

EUROPEAN PARLIAMENT

2004



2009

Session document

20.5.2008

B6-0240/2008

MOTION FOR A RESOLUTION

with request for inclusion in the agenda for the debate on cases of breaches of human rights, democracy and the rule of law

pursuant to Rule 115 of the Rules of Procedure

by Pasqualina Naipoletano, Glenys Kinnock, Ana Maria Gomes, Marie-Arlette Carlotti, Emilio Menéndez del Valle, Josep Borrell Fontelles

on behalf of the PSE Group

on Sudan and the International Criminal Court (ICC)

European Parliament resolution on Sudan and the International Criminal Court (ICC)

The European Parliament,

- having regard to the Rome Statute of the International Criminal Court and its entry into force on 1 July 2002,
- having regard to the adoption of UNSC resolution 1593 on 31 March 2005,
- having regard to the Council Conclusions on Sudan/Darfur of December 2007 and January 2008,
- having regard to the Declaration by the Presidency on behalf of the European Union on the anniversary of the referral in the situation of Darfur/ Sudan to the ICC, adopted on 31 March 2008,
- having regard to its continuous support for the ICC, as expressed in resolutions: on the ratification of the Rome Statute of the ICC of 16 December 1999 and of 18 January 2001, on the entry into force of the Statute of the ICC adopted 28 February 2002¹; resolution of 24 October 2002 on the General Affairs Council's position concerning the ICC²; of 26 September 2002 on the ICC³; of 4 July 2002 on the draft American Service members' Protection Act (ASPA)⁴; ACP-EU JPA of 3 April 2003 adopted in Brazzaville⁵;
- having regard to its previous resolutions on the situation in Darfur, in particular its resolutions of 12 July 2007⁶, February 2007⁷, 28 September 2006, 6 April 2006⁸, 12 May 2005, as well as the ACP-EU JPA resolutions on the situation in Darfur of 28 June 2007, and on the situation in Sudan of June 2006,
- having regard to the tripartite Agreement reached on 9 April 2007 in Addis Ababa between the GoS, the United Nations (UN) and the AU on the light support package and on the heavy support package,
- having regard to Rule 115(5) of its Rules of Procedure,

A. whereas this year marks the 10th anniversary of the Rome Statute that was adopted in Rome in 1998 and recognising the important progress that the Court has made since the entry of force of the Statute in 2002,

¹ P5_TA(2002)0082; B5-0120/2002.

² P5_TA(2002)0521.

³ P5_TA(2002)0449.

⁴ P5_TA(2002)0367.

⁵ ACP-EU 3560/03/fin.

⁶ P6_TA(2007)0342.

⁷ P6_TA(2007)0052.

⁸ P6_TA(2006)0142.

- B. whereas Sudan has signed the Rome Statute, which created the International Criminal Court (ICC) in 2002, but has not ratified it,
- C. whereas the UN 'Responsibility to Protect' doctrine provides that where national authorities manifestly fail to protect their populations, others have a responsibility to provide the protection needed,
- D. whereas the UN Security Council referred the situation in Darfur to the International Criminal Court (ICC) in March 2005, after which an investigation was launched, resulting in the names of 51 potential suspects,
- E. whereas the Government of Sudan, in an attempt to avoid Sudanese officials suspected of war crimes being sent to the ICC, did set up its own special courts in Darfur to deal with war crimes and human rights violations,
- F. whereas these special courts have not persecuted any officials, militia members or other individuals responsible for serious human rights violations in Darfur,
- G. whereas in April 2007 the ICC issued two arrest warrants against Sudan's former minister of the interior Ahmad Harun and former Janjaweed militia leader Ali Muhammad Ali Abd-Al -Rahman, also known as "Ali Kushayb", for 51 counts of war crimes and crimes against humanity,
- H. whereas today, Ahmad Harun and Ali Kushayb who face charges for prosecution, rape and killing of civilians in four West Darfur villages remain free,
- I. whereas Ahmad Harun is now the Minister for Humanitarian Affairs, responsible for the welfare of the very victims of his alleged crimes, as well as responsible for liaison with the international peace keeping force (UNAMID); that he was also promoted to become the chair of a governmental committee tasked with hearing human rights complaints; and that Ali Kushayb – who was in Sudanese custody on other charges at the time the warrants were issued - was released from jail in October 2007 despite being sought by the ICC,
- J. whereas since the issuance of the arrest warrants, the government of Sudan has repeatedly refused to cooperate with the International Criminal Court and has indeed multiplied acts of defiance towards the Court and the international community,
- K. whereas in June 2007 and again in December 2007 the Office of the Prosecutor has reported to the UN security Council the failure and unwillingness of the Sudanese Government to cooperate with the Court and has noted that no steps were taken to arrest and surrender Ahmad Harun and Ali Kushayb; whereas according to the Prosecutor's report to the Security Council, Ahmad Harun continues to be part of the system enabling current crimes committed in Darfur,
- L. whereas on 5 June 2008, the ICC Chief Prosecutor, Luis Moreno Ocampo, will report for the seventh time to the UNSC on the progress of its investigations in Darfur and on the cooperation received from Sudanese authorities,

M. whereas since the conflict started in 2003, more than 200 000 people are estimated to have died, at least 2 million have been displaced from their homes in Darfur; whereas hundreds of thousands of women, men and children are beaten, killed, raped or suffer other ill treatments every month by the conflict in Darfur,

