Guantanamo prisoners' right to a fair trial

2003/2229(INI) - 10/03/2004 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own-initiative report drafted by Ole ANDREASEN (ELDR, DK) with 425 votes in favour, 62 against and 29 abstentions relating to the rights of prisoners held in Guantanamo Bay. It calls on the Council to ask the US authorities to immediately put an end to the current legal limbo in which the detainees held in Guantßnamo Bay have, since their arrival, been placed and to guarantee immediate access to justice in order to determine the status of each individual detainee on a case-by-case basis, either by charging them under the rules laid down in the Third and Fourth Geneva Conventions and the International Convenant on Civil and Political Rights or by releasing them instantly, and to ensure that those charged with war crimes receive a fair trial in accordance with international humanitarian law and in full compliance with international human rights instruments. It regrets that an ad hoc International Criminal Court has not been yet established by the UN Security Council as the most expedient way of dealing with the present case. It calls on the Council to: - urge the US Administration to confirm that the ad hoc military commissions established in the Military Order of 13 November 2001 and the subsequent Military Commission Orders issued by the Defense Secretary as a 'competent court' will meet all international law standards within the meaning of Article 5 of the Third Geneva Convention and Article 14 of the UN International Covenant on Civil and Political Rights; - consider therefore that any trial not conforming with standards under the International Covenant on Civil and Political Rights in respect of due process would be a direct violation and infringement of international law; - ask the US authorities to give official representatives of national states, relevant international institutions, family relatives and independent observers access as appropriate to sites of detention and free communication consistent with due legal process with the detainees, and to allow them to attend and to observe any military commission proceedings against the detainees. Parliament calls on all states whose nationals are held at Guantßnamo Bay to take appropriate action according to the Geneva Convention. Member States and the Commission are called upon to implement EU measures, through concerted action by the diplomatic and consular missions of the Member States and the Commission, with a view to liaising with the US authorities at the highest level. Parliaments insists that the US administration must allow 'habeas corpus' and due process for all prisoners whom it is detaining anywhere under assumed executive powers, and make their names available to their families and legal representatives. It notes with satisfaction that the American authorities have released a Spanish detainee from Guantßnamo to stand trial in Spain; share the hope that this is a sign of change in the policy of the American authorities towards all detainees. As regards the possible impact of this situation on the EU-US partnership, the Parliament shares the view that the transatlantic relationship is invaluable and could be a formidable force for good in the world, as stated by the European Council, provided basic human rights are clearly respected asuniversal and non-negotiable. Parliament emphasises that security is an all-encompassing collective concept that cannot be tailored only to the interests and exigencies of one national state. Lastly, it recommends, for the next EU-US summit, the creation of a long-term collaborative framework and an Action Plan for the War on Terrorism.