Thursday 6 October 2022

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The Media freedom crackdown in Myanmar, notably the cases of Htet Htet Khine, Sithu Aung Myint and Nyein Nyein Aye

European Parliament resolution of 6 October 2022 on the Media freedom crackdown in Myanmar, notably the cases of Htet Htet Khine, Sithu Aung Myint and Nyein Nyein Aye (2022/2857(RSP))

(2023/C 132/09)

The European Parliament,

— having regard to its previous resolutions on Myanmar/Burma,

— having regard to Council Decision (CFSP) 2022/243 of 21 February 2022 amending Decision 2013/184/CFSP concerning restrictive measures in view of the situation in Myanmar/Burma, imposing a fourth round of sanctions in view of the continuing grave situation and of intensifying human rights violations in Myanmar/Burma [1],

— having regard to Article 10 of the European Convention on Human Rights and Fundamental Freedoms, which enshrines the right of freedom of expression and information,

— having regard to the oral update of 26 September 2022 by UN Acting High Commissioner for Human Rights on the human rights situation in Myanmar to the UN Human Rights Council,

— having regard to the statement of 29 September 2022 by the Spokesperson of the European External Action Service on the latest sentencing of State Counsellor Daw Aung San Suu Kyi,

— having regard of Section 505(a) of the Myanmar penal code,

— having regard to the Association of Southeast Asian Nations' Five-Point Consensus of 24 April 2021,

— having regard to Article 19 of the Universal Declaration of Human Rights of 1948,

— having regard to the International Covenant on Civil and Political Rights of 1966 on freedom of opinion and expression,

— having regard to Rules 144(5) and 132(4) of its Rules of Procedure,

A. whereas on 1 February 2021 Myanmar's military junta, known as the Tatmadaw, illegally took power and removed the legitimate authorities by force;

B. whereas in August 2021, the commander-in-chief of the military junta, Min Aung Hlaing, announced that he was appointing himself prime minister and that the state of emergency would be extended until August 2023;

C. whereas the legitimate president, Win Myint, and State Counsellor Aung San Suu Kyi have been detained since the military coup on a number of baseless and politically motivated charges, and have already been sentenced to several years in jail and in labour camps; whereas if convicted of all 11 charges against her, State Counsellor Aung San Suu Kyi could be sentenced to a maximum of 102 years in prison;

D. whereas since the 1 February 2021 coup, more than 15 500 people have been arrested and more than 2 300 killed by the junta, including at least 188 children;

E. whereas since the military coup, the military regime has continued to undermine media freedom and to violate the human rights of journalists in the country; whereas Myanmar is ranked 176th out of 180 countries in the Reporters Without Borders (RSF) 2022 World Press Freedom Index; whereas Myanmar's military authorities are restricting access to social media, the internet and other independent sources of information;

[1] OJ L 40, 21.2.2022, p. 28.

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F. whereas on 14 February 2021, the Tatmadaw introduced changes to the Penal Code and the Criminal Procedure Code which have become the primary legal provisions used to charge journalists, student leaders, civil servants and others who oppose the military regime; whereas the newly introduced Section 505(a) of the Penal Code, which prohibits causing fear, spreading false news and agitating crimes against a government employee, all punishable by up to three years' imprisonment, is being used by the military to bring criminal charges against journalists, among others; whereas the military courts in Myanmar are conducting trials behind closed doors;

G. whereas since the 2021 coup, the junta has banned or forced media outlets to leave Myanmar for reporting on the actions of the military; whereas many of the banned media outlets played a fundamental role in reporting the situation in Myanmar; whereas the people of Myanmar and those abroad rely heavily on these media;

H. whereas at least four journalists have been killed, including photographers Soe Naing and Aye Kyaw, both of whom died in detention after allegedly having been tortured, and local editor Pu Tuidim who was reported to have been summarily executed by the military after being used as a human shield; whereas there have been multiple reports of torture and abuses;

