

Barbara Lochbihler

The EP contribution to the fight against impunity world-wide through EU policies

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Check against delivery!

Ladies and Gentlemen,

The fight against impunity and for international justice has made positive progress in the last decade, not least with the commencement of the first cases at the International Criminal Court. Nevertheless, international justice continues to encounter obstacles in its development.

All States have the right under international law to prosecute and try people responsible for genocide, crimes against humanity and war crimes, and other crimes under international law, such as torture, extrajudicial execution and enforced disappearances, regardless of the nationality of the victim or the alleged perpetrators or the territory where the crimes were committed.

In cases where the alleged offender is present in any territory under its jurisdiction, the State has the imperative international obligation to extradite or to bring the accused to its own national courts.

The EU is determined to work towards the prevention of crimes of international concern and the ending of impunity for perpetrators of such crimes.

It has consistently given strong support – political, financial and technical – to the effective functioning of the International Criminal Court (ICC) and other international criminal tribunals. This has been done through the EU Common Position and an EU Action Plan on ICC.

The EU member states have ratified the Rome Statute, establishing the ICC.

EU Member States and Japan are also the main contributors to the ICC budget and

to the budget of the Coalition for the Criminal Court, an association of more than 1.500 NGOs in support of the ICC.

Let me also welcome the accession of Grenada to the ICC which on May 19 this year became the 115th member state.

Despite this, it is still the case that a great many measures and action plans developed by the departments and working groups of the European Commission, the European Council and the European Parliament are not implemented successfully. It seems that not all EU delegations are fully aware of our Human Rights Guidelines, e.g. the EU Guideline on Human Rights Defenders.

We also have to be self critical on the role of European Countries in the cases of torture and rendition during the so called War on Terror. The European Union has until now failed to shed a light into its involvement in the illegal CIA-flights.

The legal community and all the human rights movement must continue their efforts to attain universal justice and an end to impunity.

The effective implementation of the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is a vital instrument for gathering evidence and preventing impunity.

Let me give you some concrete examples what the fight against impunity is about:

Argentina

2010 ended for Argentina with an historical and long-awaited fact: the life imprisonment sentence of the ex dictator Jorge Rafael Videla on 22nd of December. During the military dictatorship the Armed Forces opened and supervised 500 clandestine detention centres all around the country were mostly young dissidents –lawyers, artists, students, activists – were imprisoned and horribly tortured by despair of their relatives. Hundreds of them were executed and buried in communal graves or thrown alive to the Rio de la Plata from military airplanes. But maybe the worse has been the impunity that those criminals enjoyed afterwards.

The Mothers of the Plaza de Mayo of Argentina fought against the repression of the Dirty War from 1976 to 1983, and have continued their fight against impunity into the present. Their efforts have brought important changes in human rights consciousness and helped to arrest nine high-ranking military men for their participation in baby-trafficking during the last dictatorship.

The EP Subcommittee on Human Rights on Sept 2010 heard the testimony of Argentinean civil society and judicial system representatives in order to exchange views on the way in which Argentina is judging, 30 years later, the crimes of the dictatorship.

This is the right moment to mention the case of Baltasar Garzon and his crucial role in overcoming impunity in Argentine. His ground-breaking work in investigating serious crimes has opened the door for long-awaited redress for victims in Argentina, Guatemala, Chile and now Spain.

The prosecution of Spanish magistrate Garzón will have a chilling effect on both Spanish and international efforts to promote accountability for international crimes. Garzón is in my view politically targeted because he is an international symbol in the fight against impunity.

Garzón has been charged with abuse of process for knowingly exceeding his jurisdiction by investigating crimes committed during the Franco regime. Opponents claim these crimes are protected by Spain's 1977 amnesty law, despite the fact that international human rights law has increasingly refused to recognize amnesties for international crimes. Spanish courts have in the past upheld Garzón's investigations into crimes committed by Chile's Augusto Pinochet and Argentina's military officials such as Jorge Videla and Emilio Massera. These cases and subsequent ones against Guatemala's Efraín Ríos Montt denied the application of national amnesty laws.

