

## **Return and resettlement of Guantánamo prisoners**

### **European Parliament resolution of 4 February 2009 on the return and resettlement of the Guantánamo detention facility inmates**

*The European Parliament,*

- having regard to the international, European and national instruments on human rights and fundamental freedoms and on the prohibition of arbitrary detention, enforced disappearances and torture, such as the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984,
- having regard to the transatlantic cooperation between the United States and the European Union and its Member States, notably in the field of the fight against terrorism,
- having regard to its resolution of 13 June 2006 on the situation of prisoners at Guantánamo<sup>1</sup>,
- having regard to its resolution of 16 February 2006 on Guantánamo<sup>2</sup>,
- having regard to its recommendation of 10 March 2004 to the Council on the Guantánamo detainees' right to a fair trial<sup>3</sup>,
- having regard to its resolution of 7 February 2002 on the detainees in Guantánamo Bay<sup>4</sup>,
- having regard to the resolutions of the Council of Europe Parliamentary Assembly,
- having regard to the report of the UN Commission on Human Rights of 15 February 2006,
- having regard to the statements of the UN Special Rapporteurs,
- having regard to the conclusions and recommendations of the UN Committee against Torture concerning the United States,
- having regard to the statement by the President of the European Parliament of 20 January 2009,
- having regard to the statement by the Council of Europe Commissioner for Human Rights of 19 January 2009,
- having regard to the statement by the EU Counter-Terrorism Coordinator,
- having regard to the statements by the EU Commissioner for Justice, Freedom and Security and by the EU Presidency,

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<sup>1</sup> OJ C 300 E, 9.12.2006, p. 136.

<sup>2</sup> OJ C 290 E, 29.11.2006, p. 423.

<sup>3</sup> OJ C 102 E, 28.4.2004, p. 640.

<sup>4</sup> OJ C 284 E, 21.11.2002, p. 353.

- having regard to its resolution of 14 February 2007 on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners<sup>1</sup> and the Council of Europe activities on the same issue,
  - having regard to Rule 103(4) of its Rules of Procedure,
- A. whereas, in the aftermath of the terrorist attacks of 11 September 2001, the United States established a high-security detention facility at Guantánamo Bay (Cuba) in January 2002, where terrorist suspects have been detained,
  - B. whereas prisoners at Guantánamo Bay have been denied their fundamental human rights, notably the right to a fair trial, and have been subjected to harsh interrogation techniques, such as waterboarding, which amount to torture and cruel, inhumane or degrading treatment,
  - C. whereas in a series of judgments by the US courts, including the Supreme Court, partial and limited rights have been recognised, including the possibility of access to US civilian courts,
  - D. whereas a list published by the US authorities includes 759 past and present prisoners at Guantánamo; whereas 525 prisoners have been released, while 5 have died in custody; whereas there are now some 250 inmates at Guantánamo, of whom:
    - a number remain in Guantánamo simply because there is no country to which they can safely return - these are men who have never been charged and will not be charged by the United States with any crime;
    - a number are being considered for prosecution and trial,
    - a number are believed to be potential threats, but the United States is not intending to prosecute them,
  - E. whereas the use of torture and other illegal means implies that the ‘evidence’ gathered is inadmissible in court, rendering prosecutions and convictions for terrorism impossible,
  - F. whereas it is alleged by the US authorities that 61 former inmates of Guantánamo Bay have been involved in terrorism since their release,
    1. Strongly welcomes the decision by US President Barack Obama to close the detention facility at Guantánamo Bay, as well as other related executive orders, which mark an important change in the policy of the United States towards respect for humanitarian and international law; encourages the new administration to take further steps in this direction;
    2. Recalls that the main responsibility for the whole process of closing the Guantánamo Bay detention facility and for the future of its inmates rests with the United States; affirms nonetheless that the responsibility for respect for international law and fundamental rights rests with all democratic countries, particularly the Union and its Member States, which together represent a community of values;
    3. Invites the United States to ensure that Guantánamo detainees are granted their human

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<sup>1</sup> OJ C 287 E, 29.11.2007, p. 309.

rights and fundamental freedoms, on the basis of international and US constitutional law, and:

- that any detainee against whom the United States has sufficient evidence is properly tried without delay in a fair and public hearing by a competent, independent, impartial tribunal and, if convicted, imprisoned in the United States,
  - that any detainee who is not to be charged and who chooses voluntarily to be repatriated is returned to his home country as quickly and expeditiously as possible,
  - that any detainee who is not to be charged but cannot be repatriated owing to a real risk of torture or persecution in his home country is given the opportunity to be admitted to the United States, offered humanitarian protection on the United States mainland and afforded redress;
4. Calls on the Member States, should the US administration so request, to cooperate in finding solutions, to be prepared to accept Guantánamo inmates in the Union, in order to help reinforce international law, and to provide, as a priority, fair and humane treatment for all; recalls that Member States have a duty of loyal cooperation to consult each other regarding possible effects on public security throughout the Union;
  5. Instructs its President to forward this resolution to the Council, the Commission, the High Representative for the CFSP, the parliaments of the Member States, the NATO Secretary General, the Secretary General and President of the Parliamentary Assembly of the Council of Europe, the United Nations Secretary-General and the President and Congress of the United States of America.