I. whereas a wave of arrests of journalists followed the February 2021 coup; whereas at least 140 journalists have been arrested, 53 media workers are currently being held in Myanmar's prisons and almost 25 journalists have been convicted since the military coup; whereas Myanmar has the world's second largest number of journalists in prison;

J. whereas journalists Htet Htet Khine and Sithu Aung Myint were arrested in August 2021, six months after the coup;

K. whereas on 27 September 2022, freelance BBC Media Action reporter Htet Htet Khine was sentenced to three years in prison with hard labour; whereas Htet Htet Khine had already received her first three-year sentence with hard labour on 15 September 2022 for allegedly violating Section 505(a) of the Penal Code, which criminalises incitement and the dissemination of false news;

L. whereas Sithu Aung Myint is still awaiting trial on charges of 'incitement' and 'sedition' for articles critical of Myanmar's military, possibly facing a combined sentence of 23 years in prison; whereas Sithu Aung Myint's health has been deteriorating and the prison authorities are denying him medical attention;

M. whereas on 14 July 2022, Nyein Nyein Aye, a freelancer also known by the pseudonym of Mabel, was sentenced by a military court inside Yangon's Insein prison; whereas Nyein Nyein Aye was sentenced to three years in prison on charges of 'causing fear, spreading false news and agitating crimes against a government employee' under Section 505(a) of the Penal Code; whereas Nyein Nyein Aye is the 24th journalist to receive a prison sentence since the coup in 2021;

N. whereas on 1 August 2022 freelancer Maung Maung Myo was sentenced to six years in prison on a terrorism charge for allegedly possessing pictures and interviews with members of the 'People's Defence Force', an array of insurgent groups that are fighting Myanmar's military government;

O. whereas on 7 July 2022, a court sentenced Aung San Lin, a journalist for the Democratic Voice of Burma, to six years in prison with hard labour for incitement and the dissemination of 'false news' after publishing a report alleging that military forces had committed arson attacks on the homes of three supporters in Wetlet Township of the National League for Democracy, which had been overthrown by the coup;

P. whereas in July Myanmar's military regime reactivated the death penalty to execute former Member of Parliament Phyo Zeya Thaw, prominent activist Kyaw Min Yu, widely known as 'Ko Jimmy', as well as Aung Thura Zaw and Hla Myo Aung; whereas the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy has strongly condemned 'these politically motivated executions which represent yet another step towards the complete dismantling of the rule of law and a further blatant violation of human rights in Myanmar';

Q. whereas the conditions of detention, where beatings and gender-based violence have been documented, represent a serious concern for the safety and well-being of those detained;

R. whereas the military is conducting a violent war against ethnic minorities, as well as killing a large number of civilians and forcing millions of people to flee to seek refuge; whereas military helicopters recently fired on a primary school in the Sagaing region, killing at least six adults and seven children; whereas according to a recent statement by the UN-appointed independent human rights expert Tom Andrews, conditions have 'gone from bad to worse, to horrific for untold numbers of innocent people in Myanmar';

S. whereas the junta in Myanmar refuses to seriously investigate human rights violations against the Rohingya and hold their perpetrators to account; whereas the most senior military figures who supervised the attacks against the Rohingya remain in their posts; whereas the authorities refuse to cooperate with the UN mechanisms; whereas impunity is deeply entrenched in Myanmar's political and legal system;

T. whereas Russia and China have made many political, military and economic efforts aimed at legitimising the junta; whereas Russia and Myanmar's military junta have recently signed a roadmap for cooperation on peaceful use of nuclear energy for 2022-2023; whereas both Moscow and Beijing have ties to Myanmar's armed forces, as the largest suppliers of arms to the country; whereas both countries have repeatedly blocked attempts to agree on UN Security Council declarations on the situation in Myanmar;

U. whereas on 24 April 2021 the military junta agreed with Association of Southeast Asian Nations (ASEAN) leaders a Five-Point Consensus whose first step was an immediate end to violence in the country;