- 1 Strongly criticises the government of Sudan's continued failure to comply with its international humanitarian law obligations, including its refusal to execute the arrest warrants and surrender Ahmad Harun and Ali Kushayb to the ICC for questioning and prosecution;
2. Urges the Sudanese government to ratify the statute of the ICC to comply with UN Security Council Resolution 1593 and cooperate unconditionally with the International Criminal Court and ensure an adequate and effective investigation and prosecution of war crimes and crimes against humanity committed in the region of Darfur;
3. Urges the authorities in Khartoum to arrest and surrender the two ICC suspects with no further delay, in order to break the cycle of impunity in Darfur and to cooperate with future ICC investigations in Darfur;
4. Urges EU Member States and EU candidate countries with a seat at the UN Security Council, to take a principled stance during the Prosecutor's briefing on June 5, and to adequately respond to the Prosecutor's findings by supporting the adoption of a resolution or a presidential statement calling on Sudan to immediately comply with UNSC resolution 1593 and with the Court's requests, and immediately arrest Ahmad Harun and Ali Kushayb and surrender them to the Court;
5. Calls on all other States represented at the UN Security Council to also support any cooperation request put forward by the ICC Prosecutor on behalf of the Court and in particular calls on China, Russia, South Africa and Libya to follow through their own words under Security Council resolution 1593 and not to obstruct the Security Council's action on 5 June;
6. Call on the General Affairs and External Relations Council of 16 and 17 June and the European Council of 19 and 20 June to discuss the report of the Prosecutor and move to action and adopt targeted EU punitive measures against a clearly identified group of Sudanese officials who bear responsibility for Sudan's non cooperation with the Court, including:
 - Freezing and seizing of assets of individuals identified as those impeding cooperation with the ICC;
 - Measures denying access to EU banks for any financial transaction and payment made by or on behalf of these individuals;
 - Measures impeding business and other economic or trade relations between these individuals or any legal entity or corporation controlled by these individuals and European companies;
 - Travel bans;
7. Calls on the EU Member States and the European Commission to ensure that their

substantial development aid to Sudan is not delivered via Ahmad Harun's Ministry of Humanitarian Affairs and urges donors to formally press the Government of Sudan to remove Ahmad Harun from office;

8. Urges EU Member States and EU candidate countries with a seat at the UN Security Council to push for the inclusion of the ICC into the formal terms of reference for the forthcoming visit by the UN Security Council to Khartoum;
9. Calls on the Council and the Commission to keep the European Parliament regularly informed of their current and future efforts to press the Government of Sudan to cooperate with the ICC and commits to remain seized of the matter and use all available opportunities to raise the issue with both Sudanese officials and other partners;
10. Calls on the African Union and the Arab League to actively engage in Darfur by pushing the Government of Sudan to cooperate with the Office the Prosecutor with the current and future investigations and calls on the EU presidency to include Sudan's cooperation with the ICC on the agenda of political dialogues and summits with key partners, such as China, the United States, the African Union or the Arab League;
- 11 Welcomes the acceptance by the Government of Sudan on 12 June 2007 of the AU/UN hybrid force; recalls that the Government of Sudan has made previous commitments to allow the work of the hybrid force;
- 12 Expresses deep concern over the deterioration of security in Sudan, following a weekend attacks by rebels close to the capital, Khartoum, that reportedly killed more than 200 people; underlines that the escalation in violence over the past month has also impacted humanitarian operations, as banditry and hijackings have led to lost aid supplies, recently forcing food agencies to halve rations to more than three million needy people in Darfur;
- 13 Calls on Sudanese authorities, notably the GNU, to lend their full support to the effective establishment of UNAMID, and support all the efforts to generate stability and create a security environment;
- 14 Condemns any violation of the ceasefire agreements by any party, and in particular any violence directed towards the civilian population and the targeting of humanitarian assistance;
- 15 Calls on the EU and other international actors to apply appropriate measures that target any perpetrators of violence that violate the ceasefire or attack civilians, peacekeepers or humanitarian operations and to take all necessary action to help end impunity;
- 16 Urges the Sudanese government to respect its commitment to a Moratorium on restrictions and obstacles to all humanitarian workers;
- 17 Calls on the EU and the AU to present a united front in efforts to resolve the conflict in Darfur and to prioritise a comprehensive peace process, which should include the consultation and representation of Darfur's tribes, communities of internally displaced persons (IDPs), women's groups and other civil society groups; underlines the need to build consensus on the next strategic steps to be taken in Darfur, and to include key actors such as China and the USA in

every step, and to put pressure on all rebel movements and on the Government of Sudan to cease fire and go further regarding peace negotiations;

18 Calls on all parties involved in the conflict to refrain from the recruitment and use of child soldiers under the age of 18, and calls on the Sudanese authorities to protect displaced children, especially unaccompanied minors, as laid down in the relevant Conventions;

19 Calls further on all third parties to cease exporting arms to all parties to the conflict in the region and to uphold respect for human rights and international peace and security in their relations with Sudan;

20 Instructs its President to forward this resolution to the Commission and the Council, notably to the EU Special Representative for Darfur, to the governments of Sudan, of the EU Member States and of the Members of the UN Security Council, to the African Union institutions, to the Arab League institutions, and to the Prosecutor of the International Criminal Court.