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Fair justice in Bolivia, notably the cases of Elód Tóásó and Mario Tadic

Greens/EFA motion for resolution

Tabled by Barbara Lochbihler, Nicole Kiil-Nielsen, Raiül Romeva i Rueda, Franziska Keller, Jean Lambert, Iñaki Irazabalbeitia Fernández on behalf of the Greens/EFA Group

The European Parliament,

- having regard its previous resolutions on the situation in Bolivia
- having regard to the Universal Declaration of Human Rights,
- having regard to the International Covenant on Civil and Political Rights, especially to its Articles 9, 10, 14, 15 and 16, which is signed and ratified by Bolivia,
- having regard to the United Nation Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which is signed and ratified by Bolivia,
- having regard to the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights,
- having regard to the American Convention on Human Rights, which is signed and ratified by Bolivia,
- having regard to the Inter-American Convention to Prevent and Punish Torture, which is signed and ratified by Bolivia,
- having regard to the Bolivian Constitution and the Code of Criminal Proceedings,
- having regard to its previous resolutions on the situation in Bolivia,
- having regard to Rule 122 of its Rules of Procedure;

A. Whereas in the first decade of the 21st century, an autonomy movement led by the lowland elites in the Bolivian Department of Santa Cruz built up and financed an armed group consisting of Bolivian and European citizens and organised violent protests and terrorist attacks against the central government in

favour of complete autonomy for this resource rich part of the country;

B. Whereas on 16 April 2009 Police raided a Santa Cruz hotel with the objective to disrupt their terrorist group; ,whereas in this operation three European mercenaries (Árpád Magyarósi, Romanian, Michael Martin Dwyer, Irish , and Rózsa Flores Eduardo, Hungarian) , were killed and two others (Előd Tóásó, Hungarian, and Mario Tadic, Croatian) captured, who had allegedly been brought to Santa Cruz to organize a militia with a separatist agenda, whereas the Rumanians and Hungaro-Croations had fought in irregular separatist armed groups in Eastern Europe beforehand,

C. Whereas there are allegations that Michael Martin Dwyer was still alive after his arrest and might be victim of an extrajudicial execution and whereas there are further allegations, formulated by members of the Bolivian opposition in Budapest, that Előd Tóásó and Mario Tadic might have been mishandled or tortured after their arrest and furthermore have been kept without accusation in pre-trial detention ever since then ignoring the Bolivian law that define the maximum length of pre-trial detention in 36-months that should have ended on 16 April 2012;

D. Whereas Mario Tadic filed himself a request for precautionary measures concerning health care to the Inter-American Commission on Human Rights (IACHR), but not on torture or ill-treatment;

E. Whereas the Opinion No. 63/2011 (Plurinational State of Bolivia) of the United Nations Working Group on Arbitrary Detention states that Bolivia is in breach of the Universal Declaration of Human Rights on several points, and reaffirms on the basis of unrevealed sources that Előd Tóásó was arrested without any warrant and he has been kept in jail illegally; whereas the UN Working Group therefore called upon the Bolivian government to immediately release Előd Tóásó;

F. Whereas on 10 May 2010, the Article 239 of the Bolivian Code of Criminal Proceedings Procedure referring to length of pre-trial detention was amended; whereas the accusation against Előd Tóásó and Mario Tadic was issued on December 17, 2010, transforming custody into pre-trial detention, whereas article 239 of the mentioned Code adds as a condition for release that the delay is not due to manouvering of the accused,

G. Whereas the process against Tóásó and Tadic and other 37 Bolivian nationals has also been delayed by legal manoeuvring from the side of the defenders, such as changing the place of the trial, stay for health problems of the accused, non appearance of witnesses, 96 appeqals by the accused, and so on; whereas for this reasons, the trial is only now at the stage of oral proceedings;

H. Whereas even EU member states have made use of the right to derogation enshrined in Article 15 of the European Convention on Human Rights in "time of emergency" usually for cases of terrorism; whereas however the European Court of Human Rights has in numerous cases condemned members states of the Council of Europe for abuse of this derogation;

I. Whereas notably in the most recent case, on Oct. 21 2013, [the European Court of Human Rights \(ECHR\) ruled against Spain](#) over a legal practice known as the "Parot doctrine" that allowed Spanish courts since 2006 to extend the time convicts spend in prison to up to 30 years retroactively and which was applied to dozens of prisoners from the terrorist Basque separatist group ETA;

J. whereas following the decision of the ECHR and the Spanish Supreme Court, at least 9 prisoners have already been released;

1. Reaffirms that every citizen has the right to a fair trial without undue delay, if accuse; calls on the Bolivian authorities to ensure such a fair and independent trial, to respect the human rights and the presumption of innocence in the case of the arrested European citizens; Calls on all parties, including

witnesses from all sides, to assist all juridical sessions and not to further delay the process;

2. Takes note of the report adopted and since then disseminated broadly by the Bolivian Parliament based on its own investigation of the case without any judicial investigation, trial and final sentence, which in any assessment in keeping with human rights norms would prejudice any trial; therefore calls for an independent investigation with international experts on the killings and arrests of 16 April 2009;

3. Asks the EEAS to offer its cooperation to the Bolivian authorities with the aim of a full investigation of the European connections and possible European financial contributions to the irregular armed group in Santa Cruz, to which the beforehand mentioned persons belonged; with the aim to bring all crimes committed by them to Court;

4. Calls on the European External Action Service to pursue the case in its contact with the Bolivian government and take concrete measures and steps, furthermore to contact and cooperate with the different United Nations bodies to address the situation;

5. Instructs its President to forward this resolution to the Council, the Commission, the High Representative for Foreign Affairs and Security Policy, the European Union's Special Representative for Human Rights, the parliaments and governments of the Member States, the Government and Congress of the Republic of Bolivia, the Secretary-General of the Council of Europe, the Secretary-General of the Organisation of American States, the Secretary-General of the United Nations and the UN Human Rights Council.

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