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Kenya

European Parliament resolution of 17 January 2008 on Kenya

The European Parliament,

- having regard to the preliminary statement of the European Union Election Observation Mission (EU EOM) to Kenya of 1 January 2008,
 - having regard to the Declaration by the Presidency on behalf of the European Union concerning the African Union mediation efforts in Kenya of 11 January 2008,
 - having regard to the African Charter of Human and Peoples' Rights, 1981, and the African Charter on Democracy, Elections and Governance, 2007,
 - having regard to the African Union Declaration on the Principles Governing Democratic Elections in Africa, 2002,
 - having regard to the Declaration of Principles for International Election Observation and the Code of Conduct for International Election Observers, commemorated at the United Nations on 27 October 2005,
 - having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 (the Cotonou Agreement) and amended in Luxembourg on 25 June 2005, in particular Articles 8 and 9 thereof,
 - having regard to Rule 103(4) of its Rules of Procedure,
- A. whereas presidential and legislative elections were held in Kenya on 27 December 2007, in which nine parties fielded presidential candidates, including Mwai Kibaki of the Party of National Unity (PNU) and Raila Odinga, leader of the Orange Democratic Movement (ODM),
- B. whereas the two major parties, the PNU and the ODM, won, respectively, 43 and 99 seats out of a total of 210 in the national parliament,
- C. whereas the 2007 presidential elections in Kenya fell short of basic international and regional standards for democratic elections and were followed by rioting that led to the death of over 600 people,
- D. whereas the political violence that followed the elections led to the displacement of 250 000 people and affected between 400 000 and 500 000 Kenyans, specifically from the cities of Eldoret, Kericho and Kisumu, according to the UN's Office for the Coordination of Humanitarian Affairs (OCHA),
- E. whereas the current political crisis arose mainly from tension in the former National Rainbow Coalition (NARC), which won the Kenyan elections in 2000, when Mwai

Kibaki and Raila Odinga agreed to share power, an agreement which was not honoured,

- F. whereas the recommendations made by the 2002 EU EOM were not taken sufficiently into consideration, including those on the size and boundaries of the constituencies for the general elections and the recommendation that the tenure of the Electoral Commission of Kenya (ECK) should be extended to six months after general elections, in order to enhance its independence and professionalism,
- G. noting that the atmosphere of the 2007 electoral campaign was characterised by a strong political polarisation between the Kibaki and Odinga camps, which led to a tense atmosphere in their respective ethnic communities,
- H. whereas the presidential elections have betrayed the hopes and expectations of the Kenyan people, who eagerly engaged in the electoral process by voting in large numbers in a peaceful and patient manner,
- I. whereas intense diplomatic efforts, including the mediating mission of the African Union chairman and President of Ghana, John Kofi Agyekum Kufuor, and efforts made by four former presidents have failed to resolve the political crisis,
- J. whereas on 8 January Mwai Kibaki unilaterally appointed 17 members of his cabinet, before the international mediation had run its course, thus effectively pre-empting a tripartite negotiation and prompting the ODM to resume mass protests,
- K. whereas during the election campaign freedom of association, freedom of expression and freedom of assembly were broadly respected; whereas the campaign was, however, also marked by ethno-political divisions, which contributed to the volatile situation in the run-up to the elections,
- L. whereas the international community did not pay sufficient attention to the underlying ethnic tensions and must henceforth take this issue into consideration in any future mediation efforts in the current Kenyan crisis,
- M. whereas the ECK oversaw the logistical and technical aspect of the elections, improved access to voter registration centres and trained the polling staff,
- N. whereas the ECK did not, however, demonstrate the impartiality, transparency and confidentiality that are prerequisites in a democratic election, and whereas this is reflected in the flawed procedures for appointing ECK commissioners,
- O. whereas the EU EOM observers were welcomed by the relevant authorities at polling stations, where polling was conducted in an orderly manner,
- P. whereas the EU EOM observers were not, however, given similar access to tallying stations and whereas they concluded that the lack of transparency and adequate security procedures severely undermined the credibility of the presidential election results,
- Q. whereas turnouts of over 90 % were recorded at certain polling stations and whereas the ECK voiced doubts about these unrealistically high figures,
- R. whereas the EU EOM concluded that, overall, the election process prior to tabulation was well managed and that the parliamentary elections were deemed largely successful,

