Resolution on Guantánamo: imminent death penalty decision

2011/2713(RSP) - 09/06/2011 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution on Guantánamo: imminent death penalty decision. The resolution had been tabled by the S&D, EPP, ALDE, and Greens/EFA groups.

It **calls on the US authorities not to impose the death penalty on Abd al-Rahim al-Nashiri,** and calls on the High Representative, Catherine Ashton, the Council Presidency, the Commission and the Member States to raise the issue as a matter of urgency with the US authorities and to make strong representations to the US in an effort to ensure that Abd al-Rahim al-Nashiri is not executed. Abd al-Rahim Hussayn Muhammed al-Nashiri, a Saudi Arabian man, is currently being held at the US detention facility in Guantánamo Bay. Members note that, despite being named in an indictment submitted to a US federal court only months after his arrest in 2002, he was not brought promptly before a judicial authority and brought to trial without undue delay, as required by international law, and was instead detained in secret until being transferred to Guantánamo in 2006. Members recall that Abd al-Rahim al-Nashiri had been charged in 2011 under the Military Commissions Act of 2009 with, inter alia, ‘murder in violation of the law of war’, and ‘terrorism’ on the basis of his alleged leading role in the attack on the USS Cole in Yemen on 12 October 2000, in which 17 US sailors were killed and 40 others wounded, and in the attack on the French oil tanker MV Limburg in the Gulf of Aden on 6 October 2002, in which a crew member was killed. The case of Abd al-Rahim al-Nashiri will be the first to be tried before a military commission since President Obama ordered the resumption of such trials. However, no date has yet been set for his trial by military commission, and the prosecution has recommended that the death penalty be an option at the trial, although this must be approved in advance by the ‘convening authority’ for the military commissions, an official appointed by the US Secretary of Defence.

Parliament reiterates its call to the US authorities to review the military commissions system to ensure fair trials, to close Guantánamo, to prohibit in any circumstances the use of torture, ill-treatment, incommunicado detention, indefinite detention without trial and enforced disappearances. It reminds the EU institutions and Member States of their duty not to collaborate in, or cover up, such acts prohibited by international, European and national law. It views with regret the US President's decision of 7 March 2011 to sign the executive order on detention and the revocation of the ban on military tribunals. Members are convinced that normal criminal trials under civilian jurisdiction are the best way to resolve the status of Guantánamo detainees, and they insists that Mr al-Nashiri, and all other detainees in US custody, should be charged promptly and tried in accordance with international standards of the rule of law or else released. The same standards concerning fair trials should apply to all, without discrimination.

Lastly, Parliament calls on the EU and Member States authorities, as well as the US authorities, to ensure that full, fair, effective, independent and impartial inquiries and investigations are carried out into human rights violations and crimes under international, European and national law, and to bring to justice those responsible, including in the framework of the CIA extraordinary renditions and secret prisons programme.