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Plenary sitting

21.5.2013

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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 122 of the Rules of Procedure

on Guantanamo: hunger strike by prisoners
(2013/2654(RSP))

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on behalf of the S&D Group

European Parliament resolution on Guantanamo: hunger strike by prisoners (2013/2654(RSP))

The European Parliament,

– having regard to international treaties and standards on human rights and fundamental freedoms, and notably to the absolute prohibition of torture, ill-treatment, enforced disappearances and summary executions, the right not to be imprisoned without trial and the right to a fair trial,

- having regard to its previous resolutions on Guantánamo and notably: resolution of 11 September 2012 on alleged transportation and illegal detention of prisoners in European countries by the CIA: follow-up of the European Parliament TDIP Committee report; resolution of 18 April 2012 on the Annual Report on Human Rights in the World and the European Union's policy on the matter, including implications for the EU's strategic human rights policy; resolution of 9 June 2011 on Guantánamo: imminent death penalty decision;

- having regard to President Obama's Executive Orders of January 22, 2009 in which he ordered the closure of Guantanamo Bay detention facility by January 22, 2010

- having regard to the Joint Statement of the EU and its Member States and the USA on the Closure of the Guantanamo Bay Detention Facility, 15 June 2009, as well as the Conclusions of the Justice and Home Affairs Council of 4 June 2009 and information exchange mechanism

- having regard to the statement of 5 April 2013 by UN High Commissioner for Human Rights;

- having regard to the declaration of the head of the International Committee of the Red Cross, Peter Maurer, on 11 April 2013 in which he expressed opposition to the force-feeding of prisoners staging a mass hunger strike at the Guantanamo prison camp and urging President Barack Obama to do more to resolve the "untenable" legal plight of inmates held there

- having regard to the 11th of April joint open letter signed by 26 international human rights NGOs urging the US President to fulfil his 2009 promise to close Guantánamo Bay;

– having regard to Rule 122(5) of its Rules of Procedure,

A. Whereas a large group of detainees at Guantánamo Bay prison began a hunger strike 6 February 2013 to protest against their detention conditions and continued imprisonment in Guantánamo; Whereas according to military authorities, 100 detainees are participating in the hunger strikes, 29 detainees are being force-fed and 5 are being treated in hospital

B Whereas, 11 years after the prison was opened, 86 of the 166 detainees have been cleared

for release but are still being held indefinitely and whereas only 6 people are facing trial;

C. Whereas an Emergency motion was filed in the US District Court for the District of Columbia on 26 March 2013 alleging that guards at Guantánamo have denied prisoners safe drinking water and sufficient clothing in order to undermine the hunger strike action,

D. Whereas the EU-US joint statement of June 15 2009 notes the commitment of President Obama to order the closure of the Guantanamo Bay detention facility by January 22, 2010; Whereas however, in January 2013 the Office charged with the closure of Guantánamo has been shut down, while Congress has blocked up to now all efforts by the Obama administration to close Guantánamo; whereas the US administration has stated that it remains committed to the closure of Guantánamo;

E. Whereas on 5 April 2013 the UN High Commissioner for Human Rights stated that the "continued indefinite incarceration of many detainees...amounts to arbitrary detention" and constitutes a "clear breach of [US] commitments but also of international laws and standards that it is obliged to uphold" and that Guantanamo prison should be closed;

F. Whereas on 13 April 2013, shortly after a visit by a delegation of the International Committee of the Red Cross, violent clashes occurred between prison guards and detainees including non lethal shots and improvised weapons, following the decision to move prisoners from Camp 6 to the more isolated Camp 5

G. Whereas on 30 April 2013, President Obama reiterated his stance that Guantánamo Bay "needs to be closed" and stated that that the prison camp hurt the United States in terms of international standing and was a recruitment tool for extremists