Spain has ratified the ICC statute—it has committed to end impunity for the most serious crimes, not to promote it. Judges who investigate in good faith and are backed by international law cannot work if they fear being politically targeted with legal actions.

The case of judge Baltazar Garzon as well as the incomplete investigations in CIA rendition flights in Europe clearly show that even within the European Union the fight against impunity cannot be taken for granted.

Serbia

The information according to which the Serbian authorities have arrested the former Bosnian Serb military chief Ratko Mladic was great news for the future of Serbia, for law and justice and the fight against impunity.

It will open the way for reconciliation in the region, and help all countries to focus on their European future. Therefore this is also good news for the people of Serbia.

Yesterday Mr Mladic was transferred to The Hague, where he will stand trial before the International Criminal Tribunal for the former Yugoslavia (ICTY). He faces numerous charges, including genocide, extermination, murder,

persecutions, deportation, taking of hostages and inflicting terror on civilians, particularly in connection with massacre of up to 8,000 Muslim men and boys in Bosnia and Herzegovina in the supposedly "safe haven" of Srebrenica in July 1995 in one of the most notorious events of the Balkan wars. The Prosecutor of the ICTY, Serge Brammertz, also highlighted the significant impact of this arrest for international justice.

The arrest of Ratko Mladic is a milestone both for Serbia and for international justice and brings the ICTY closer to the successful completion of its mandate, with 160 out of 161 indicted persons having now been arrested. With the arrest of Mr. Mladic, only one indictee - Goran Hadzic - now remains at large.

We have to encourage the authorities to spare no efforts to also arrest Goran Hadzic, the former leader of the Croatian Serbs, and bring him before the ICTY.

Egypt:

During many years Egypt was one of the worst examples of torture in prison. To uproot this culture of human rights abuses and impunity, the decades of human rights violations under the rule of President Hosni Mubarak must be addressed, and measures taken to ensure truth, justice and reparation for victims of human rights violations, including for former detainees.

Holding secret service officers to account is an essential initial step towards realizing the calls to end impunity that was one of the main triggers of the recent uprising in Egypt.

In order to truly break with the legacy of human rights violations and impunity for the violations, the Egyptian authorities must also introduce comprehensive institutional and legal reforms to guarantee that such abuses will not be repeated. Only then will Egyptians start to trust public institutions and to heal after decades of abuse.

Truth, justice and reparations are three important elements of the fight against impunity. And these elements may help to heal the wound of past human right violations. The European Union can and must play a crucial role in supporting Egypt to overcome its legacy of impunity.

Colombia

22 March 2011 witnessed the assassination of the Colombian judge Gloria Constanza, who had tried more than a hundred cases, mostly with members of armed bands in the dock, as well as the case of the rape of a peasant girl and

her murder alongside her two sisters, in which it is believed that there is implication on the part of members of the Colombian army.

This latest crime is yet another occurrence pointing up the channels of impunity that apply in Colombia in the face of grave human rights violations. In the framework of the bilateral dialogue with Colombia, the European External Action Service has to invoke the lack of guarantees of a free legal system in the country with respect to cases of human rights violations, especially those involving children.

At present the EU is preparing a Free Trade agreement with Colombia. This is the right moment to put pressure on the Colombian government to really investigate into the cases of gross human rights violations that happened in this country during the last years and that are still ongoing. The EU cannot go back to business as usual.

Let me now draw your attention to the EU guidelines on violence against women, the UN Security Council resolution 1820 on the **Protection of women and girls in armed conflicts and post-conflict situations** and the fight against impunity

Violence against women and girls is probably the most widespread human rights violation of our time. It claims millions of victims each year, cuts across age, socio-economic, educational and geographic boundaries and affects all societies.

Sexual violence and rape as a tool of war bring about grave suffering and undermine peace-building as well as economic development.