1. Strongly condemns the military junta's violent and illegitimate rule in Myanmar, and its attempts to erode the Myanmar people's strong attachment to democracy, given that it is based on an unlawful coup against the civilian government, and has resulted in a particularly alarming humanitarian situation and human rights crisis in the country, characterised by widespread impunity; strongly condemns all types of persecution of independent journalists;

2. Calls for the immediate end to the unlawful state of emergency in the country, the restoration of the civilian government, the return to a path towards democracy and the swift opening of parliament with the participation of all its elected representatives; supports the efforts of the National Unity Government (NUG) to move towards a peaceful and democratic future;

3. Calls on the military junta to unconditionally release President Win Myint, State Counsellor Aung San Suu Kyi and all others who have been arrested on the strength of baseless accusations, to hand power over to the legitimate authorities, to respect the rule of law and media freedom, and to immediately put an end to the military attacks, air strikes and violence against Myanmar's population;

4. Urges the military junta to drop all politically motivated charges against members of the press and media workers, and unconditionally release all journalists unjustly detained, including Htet Htet Khine, Sithu Aung Myint, Nyein Nyein Aye, Maung Maung Myo, Thurin Kyaw, Hanthar Nyein, Than Htike Aung, Ye Yint Tun, Tu Tu Tha, Soe Yarzar Tun and Aung San Lin; calls on the junta to provide the necessary medical care to Sithu Aung Myint whose state of health is a cause of great concern;

5. Condemns the repression of workers and the denial of the right to strike; condemns all companies and brands that were or are, directly or indirectly, providing support to the military and police oppressing and issuing arrest warrants against trade union leaders;

6. Urges the military junta to immediately end its abuses, including arbitrary arrests and detention, torture, sexual violence and other ill-treatment, as well as unfair trials against journalists and media workers; stresses that lawyers, human rights defenders and family members should be given effective access to visit people held in detention; highlights that any death in custody should be reported immediately to the person's family, proper documentation provided, the body should be returned, and those responsible for abuses held to account; calls for independent international investigations into all allegations of torture and ill-treatment, and for those responsible to be held to account; stresses that any alleged information obtained as a result of torture and ill-treatment should never be admitted as evidence in judicial proceedings;

7. Insists that media freedom is vital to the effective functioning of free and democratic societies and is essential to the protection of all other human rights and fundamental freedoms; whereas journalists need a safe environment in which to do their independent work;

8. Calls on the NUG to clearly express its position on the status of the Rohingya, notably on their right of citizenship and equal recognition as an ethnic group of Myanmar and the right to return to the country;

9. Calls on the Commission and the Member States to continue supporting the work of human rights defenders in Myanmar; calls on the EU Delegation in Myanmar and the embassies of the Member States to closely monitor the cases of journalists who are currently detained and imprisoned, as well as of political leaders and others; encourages the representatives of the EU Delegation and the Member States in Myanmar to attend the trials of journalists, media workers,

bloggers and human rights defenders in the country whenever access is permitted; asks the diplomatic missions and international donors to offer support and possible protection to human rights defenders and media workers at risk of persecution, including by providing safe haven at embassies, and by issuing emergency visas to those in need of protection;

10. Calls on the Commission to demonstrate that the Everything But Arms scheme does not in any benefit way the junta or otherwise to temporarily withdraw from this mechanism;

11. Asks the EU and its Member States to step up international aid, development projects or financial assistance to Myanmar/Burma and to ensure that this does not benefit the military and does not contribute to more human rights violations; calls for the provision of cross-border humanitarian aid and direct support to local civil society organisations, particularly ethnic organisations;

12. Welcomes the sanctions imposed by the Council against members of the Tatmadaw and their businesses; calls on the VP/HR, the Member States and the Commission to introduce additional targeted sanctions against those responsible for the most serious human rights violations in the country; calls on the Council to add the arms dealers Naing Htut Aung, Aung Hlaing Oo and Sit Taing Aung to the sanction list for their role in providing arms and equipment to the military regime; calls on the Commission to consider all necessary sanctions against the Myanmar regime; calls for the necessary steps to be taken to ensure that these sanctions do not adversely affect workers and the general population;

