



**COUNCIL OF
THE EUROPEAN UNION**

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**PE 197
INST 209
COHOM 73
POLMIL 26
COAFR 130
ILO 1**

NOTE

from:	General Secretariat of the Council
to:	Delegations
Subject:	Summary record of the meeting of the European Parliament Subcommittee on Human Rights on 24 and 25 April 2013

24 April 2013, 15.00 – 18.30

1. Adoption of agenda

The agenda was approved.

2. Approval of minutes

Minutes of the meetings of 7 March and 20-21 February were approved.

3. Chair's announcements

The Chair announced that at the April plenary the Parliament had approved the reports on the impact of the financial and economic crisis on human rights and on EU-Ukraine visa facilitation, the latter despite concerns about Ukrainian legislation that linked homosexuality with paedophilia.

She noted that the emergency resolution on the hunger strikes in Guantanamo had been postponed to the May Plenary. Furthermore the resolution on Vietnam condemned the persecution of journalists and asked the HR to take up this issue in future contacts with the Vietnamese government.

The Chair also reported on her meeting with the Minister for Justice of Saudi Arabia. The Minister had dismissed allegations about brutal capital punishment previously reported in DROI. The Chair also regretted that death penalty in Iran was being used heavily, with many executions of drug dealers, and called on those Member States supporting Iran's fight against drugs to review their position.

She reported also on new executions in Taiwan despite the 5 year moratorium. A press statement criticizing the executions, to which Taiwanese Minister of Justice had responded critically, had been published. Another press statement had been published concerning strong punishment for demonstrations in Bahrain.

The Chair finally took note of the fact that the FAC had decided to lift sanctions on Burma, and expressed concerns at the lack of means available to the EU to put pressure on Burma in the direction of democratic reform.

4. Exchange of views with Jacqueline Moudeina, Chadian lawyer and human rights activist

Ms Moudeina described her efforts to fight against impunity and to promote the rights of women and child victims of the Habré regime. In particular, she regretted that the people responsible for the atrocities committed were still part of the Chadian administration and that Senegal continued to refuse to charge or extradite the former Chadian dictator. The Chadian government had also never recompensed the victims. She called on the EU to give funding towards this aim. She also argued that women and children needed to be protected against chauvinistic traditions that saw them as the property of men and their families.

The Chair noted that, even if admittedly very slow, the trial of Habré was a positive development.

A representative of the EEAS noted that the EU was supporting Chad in its reform of the judicial system and in its negotiation with Senegal.

5. Hearing on Indigenous people and extractive industries

A representative from the Mirrar indigenous community, Australia, described the threats posed by uranium extraction for the aboriginal population. After years of struggles and sustained international attention, there had been a significant improvement recently in cooperation between mining companies and the Mirrar. The extracting company had agreed to request the consent of the traditional owners of the land before any further expansion of mining activities, despite it already having a formal lease for mining. This case highlighted the continuing importance of the need to draw attention to the concerns of the indigenous community and of support from international observers.

Mr Marques from Angola spoke on behalf of the inhabitants of the Lundas, a diamond rich area of Angola. Diamond extraction deprived local people of their traditional means of livelihood, and despite the international certification scheme to regulate the trade (Kimberley Process, KP) victims of “blood diamonds” continued to suffer. Mr Marques pleaded for the EU to dispatch to the Lundas experts to investigate recent murders and noted that the KP needed reforms if it were to maintain credibility.

Ms Castro described the struggles of the indigenous people of Guatemala and Colombia due to the rise of exploitation of hydrocarbon and sugar cane plantations. Several of their basic rights were being breached because of the industry. Consultations with indigenous people were still at a very initial phase, and people remained victims of intimidations and often lacked the means to make their voice heard.

Mr Busdachin, Secretary general of the Unrepresented Nations and Peoples Organizations highlighted how one of the major barriers to fair treatment of indigenous people was the weakness of their judicial system. He urged EU Member States to sign and ratify the ILO 169 for the Identification of indigenous and tribal peoples, so far only signed by 22 States worldwide. He also encouraged the EU to use its soft power to promote the rights of indigenous peoples.