States are expressly called upon to take special measures to prevent sexual violence.

In particular, they should work against impunity in cases of sexual and other violence against women and in genocide, war crimes and crimes against humanity. Resolution 1325 emphasises that, where feasible, crimes relating to sexual or other violence against women should be excluded from amnesty provisions.

In Resolution 1888, adopted in 2009, the Security Council voices its concern about the lack of progress in the fight against sexual violence in armed conflicts. It suggests appointing a Special Representative to further the implementation of Resolution 1820 and once more urges the countries affected by sexual violence to combat impunity more effectively and do more to protect the victims of sexual violence.

The EU Guidelines on violence against women and girls and combating all forms of discrimination against them. The guidelines list among others the following operational objective: fighting the impunity of perpetrators of violence against women and helping victims of such violence to take judicial measures and be heard in court.

In the guidelines, the EU undertakes to raise the issue of combating violence against women and girls in its relations with third countries and regional organisations.

The guidelines state that the EU will encourage third countries to ratify the international agreements that are relevant for the protection of women's rights. The European Commission did so in the past and I hope that the new External Action Service will go on in this direction - but there is still some space for improvement in order to implement the rule of law and overcome impunity.

Let me now give you some examples of past European Parliament resolutions related to the fight against impunity:

Impunity in Africa and the Case of Hissène Habré (2006)

Hissène Habré was the leader of Chad from 1982 until he was deposed in 1990. Human rights groups hold Habré responsible for the killing of thousands of people, but the exact number is unknown. Killings included massacres against ethnic groups in the south. He authorized tens of thousands of political murders and physical torture. For these crimes, he has received the nickname "the African Pinochet", after the Chilean president. Today he lives in Senegal and it is unclear whether Senegal will hold a trial against him.

European Parliament:

- stressed that it has become customary international law that, irrespective of their status, perpetrators will not enjoy amnesty or immunity for human rights violations, and strongly supports the bringing to justice of those responsible for crimes and atrocities;
- reiterated that the fight against impunity is one of the cornerstones of the Union's human rights policy and calls on the Commission, the Council and the Member States of the African Union to continue to pay due attention to this question;
- considers that sustainable peace cannot be achieved through deals to protect those responsible for systematic human rights abuses;

Another recent case of impunity is Sudan's President Al-Bashir. In July 2008, the prosecutor of the International Criminal Court (ICC), Luis Moreno Ocampo, accused al-Bashir of genocide, crimes against humanity and war

crimes in Darfur. Al-Bashir is the first sitting head of state ever indicted by the ICC as well as the first to be charged with genocide. Al-Bashir visited Kenya on 27 August 2010 to witness the President signing Kenya's new constitution into law. On May 8, 2011, al-Bashir visited Djibouti to attend the inauguration of President Guelleh's third term. As State Parties to the Rome Statute, Kenya and Djibouti have an obligation to cooperate with the Court in relation to the enforcement of warrants of arrest issued against the Sudanese leader. The European Union strongly criticised both countries for breaching their obligation under the Rome statute.

Mexico and Central America (2007)

Regarding ongoing mass Murders of Women in Central America and Mexico the European Parliament

- urged these countries to take all necessary steps to enable violence against women to be combated effectively
- recommended to develop the capacity of the courts, security corps and public prosecutor's offices in order to facilitate the prosecution and punishment of the perpetrators
- called on the countries of Central America and Mexico to eliminate from their national laws all discriminatory references to women

Resolution on Kampala Review Conference of the ICC (2010)

European Parliament

- referred to the Stockholm Programme inviting the EU institutions to support and promote Union and Member States' activity against impunity and to fight against crimes of genocide, crimes against humanity and war crimes, and 'in that context [to] promote cooperation between Member States [...] and the ICC'
- welcomed the fact that the ACP-EU Joint Parliamentary Assembly has been active in ensuring that international criminal justice is included in the revised ACP-EU Partnership Agreement (Cotonou Agreement) and has adopted several resolutions aimed at mainstreaming the fight against impunity in international development cooperation and relevant political dialogue,

DRC (2010)

- Called for an immediate end to the violence and human rights abuses in eastern DRC; stressed the need for further efforts to put an end to the activity of local and foreign armed groups in the east of the DRC;
- Strongly condemned the mass rape and other human rights violations which took place between July 30 and August 3 on at least 500 women in Nord Kivu province;

EP's Annual reports:

EP regularly refers to the fight against impunity in its annual report on human rights.