- S. whereas the EU EOM concluded, however, that the tallying process in the presidential election lacked credibility and therefore expressed doubts as to the accuracy of the results,
- T. whereas, according to the Observatory for the Protection of Human Rights Defenders, threats have been made against members of the Kenyans for Peace with Truth and Justice Initiative (KPTJ), a coalition of independent NGOs which was formed in the aftermath of the elections to denounce electoral fraud and support freedom of expression and association in the country,
- U. whereas Kenya has made commitments to respect for fundamental civil rights, democracy based on the rule of law and transparent and accountable governance within the framework of the Cotonou Agreement,
1. Condemns the tragic loss of life and critical humanitarian situation, and calls urgently on the relevant authorities and stakeholders to do their utmost to bring peace to the Republic of Kenya and to ensure respect for human rights and the rule of law;
 2. Endorses the conclusions presented by the EU EOM in its preliminary statement;
 3. Regrets that, despite the broadly successful parliamentary elections, the results of the presidential elections cannot be considered credible owing to widespread reports of electoral irregularities;
 4. Deplores the fact that Mwai Kibaki, appointed his cabinet unilaterally, which severely undermined mediation efforts;
 5. Calls on Mwai Kibaki, to respect his country's democratic commitments as enshrined in the Constitution of Kenya, the African Charter of Human and Peoples' Rights and the African Charter on Democracy, Elections and Governance, and to agree to an independent examination of the presidential vote; urges the Kenyan authorities, in addition, to facilitate such an investigation in order to redress the situation and make the perpetrators of the electoral irregularities accountable for their actions;
 6. Urges the Kenyan authorities to guarantee in all circumstances the physical and psychological integrity of KPTJ members and all human rights defenders in the country and to put an end to all acts of harassment directed against human rights defenders in Kenya;
 7. Calls on both sides urgently to engage in tangible remedial action through negotiation; supports, in this regard, further mediation efforts by a panel of African elders led by Kofi Annan, the former United Nations Secretary-General;
 8. Calls on the Presidency of the European Union and the Commission to monitor closely the mediation mission led by Kofi Annan and, if required, to ensure an immediate continuation of those mediation efforts by a high-level European Union delegation, possibly in the context of a joint EU-AU initiative; calls on the Commission to offer to the Kenyan authorities all necessary technical and financial assistance in the process of an independent examination of the presidential elections, as well as in the steps deemed necessary to redress the situation;
 9. Welcomes the fact that the newly elected parliament showed its independence by the

election of Mr Kenneth Marende as its speaker and underlines the decisive role to be played by that parliament in restoring civil liberties in Kenya;

10. Calls for concrete measures to establish a truly impartial Election Commission which will be better able to conduct free and fair elections in the future;
11. Draws attention to the statement by Samuel Kivuitu, Chairman of the ECK, who has distanced himself from the presidential election results published in the media and called for an independent inquiry into the allegations of fraud;
12. Calls for fresh presidential elections should it prove impossible to organise a credible and fair recount of the votes cast in the presidential election by an independent body;
13. Regrets the failure to take advantage of the opportunity provided by the 2007 presidential elections to consolidate and further develop the electoral and wider democratic process;
14. Calls on the leadership of the political parties to take responsibility for preventing further violence in the country, demonstrate a commitment to the rule of law and guarantee respect for human rights;
15. Is deeply preoccupied by the social repercussions of the current economic crisis, its detrimental effect on the country's socio-economic development and the economic consequences for neighbouring countries, which depend to a large extent on Kenya's infrastructures and whose humanitarian situation is being undermined by the crisis;
16. Calls on the Kenyan Government and the Commission to arrange rapid humanitarian assistance to the internally displaced people and to provide all necessary humanitarian relief workers;
17. Calls on the relevant authorities to ensure free and independent press coverage and to reinstate live broadcasting with immediate effect;
18. Regrets the disbursement of European Development Fund budget aid to the Kibaki government directly after the elections, which could be misconceived as demonstrating political bias, and asks for all further budgetary support to the government of Kenya to be frozen until a political resolution to the present crisis has been achieved;
19. Instructs its President to forward this resolution to the Council, the Commission, the governments of the Member States, the government of Kenya, the Co-Presidents of the ACP-EU Joint Parliamentary Assembly and the Chairmen of the Commission and the Executive Council of the African Union.