


# Procedure file

Basic information		
INI - Own-initiative procedure	<a href="#">2003/2229(INI)</a>	Procedure completed
Guantanamo prisoners' right to a fair trial		
Subject 6.10.08 Fundamental freedoms, human rights, democracy in general		
Geographical area United States		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>AFET</b> Foreign Affairs, Human Rights, Common Security, Defense		04/11/2003
		ELDR <a href="#">ANDREASEN Ole</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>LIBE</b> Citizens' Freedoms and Rights, Justice and Home Affairs		17/11/2003
		ELDR <a href="#">LUDFORD Baroness Sarah</a>	

Key events			
09/10/2003	Committee referral announced in Parliament		
19/02/2004	Vote in committee		Summary
19/02/2004	Committee report tabled for plenary	<a href="#">A5-0107/2004</a>	
09/03/2004	Debate in Parliament		
10/03/2004	Decision by Parliament	<a href="#">T5-0168/2004</a>	Summary
10/03/2004	End of procedure in Parliament		

Technical information	
Procedure reference	2003/2229(INI)
Procedure type	INI - Own-initiative procedure
Legal basis	Rules of Procedure EP 134o-p3
Stage reached in procedure	Procedure completed
Committee dossier	AFET/5/20342

Documentation gateway					
Committee report tabled for plenary, single reading		<a href="#">A5-0107/2004</a>	19/02/2004	EP	
Text adopted by Parliament, single reading		<a href="#">T5-0168/2004</a> <a href="#">OJ C 102 28.04.2004, p. 0521-0640 E</a>	10/03/2004	EP	Summary

## Guantanamo prisoners' right to a fair trial

The committee adopted the own-initiative report by Ole ANDREASEN (ELDR, DK) on the Guantánamo prisoners' right to a fair trial. MEPs delivered a clear message that the 600 or so 600 prisoners from around 40 countries, who have been held at the Camp Delta Naval Base in Guantánamo Bay (Cuba) since January 2002, have the right to a fair trial and treatment in accordance with international law. The report pointed out that they had been deprived of justice. It shed light on the legal aspects of the affair and also emphasised the negative political impact this situation could have on the transatlantic partnership. The committee called on the US authorities to put an immediate end to the legal limbo in which the Guantánamo Bay detainees had been since their arrival, and to guarantee them immediate access to justice in order to determine the status of each individual detainee on a case-by-case basis. The committee regretted that an ad hoc international criminal court had not yet been set up by the UN Security Council, which it said would be "the most expedient way" of dealing with the case. MEPs also regretted the fact that the United States had decided not to ensure access for the detainees to the US courts, which would guarantee them a fair and open trial by an independent and impartial tribunal. MEPs urged the US administration to confirm that the "ad hoc military commissions" established in the President's Military Order of November 2001 would meet all international law standards. They also asked the US authorities to give representative of national states, international institutions, family relatives and independent observers access to sites of detention and to allow them free communication with the detainees. As regards the possible impact of this situation on the EU-US partnership, the committee said it shared the view that the transatlantic relationship was invaluable and could be a formidable force for good in the world, as stated by the European Council, provided basic human rights were clearly respected as universal and non-negotiable. MEPs emphasised that security was an all-encompassing collective concept that could not be tailored only to the interests and exigencies of one national state. Lastly, they recommended, for the next EU-US summit, the creation of a long-term collaborative framework and an Action Plan for the War on Terrorism. They emphasised in this connection that "international terrorism must be combated firmly, not only by military means but above all by addressing the roots of the tremendous political, social, economic and ecological problems of today's world". ?

## Guantanamo prisoners' right to a fair trial

The European Parliament adopted a resolution based on the own-initiative report drafted by Ole ANDREASEN (ELDR, DK) with 425 votes in favour, 62 against and 29 abstentions relating to the rights of prisoners held in Guantanamo Bay. It calls on the Council to ask the US authorities to immediately put an end to the current legal limbo in which the detainees held in Guantanamo Bay have, since their arrival, been placed and to guarantee immediate access to justice in order to determine the status of each individual detainee on a case-by-case basis, either by charging them under the rules laid down in the Third and Fourth Geneva Conventions and the International Covenant on Civil and Political Rights or by releasing them instantly, and to ensure that those charged with war crimes receive a fair trial in accordance with international humanitarian law and in full compliance with international human rights instruments. It regrets that an ad hoc International Criminal Court has not been yet established by the UN Security Council as the most expedient way of dealing with the present case. It calls on the Council to: - urge the US Administration to confirm that the ad hoc military commissions established in the Military Order of 13 November 2001 and the subsequent Military Commission Orders issued by the Defense Secretary as a 'competent court' will meet all international law standards within the meaning of Article 5 of the Third Geneva Convention and Article 14 of the UN International Covenant on Civil and Political Rights; - consider therefore that any trial not conforming with standards under the International Covenant on Civil and Political Rights in respect of due process would be a direct violation and infringement of international law; - ask the US authorities to give official representatives of national states, relevant international institutions, family relatives and independent observers access as appropriate to sites of detention and free communication consistent with due legal process with the detainees, and to allow them to attend and to observe any military commission proceedings against the detainees. Parliament calls on all states whose nationals are held at Guantanamo Bay to take appropriate action according to the Geneva Convention. Member States and the Commission are called upon to implement EU measures, through concerted action by the diplomatic and consular missions of the Member States and the Commission, with a view to liaising with the US authorities at the highest level. Parliament insists that the US administration must allow 'habeas corpus' and due process for all prisoners whom it is detaining anywhere under assumed executive powers, and make their names available to their families and legal representatives. It notes with satisfaction that the American authorities have released a Spanish detainee from Guantanamo to stand trial in Spain; share the hope that this is a sign of change in the policy of the American authorities towards all detainees. As regards the possible impact of this situation on the EU-US partnership, the Parliament shares the view that the transatlantic relationship is invaluable and could be a formidable force for good in the world, as stated by the European Council, provided basic human rights are clearly respected as universal and non-negotiable. Parliament emphasises that security is an all-encompassing collective concept that cannot be tailored only to the interests and exigencies of one national state. Lastly, it recommends, for the next EU-US summit, the creation of a long-term collaborative framework and an Action Plan for the War on Terrorism.?