has ratified Convention No. 19 of the ILO, migrant workers know little protection and are particularly vulnerable to exploitation, physical and sexual violence, trafficking and smuggling of workers and unethical and irresponsible recruitment are an important and systematic phenomenon in the country; whereas the situation is particularly worrying in the fisheries, poultry, fruit and tourism sectors,
- T. whereas the Rohingyas are regarded as "illegal immigrants" by Thailand; whereas it has been reported by NGOs that more than 3 000 Rohingyas have fled Myanmar; whereas they are been held in inhumane conditions in Thai detention centers for irregular persons; whereas their stateless status renders them even more vulnerable to human trafficking, ransom demands on their relatives, forced labor and multiple forms of violence;
- U. whereas with weak or absent Trade Unions in the country, government supported or allied labour unions prevalent and child labour continuing to be a concerning phenomena in Thailand;
- V. whereas following the initial vote against the draft Constitution, the ruling junta led by Prayut Chan-O-Cha has again postponed the parliamentary elections to 2017 when they were originally scheduled 18 months after the 2014 coup ;
- W. whereas ahead of the adoption of the new Constitution on 7 August 2016, UN Secretary-General Ban Ki-moon, asked to revoke the arbitrary restrictions imposed on free expression and assembly in order to allow for a more legitimate debate ahead of the referendum; whereas it is still not clear when the legislative election will be held in 2017;
- X. whereas the peace dialogue between Thailand’s military government and some Malay-Muslim separatist leaders in exile has foundered; whereas the government has made some coordinated bombings in August on tourist areas outside the customary conflict zone, although the National Council for Peace and Order (NCPO) dialogue team and the MARA Patani had reached a preliminary agreement in March 2016 ;
- Y. whereas the death penalty continues to be applied in Thailand, and whereas new legislation has broadened the circumstances in which it can be imposed;

- Z. whereas Thailand is obliged under international treaties to which it is a party to investigate and appropriately prosecute torture, custodial deaths and other alleged serious violations of human rights;
- AA. whereas the EU is negotiating a partnership and cooperation agreement (PCA) with Thailand since 2006 which should contain a Human Right clause ; whereas the European Parliament stressed the importance of compliance with the conventions of the International Labour Organisation before giving its approval to the Free Trade Agreement (FTA) ;
1. Strongly condemns the systematic and ongoing judicial harassment against Human rights defender Andy Hall, directly linked to his peaceful and legitimate work as a migrant rights and labour rights defender in Thailand for over a decade; is deeply concerned about the deteriorating Human rights situation in Thailand following the illegal coup of May 2014 and the clampdowns on citizens and Human rights activists, including on land rights and torture issues;
  2. calls on Thai authorities to take all actions possible within their powers to ensure all charges against Mr. Andy Hall and dropped and to put to an end all acts of judicial harassment against all Human rights defenders in Thailand as well as to guarantee access to effective remedies and reparations for individuals and communities whose rights have been violated;
  3. invites the Government to immediately abolish from its Penal Code criminal defamation together with the *lèse-majesté* crime (article 112) and to amend the Computer Crime Act in order to bring it in line with international standards on freedom of expression ensuring the Act is not used to punitively supplement criminal defamation prosecutions involving online materials; considers imprisonment as a punishment for such crimes as disproportionate ;
  4. Urges the Thai government to promote and respect the freedom to do confidential research in Thailand, develop a whistleblowing protection law and insert public interest defences into relevant laws that can be used to suppress freedom of expression;
  5. Encourages the government of Thailand to guarantee just and fair procedures and trial for everyone charged of criminal offences including adequate translation for defendants and witnesses during trial; Encourages the authorities in Thailand to guarantee the protection of witnesses at trials; encourages the government of Thailand take measures to ensure the judiciary respect and give proper weight to all evidence brought before a Court by all parties to a case
  6. shares the OHCHR's Acting Regional Representative statement that it would have been more appropriate to conduct an independent and thorough investigation into the serious allegations raised in the Finnwatch report regarding the company practices of Natural Fruit Company Ltd., Thai Union Manufacturing and Unicord as opposed to launching malicious judicial actions against those involved in this research;