13. Is concerned by sanctions derogations that allow operators to pursue financial transactions with the Myanma Oil and Gas Enterprise; calls for better international coordination of sanctions, including coordination with regional partners;

14. Urges the Council to include the State Administrative Council (SAC) as an entity in addition to its individual members on the list of natural and legal persons, entities and bodies subject to restrictive measures, in order to ensure that all entities under the control of the SAC are included within this designation and that financial flows from the European Union benefiting them are prohibited;

15. Stresses that local and multinational businesses operating in Myanmar/Burma must respect human rights and stop enabling the perpetrators of abuses; strongly urges, in this regard, EU-based businesses to ensure they have no ties with Myanmar/Burma's security forces, their individual members, or entities owned or controlled by them, and that they are not contributing, directly or indirectly, to the military's crackdown on democracy and human rights; calls on EU-based undertakings, including parent holdings and subsidiaries, to urgently suspend any relationships with companies linked to the military; calls for the Commission and the Member States to assess and adopt appropriate measures to identify, prevent, cease, mitigate and remedy the potential or actual human rights violations that businesses operating in the European Union cause, contribute to or are directly linked to in Myanmar in view of the current situation; calls on the Commission and the Member States to introduce enhanced and specific due diligence obligations for undertakings operating in high-risk areas in the proposed directive on corporate sustainability due diligence, including areas affected by conflicts and areas that are environmentally sensitive;

16. Calls on the Member States and associated countries to maintain the embargo on the direct and indirect supply, sale and transfer, including transit, shipment and brokering, of all weapons, munitions and other military, security and surveillance equipment and systems, as well as the provision of training, maintenance and other military and security assistance; highlights the need for further investigation of the situation by the International Criminal Court;

17. Urges the EU and its Member States to increase the pressure on the UN Security Council to negotiate a strong draft resolution instituting a comprehensive global arms embargo on Myanmar;

18. Encourages the UN Special Rapporteur on human rights in Myanmar to continue addressing the persecution of journalists and to take action to work towards ending this alarming trend; calls on the UN to include media freedom violations within the scope of its independent investigative mechanism for Myanmar and to promote any possible initiative to sanction the military regime and hold accountable those responsible for the appalling human right violations currently occurring in the country;

19. Calls for the EU and the Member States to explore all avenues for justice and accountability for the grave international crimes committed by the security forces, including crimes against humanity committed in the wake of the coup, as well as crimes against humanity, war crimes, and acts of genocide committed in Rakhine and other ethnic regions for decades, by supporting a Security Council referral of the situation to the International Criminal Court;

20. Deplores the execution of opposition members and reiterates its strong condemnation of the death penalty;

21. Calls strongly on the military junta to repeal any legislation which might endanger media freedom and to end its obstruction of the right of people in Myanmar to freedom of expression, both online and offline, which includes the freedom to seek, receive and impart information;

22. Notes that the Five-Point Consensus has not led to any results and calls on ASEAN to acknowledge that Min Aung Hlaing's junta is not a reliable partner; urges ASEAN and its members to negotiate a new agreement on the crisis in Myanmar with the NUG and to provide that new agreement with enforcement mechanisms, with a view to achieving a sustainable, democratic resolution of the crisis in the future;

23. Condemns Russia and China for giving their political, economic and military backing to Myanmar's junta;

24. Instructs its President to forward this resolution to the acting President Duwa Lashi La and the National Unity Government of Myanmar, the Committee Representing the Pyidaungsu Hluttaw, the State Counsellor of Myanmar, the Tatmadaw, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the Commission, the Council, the governments and parliaments of the Member States, the Member States of Association of Southeast Asian Nations, the Secretary-General of Association of Southeast Asian Nations, the Association of Southeast Asian Nations Intergovernmental Commission on Human Rights, and the Secretary-General of the United Nations.