A representative of the Inter-Parliamentary Union said that Parliaments around the world had the potential to minimize the suffering of indigenous people, using the traditional means of Parliaments such as legislation and political representation.

Mr Gomes (S&D, PT) expressed concerns about the EU's trade relations with countries which infringe the rights of indigenous people.

The representative of the EEAS described the EU policy on indigenous rights, in particular the pressure brought to bear on countries to sign the ILO 169 and implementation of UN guidelines.

6. The freedom of press and media in the world

Ms Schaake (ALDE, NL) set out briefly the main elements of her draft report. She considered that governments were often the ones making the work of the media and journalist difficult. Opportunities for the EU to leverage its external action programme were assessed in the report so that the EEAS could put freedom of expression at the forefront of all aspects of its work. Ms Ojuland (ALDE, EE) regretted that recommendation by the European Parliament had in many cases not being taken up by the EEAS.

The representative of the EEAS expressed her support for the report and reiterated the long-standing stance of the institution in favour of promoting freedom of expression. She assured the Committee that the EEAS would take up the recommendations of the report in developing the Commission guidelines. She also reported that the tentative calendar foresaw the FAC giving the final approval by December.

A representative from the International Federation of Journalists said that the report contained all the issues that the association itself had previously identified, and touched in particular on the issue of impunity, given the number of journalists who fall victims of violence throughout the world.

The representative from the Commission (DEVCO) also welcomed the report on media freedom. The aim for DEVCO was to take the consultation further and to develop better expertise from all participants.

7. Question time

The Chair asked the EEAS whether the travel restrictions proposed by the European Parliament for Russian officials involved in the Magnitsky case were being discussed at Council level, and whether visa facilitations for Russians were being made conditional upon a reasonable resolution of the case.

A representative of the EEAS underlined that concerns about the handling of the Magnitsky case had been expressed at the highest level through a letter from Van Rompuy to Medvedev and most recently at the EU-Russia summit in March. The Russian decision to close the case and to open one against Magnitsky himself posthumously remained controversial. The EEAS had taken careful note of the recommendation of the European Parliament but sanctions would be a measure of last resort. He added that the Visa facilitation agreement talks were ongoing.

25 April 2013, 9.00 – 11.30

8. Exchange of views on a European Parliament Recommendation to the Council on draft EU Guidelines on the Promotion and Protection of Freedom of Religion or Belief

Ms Andrikiene (PPE, LT) presented her draft to the Committee. Council had made a commitment to adopt guidelines on the issue. EP recommendations had to draw the attention of other institutions to issues that needed to be clarified. She proposed to adjust the timetable in order to complete the work and discuss it at the May Plenary. She highlighted the importance of the principle of proportionality embedded in the recommendations, the importance of freedom of religious education, and right to object to military service for religious reasons.

Ms Vergiat (GUE, FR) stressed the importance of individual rights over collective rights. She also highlighted the fact that the freedom *not* to be religious, or to change religion, needed to be included. The Chair on behalf of the Greens supported the proposal to add a reference to non-believers. She also mentioned the fact that the EU should lead by example, by welcoming refugees of religious persecution and stating its commitment to tackle the issue of religious discrimination in multilateral fora.

The representative of the EEAS praised the report and assured that all suggestions were going to be taken on board. Discussions with Member States on the guidelines was ongoing, but the Council Working Group on Human Rights was meeting in May. They aimed to adopt the guidelines at the Foreign Affairs Council in June.

The Rapporteur welcomed the recommendations made and expressed her readiness to work further on the draft. The Chair noted that given the Member States' time line, the discussion in plenary would take place in June.

Jointly with the Subcommittee on Security and Defence

9. Hearing on human rights implications of the use of drones - including presentation of the study entitled 'Human rights implications of the usage of drones and unmanned robots in warfare'

The session was co-chaired by Ms Lochbihler (Greens, DE) and Ms Nicolai (ALDE, RO).

Mr Milzer, senior advisor of Geneva Defence Policy, discussed the increasing importance of drones in warfare, which he described as a true revolution in warfare. He explained that the lawfulness of the use of unmanned weapon systems was regulated by international humanitarian law, or by the UN charter in case of use on the territory of a sovereign state. A number of contentious issues had arisen concerning the legal responsibility of using this technology. In particular he highlighted the prohibition of using weapons in an indiscriminate way against civilians and combatants, the lack of transparency and accountability about the "black lists" used by the current US administration, and the potential legal and ethical limits of development of unmanned weapon systems, which, he argued, should be discussed within relevant multilateral organizations.