7. Acknowledges some recent proactive actions taken by the Thai government to apply increased rule of law to areas of migrant worker policy and management as well as seek to enhance migrant worker protections, particularly in the seafood and poultry industries;
8. recalls that Thailand voted in favor of the UN General Assembly resolution A/RES/70/161; therefore calls on the Government of Thailand to guarantee in all circumstances the physical and psychological integrity of Human rights activists as well as to promote their vital role in democracy and development; invites in that regard the Government to conform with the provisions of the UN Declaration on Human Rights Defenders and in particular with its articles 1, 6.c and 12.2;
9. highly recommends the government of Thailand to improve substantially the rule of law and a long term migration policy that equally prioritises national, economic and human security, seeks to combat corruption and weak law enforcement in areas concerning the rights of migrant workers, increases inspections of workplaces where migrants are prevalent and ensures more effective complaints mechanisms for migrant workers; underlines that finding solutions to challenges regarding migrant workers requires building solid links with trade unions and civil society groups that are more trusted by migrants and allowing migrant workers to form trade unions and collectively bargain to ensure social dialogue in their workplaces; invites the the Thai government to revise, as a matter of urgency, the Labour Relations Act with a view to guaranteeing migrant workers equal right to freedom of association as Thai nationals.
10. recalls that many migrants in Thailand, especially Rohingyas, are potential asylum seekers in regard to the discrimination and violence of which they are subject in their country of origin; therefore urges Thailand to ratify the 1951 Convention relating to the Status of Refugees, known as the Geneva Convention and its 1967 Protocol and to establish a national asylum framework respectful of fundamental rights; calls on Thailand to sign and implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as well as the Convention Relating to the Status of Stateless Persons ;
11. suggests the establishment of an independent investigation under the aegis of the UN on the possible implications of Thai officials involvement in Human trafficking, smuggling and migrant rights abuses in the region; is concerned over measures to further enhance the army's powers in this regard;
12. calls on all countries in the region to fulfill their international obligations concerning the rights of refugees, including the United Nations Convention against Transnational Organized Crime, and to open their borders to Rohingya asylum seekers ; Calls for the EU and the Member States to further support the UNHRC in its efforts to help Rohingya refugees and migrants in general in the South and South-East Asia region;
13. recommends multi-stakeholder and tripartite initiatives with stakeholder groups monitoring migrant working conditions and bringing to the companies and authorities' attention possible problems including suspected cases of labour exploitation, forced labour or human trafficking; further supports NGOs request for more transparency to manage Human rights risks in the supply chains through greater access to EU import data; Notes the need for measures to ensure increased supply chain transparency to overcome EU based customs import data challenges regarding freedom of information for consumers to understand destination of products of suppliers repressing freedom of

expression;

14. strongly believes that companies should be held accountable for any environmental damage and human rights abuses and that the EU and the Member States should uphold this as a core principle; calls on all parties, governments and NGOs, to actively take part in the upcoming second intergovernmental working group (IGWG) of the UN, working on an international legally binding instrument on transnational corporations (TNCs) and other business enterprises in relation to human rights;
15. calls on the EU and the Member States to launch campaigns raising interests of citizens on how and where their daily products are manufactured, with a clear focus on Human Rights, business and basic WTO standards ;
16. considers that the Thai government's clear refusal at the 33rd session of the UN Human Rights Council to end all arbitrary detentions and military trials of civilians shows the regime remains unwilling to address gross human rights violations ; further denounce the harassment, arrests, and intimidation those seeking to campaign against the draft Constitution had to face ;
17. Urges Thailand to take concrete steps towards the abolition of the death penalty; invites the government to forward as soon as possible the draft Act on Prevention and Suppression of Torture and Enforced Disappearance to the National Legislative Assembly;
18. further encourages the National Council for Peace and Order to work towards a genuine dialogue and a peaceful solution with Malay-Muslim separatist leaders and local communities in order to achieve social peace and unity in the country; supports a political platform that could serve as a basis for talks;
19. asks the Commission to freeze negotiations on a possible Free Trade Agreement between the EU and Thailand until core concerns on Human rights, rule of law and democracy are solved; invites the Commission to closely consult and include in a more transparent manner the European Parliament and civil society in this process as well as in future rounds of negotiation ;
20. 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 Government and Parliament of Thailand, the United Nations High Commissioner for Human Rights, the IGWG and the Secretary-General of the United Nations ;