H. Whereas an important reason for the hunger strike brought forward by defence lawyers and the ICRC is the inmates' desolation over the lack of any perspective to being released, notably after President Obama in January renewed the [National Defence Authorization Act](#) (NDAA) for 2013, which included provisions which preserved Guantanamo Bay into foreseeable future

I. Whereas the [NDAA has made it virtually impossible](#) for inmates to return home, stating detainees cannot return to a country where a "threat that is likely to substantially affect" the government's ability to "exercise control" over the repatriated individual, unless onerous waiver provisions are enacted

J. whereas in the case of the five alleged "high value detainees" for whom military commission proceedings are already underway, confidentiality of the defence has been completely compromised, with material and thousands of emails disappearing from computers and listening devices being disguised as smoke detectors; whereas -as a result - the proceedings have been postponed indefinitely by the responsible judge; whereas the Chief Defence Counsel ordered defence lawyers to stop using computers for privileged and confidential work;

K. Whereas there is now only one civilian flight into Guantanamo, which operates on a severely curtailed schedule, thus limiting the access of the press, lawyers, and human rights workers,

1. Notes the close transatlantic relationship based on shared core values and respect for basic, universal and non-negotiable human rights, such as the right to a fair trial and the ban on arbitrary detention; welcomes the close transatlantic cooperation on a wide range of international human rights issues
2. Expresses concern for the well-being of the hunger striking detainees as well as those being force fed and expresses its grave concern over the mental and physical condition of the prisoners, a number of whom have been submitted to torture or inhumane and degrading treatment,
3. Reiterates its call to the US authorities to close the Guantánamo Bay detention camp immediately and prohibit in all circumstances the use of torture or ill-treatment; calls for those inmates who have been cleared for release to be released, transferred to their home countries or other countries for resettlement, and for the remaining detainees to be charged in a civil court with fair trial standards;
4. Request that the US authorities guarantee independent medical assessment and care of the detainees and supports the position of the ICRC to reject force-feeding as a violation of basic freedoms of the individuals; asks the US authorities to ensure that the prisoners' lawyers are kept fully informed about developments related to the health and well-being of their clients and allow access to UNHRC experts, NGOs and media as appropriate;
5. Agrees with statements made by the UN High Commissioner for Human Rights that while international law requires that there must be no impunity for acts of terrorism, crimes or atrocities, human rights are universal and apply to all persons, including those suspected of having committed the most serious crimes and that people deprived of their liberty must be treated with humanity and with respect for their inherent dignity;
6. Points out that the continuing detention without charge or trial of these men is contrary to basic principles of justice; underlines that the arbitrary detention is in clear breach of international law which severely undermines the United States' stance as an upholder of human rights;
7. Is deeply concerned over the continued obstacles the NDAA has created for the closure of the detention facility, as well as for the trial of detainees in civilian courts, where warranted, or for their release; is of the view that those Guantanamo detainees against whom charges have been brought should be tried in civilian courts, particularly as the military commissions do not meet international fair trial standards;
8. Urges President Obama to appoint someone within the White House to assist with the repatriation or resettlement of those detainees who have been cleared for release
9. Recalls the EU Member States' readiness to help the US close down Guantanamo and calls on the VP/HR to coordinate a joint EU Member States' initiative to urge the US President to act as well as offering to receive additional Guantanamo inmates on

European soil, especially the approximately dozen men cleared for release who cannot return to their home countries

10. Recalls also the willingness of the United States to contribute to the costs incurred by EU Member States in relation to receiving ex-detainees as stipulated in the Joint EU-US statement of 15 June 2009 and calls on the American administration to live up to the responsibility to support former detainees not only during the resettlement but also thereafter
11. Instructs its President to forward this resolution to the US President, the US Congress and Senate, the US Secretary of State, the Office of the Military Commissions, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the Council, the Commission, the governments and parliaments of the EU Member States, the UN Secretary-General, the UN High Representative for Human Rights, the President of the UN General Assembly and the governments of the UN member states.