Mr Emmerson, UN special rapporteur on counter-terrorism and human rights, noted the difference between the technology itself, which had positive potentials, and drones used for delivery of weapons and armed attacks. He argued that drones were not indiscriminate, but operated in a surgical way. He expected the US government to respond to increasing international pressures by

soon explaining its use of targeted drones in counter terrorism. The US, he noted, considered itself to be involved in a new type of war (a trans-boundary conflict with Al Qaeda) which did not fit in with the Geneva convention types of armed conflicts, and which required an adaptation of existing principles to accommodate new technology. There urgently needed to be an international policy dialogue on legal principles, with the EU and the Member States explicitly stating their own understanding of the legal issue at stake.

Mr Grand noted that the use of drones remained subject to the chain of command operated by several people. The first Obama administration had made a very heavy use of drones, six times more than Bush, in its fight against Al Qaeda. He highlighted the implication of the use of drones for international law, in particular with regards to the consent of the country where operations were carried out. Pakistan, notably, had refused its consent and operations on its territory were still being carried out.

Ms Stauffer, representative of Reprieve, a legal charity based in London, described the terrible physical and psychological impact that drone use had on civilians and how disrupting this technology was to communities and civilian lives. Furthermore, she noted that only 2 to 3% of the killings were being targeted on high level criminals. She urged the EU to act as a counter balance to US action.

Finally, Dr O'Connor from the University of Notre Dame, USA, reiterated the concerns expressed by previous speakers concerning the legality of targeted killings. She argued that the administration's legal analysis was deficient and that government lawyers were trying to provide justification for drone attacks rather than providing an impartial assessment of their legality.

In the discussion that followed, Ms Gomes (S&D, PT) considered that the matter was not just a human rights issue, but also a foreign affairs question. She urged the Parliament to hold a debate with its American counterparts. Together with Ms Nikolai (ALDE, RO), Ms Koppa (S&D, EL), Ms Cronberg, (Greens, FI) , Ms Lochbihler (Greens, DE) and Ms Ludford (ALDE, UK), she supported the idea of having a Parliament resolution on the matter. Ms Ludford (ALDE, UK) noted that the EU was the only possible counterpart to the US to fight for respect of international

humanitarian law. Mr Tannock (ECR, UK) on the other hand considered that in current asymmetric war fare, despite the fact that indiscriminate deaths remained unjustifiable, Al Qaeda was not respecting any humanitarian law itself and that the US had no other means to counter terrorism. He also noted the risks involved in a potential Al Qaeda acquisition of nuclear weapons from Pakistanis authorities.

A representative of the EEAS commented that the EU did not have a formal position on the use of drones, but that the EU had reiterated often that the war on terrorism should continue in full respect of human rights and humanitarian law. Extrajudicial killing, he noted, undermined international law. Questions as to how to qualify this situation of conflict required further analysis. Discussions were still at an early stage at the Council and at the EEAS.

In response to MEPs questions, Mr Meltzer noted that renegotiating international law was not the first concern. The transparency of the criteria being used was instead of utmost importance. He also expressed concerns about US military definition of "combatant" as any male of adult age unless proven otherwise- a presumption that was unlawful under humanitarian law- and dismissed Mr Tannock's concerns about nuclear weapons falling in the hands of terrorist groups. Mr Emmerson also recognized that the legal explanation given by the Obama administration was not coherent and satisfactory. Pakistan had not consented to the use of drones on its territory, and the Pakistani elected representatives had explicitly said so. The USA continued to ignore such a position. He furthermore noted that drones were often more precise than man-led F16. However, the enormously high de-listing rate from the Al Qaeda black list since 2009 showed the fallibility of the list used for the killings and raised serious ethical concerns. Mr Grand in conclusion argued that even if outside armed conflict, he saw the use of drones as legitimate if they took place in truly exceptional circumstances.

Next meeting(s)

16 May 2013, 9.00 – 12.30 (Brussels)