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Guantanamo

Greens/EFA motion for a resolution

Tabled by Kathalijne Maria Buitenweg, Jean Lambert, Cem Özdemir, Hélène Flautre, Angelika Beer, Raül Romeva i Rueda, Monica Frassoni and Daniel Marc Cohn-Bendit
on behalf of the Greens/EFA Group

The European Parliament,

 having regard to the Parliamentary Assembly of the Council of Europe resolution of 25 April 2005 on the lawfulness of detentions by the United States in Guantánamo Bay,

 having regard to its resolutions of 10 March 2004, 16 February 2006 and 28 October 2004 on Guantánamo Bay,

 having regard to the report by the Commission on Human Rights of 15 February 2006 on Guantánamo, calling for Guantánamo to be shut down without further delay and for the remaining detainees to be either tried or released,

 having regard to the conclusions and recommendations of the UN Committee against Torture concerning the United States of America published on 19 May 2006, which criticise the indefinite detention of prisoners at Guantánamo Bay and call for its closure,

 having regard to the publication of the list of 759 past and present prisoners of Guantánamo Bay by the US Pentagon on 15 May 2006, approximately 490 of which remain imprisoned, with no indication as to whether the list contains all the detainees,

 having regard to the Combatant Status Review Tribunals (CSRT) which the US Government set up in response to the Rasul v. Bush verdict, with panels of three military officers, to determine where the 'enemy combatant status' had been rightly attributed,

 having regard to the Hamdan v. Rumsfeld case before the Supreme Court, which will rule upon the legality of those military commissions,

 having regard to President Bush's interview on German public television on 7 May 2006, announcing that he would like to close down Guantánamo,

 having regard to calls by Chancellor Angela Merkel, Prime Minister Tony Blair, UN Secretary-General Kofi Annan, among others, for the closure of Guantánamo,

 having regard to the Interim Report of 24 January by Dick Marty, Rapporteur of the Legal Affairs and Human Rights Committee of the Council of Europe Parliamentary Assembly and to the Interim Report of 12 April 2006 by Terry Davies, the Secretary-General of the Council of Europe on the use of his powers under Article 52 of the European Convention on Human Rights, in the light of reports suggesting that individuals, notably persons suspected of involvement in acts of terrorism, may have been arrested and detained, or transported while deprived of their liberty, by or at the instigation of foreign agencies,

 having regard to the Draft Interim Report by its Temporary Committee on the alleged use of European countries by the CIA for the transport and illegal detention of prisoners,

 having regard to Rule 103(2) of its Rules of Procedure,

A. whereas the Guantánamo prisoners are subjected to arbitrary arrest and incommunicado detention, torture and other ill-treatment, and have no right to a fair trial, and whereas the perpetrators of human rights violations among the security forces enjoy large-scale impunity,

B. whereas over four years have passed since the first prisoners captured in the 'war against terror' were detained at Guantánamo Bay as 'enemy combatants' in January 2002,

C. whereas only 10 of the remaining 490 detainees have so far been charged with a crime and not a single one has been tried,

D. whereas on 20 May, in a prison revolt leaving several people wounded, Guantánamo detainees took to violence in response to their degrading treatment, torture and a situation of legal limbo,

E. whereas, on the same day, two separate suicide attempts took place, bringing the number of attempted suicides to 41 since the opening of the prison camp,

F. whereas the recent study of Seton Hall University law school, New Jersey, established that of the 517 Guantánamo detainees having been heard by the military commissions in 2004, the majority are not accused of hostile acts against the United States or its allies, and only 5 percent were captured by the US forces directly; whereas according to reports a majority of the prisoners were rendered to the US forces in exchange for payment in an act of human trafficking,

G. whereas the Secretary-General of the Council of Europe has stated that 'virtually none of our Member States have proper legislative and administrative measures to effectively protect individuals against violations of human rights committed by agents of friendly foreign security services operating on their territory',

1. Reiterates its call for the immediate closure of the Guantánamo Bay detention centre; demands that the detainees be released, ensuring that they are not returned to any State where they could face a risk of being tortured, or that those suspected of having committed internationally recognizable criminal offences be prosecuted in proceedings that meet international standards of fairness;

2. Insists that all those detainees who cannot be returned to their place of origin or capture be granted residence status; calls on the EU Member States to take a pro-active role in finding a solution for detainees against whom no legal proceedings will be brought and who cannot return to their country of origin or residence because they have become stateless or face torture or other cruel, inhuman and degrading treatment;

3. Shares the views of the Council of Europe that the United States Government must ensure respect for the rule of law and human rights by not returning or transferring detainees on the basis of diplomatic

assurances from countries where there are substantial grounds for believing that the detainees would be in danger of being tortured or submitted to cruel, inhuman and degrading treatments;

4. Condemns the US Government's disregard for international law in the 'war against terror' and the serious crimes the US authorities are committing at Guantánamo and other detention centres inside and outside the US, thus undermining their very anti-terror efforts;

5. Calls on the US authorities to immediately stop all 'special interrogation techniques', including methods involving sexual humiliation, 'water boarding', 'short shackling' and using dogs to induce fear, that constitute torture or cruel, inhuman or degrading treatment;

6. Notes that the US representatives stated in the hearings of the Committee Against Torture that under US law there is no possibility of opting out of the 'express statutory prohibition of torture' and calls on the US Government to recognise and ensure that the Convention Against Torture applies at all times, whether in peace, war or armed conflict, in any territory under its jurisdiction;

7. Calls on the US Government to abandon the CSRTs, which violate all international standards on minimum conditions for a fair trial, since they entirely lack independence from the executive, there is no right to appeal to an independent and impartial court, and they prohibit the defendant's access to a counsel of choice, to secret evidence, and even to parts of the proceedings; points out that the CSRTs can draw from evidence extracted under torture or other ill-treatment and that those Commissions are exclusively reserved for foreign nationals - violating the right of equality before the courts;

8. Calls on the US Government to grant unimpeded access to the detainees at Guantánamo Bay for the respective UN bodies and international human rights organisations, and insists that independent medical experts should be able to assess whether the full range of medical and psychiatric treatment is available;

9. Calls on its competent bodies to decide on sending a European Parliament ad hoc delegation to Guantánamo, and calls on the US authorities to provide unimpeded access to the site and to the detainees;

10. Calls on the US authorities to ensure that all allegations of torture and other ill-treatment involving US personnel are subject to prompt, thorough, independent and impartial civilian investigation in strict conformity with international law and standards concerning investigations of human rights violations, and that the perpetrators are brought to trial;

11. Stresses that those who have suffered unlawful arrest and/or torture or ill-treatment while in US custody should receive full reparation, in accordance with Article 14 of the Convention against Torture, including restitution, compensation, rehabilitation and guarantees of non-repetition, wherever they reside;

12. Calls on the EU Member States to honour their obligation to protect EU citizens and to engage with the US authorities in order to ensure that these rights are respected in the case of any European citizen or any detainee having close connections with a Member State, who has been detained in Guantánamo;

13. Regrets that the rules governing the activities of secret services seem inadequate in several Member States of the Union, which means that more effective controls must be set up, in particular as regards cooperation with foreign secret services, and considers that urgent legislative measures should be taken at national and EU level;

14. Instructs its President to forward this resolution to the Council, the Commission, the UNHRC and the Government of the United States of America.

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