It states that the fight against impunity is crucially important as it is aimed at preventing and punishing the gravest crimes and their perpetrators; impunity is seen as a cross-cutting matter which concerns a wide range of human rights issues, such as torture, the death penalty, and violence against women, the persecution of human rights defenders and the fight against terrorism. In this regard EP also refers to partner countries like Russia where gross human rights violation still go unpunished.

EP regularly calls on the HR/VP to ensure that those who have committed violations of international law are held accountable in accordance with the EU obligation under the Geneva Convention and the EU priority of combating impunity.

The EP has called on the High Representative to appoint a Special Envoy on International Justice with the mandate to promote, mainstream and represent the EU's commitment to the fight against impunity and the ICC across EU foreign policies. Unfortunately there was yet no success.

Friends of the ICC

In order to support the work of the ICC from within the European Parliament I asked several colleagues to engage in a group called "Friends of the ICC" and I am glad to see that some of those friends are today with us.

We visited at the Hague in March this year.

President Song thanked the EP/EU for its ongoing financial and political support.

The EP is a global key actor and a key supporter of the ICC. The EP resolution on the ICC ahead of Kampala was highly appreciated. At present there are 115 signatures to the Rome Statute. In the near future Malaysia is expected to join as well as The Philippines, Maldives, Egypt, and Tunisia. EP pressure to join the Rome Statute (e.g. via FTA) is effective. EP can speak out publicly in support of the ICC whereas the Court itself has to stay neutral.

Now is the time for the EU to put pressure on transition countries in North Africa and Middle East. The aim should be to strengthen the national judicial systems worldwide.

The ICC is only a court of last resort. But it is an important piece of a larger puzzle of international criminal justice. When the ad hoc tribunals (e.g. Sierra Leone, Yugoslavia) are phased out ICC will be the only permanent court.

It is also important to mention that the new US administration made a big change towards the ICC. It stopped to discourage other countries to sign the Rome Statute. The new motto is: 'constructive dialogue'.

Political will is key: international community must remind countries in bilateral and multilateral meetings of their duty to open trials. The international community must keep the pressure high in its fight against impunity worldwide.

Since 1995 (when a specific budget line was created by the European Parliament to that end), the EU has provided over EUR 40 million under the European Instrument for Democracy and Human Rights (EIDHR) for projects aiming at supporting the ICC and international criminal justice.

Significant funds have been used to promote the ratification of the Rome Statute, particularly by funding global NGO activity through organisations such as the Coalition for the International Criminal Court and No Peace Without Justice and promoting awareness-raising among parliamentarians through Parliamentarians for Global Action.

EP should go on in financing the ICC and its victim's trust fund. I promise to campaign for the future financial support of the ICC by the European Union and I am sure that my colleagues here in the room will support me.

At present EP's Foreign Affairs committee is preparing an own initiative report on the recent development at the ICC. Mr Kreissl-Dörffler from the Social Democrats is the rapporteur and I have the pleasure to be our groups shadow rapporteur and I am sure that the colleagues here in the room will contribute to this report, too.

Last but not least the European Union should in all external relations urge its partners to

- ratify the optional protocols to the international covenants on Civil and Political, and Economic, Social and Cultural Rights
- accede to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- accede to the International Convention for the Protection of All Persons from Enforced Disappearance and implement it in national law.

- ratify the Rome Statute of the International Criminal Court and implement it in national law.

I thank you for your attention.