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## State of the EU-Cuba PDCA in the light of the recent visit of the High Representative to the island

European Parliament resolution of 12 July 2023 on the state of the EU-Cuba PDCA in the light of the recent visit of the High Representative to the island (2023/2744(RSP))

(C/2024/4001)

*The European Parliament,*

- having regard to its previous resolutions on Cuba,
- having regard to the Political Dialogue and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Cuba, of the other part <sup>(1)</sup> (PDCA), signed in December 2016 and provisionally applied since 1 November 2017,
- having regard to outcomes of the third formal Human Rights Dialogue under the PDCA, held on 26 February 2021,
- having regard to the outcomes of the EU-Cuba Joint Council meeting in Havana of 26 May 2023 and to the joint press statement by the High Representative of the Union for Foreign Affairs and Security Policy and the Deputy Minister of Foreign Affairs of Cuba following that meeting,
- having regard to the declaration by the High Representative on behalf of the EU on the first anniversary of the demonstrations in Cuba of 11 and 12 July 2021,
- having regard to the International Covenant on Civil and Political Rights of 16 December 1966 and other international human rights treaties and instruments,
- having regard to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984, to which Cuba is a State Party,
- having regard to the Cuban Constitution and its Criminal Code,
- having regard to the EU Action Plan on Human Rights and Democracy for 2020-2024,
- having regard to Resolution 2506 (2023) of the Parliamentary Assembly of the Council of Europe of 22 June 2023 entitled 'Political consequences of the Russian Federation's war of aggression against Ukraine',
- having regard to Report No 83/23 on Case 14.196 of the Inter-American Commission on Human Rights (IACHR) of 9 June 2023 entitled 'Admissibility and merits report (publication) – Oswaldo José Payá Sardiña et al.– Cuba',
- having regard to the UN Working Group on Arbitrary Detention report of 6 August 2021,
- having regard to the definition of 'civil society organisation' in the Official Journal of the European Union,
- having regard to document ARES (2021) 2474104 by the European External Action Service (EEAS) Deputy Managing Director for the Americas,
- having regard to the EU Guidelines on Human Rights Defenders,
- having regard to reports by human rights organisations such as Human Rights Watch, the Human Rights Foundation and Prisoners Defenders,
- having regard to Chapter IV.B on Cuba of the IACHR 2020 annual report,

<sup>(1)</sup> OJ L 337 I, 13.12.2016, p. 3.

- having regard to the communication from the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, and the Special Rapporteur on trafficking in persons, especially women and children, of 6 November 2019 to the UN High Commissioner for Human Rights on the Cuban medical brigades,
  - having regard to the conclusions of the latest Universal Periodic Review of Cuba from 2018 on the Cuban medical brigades,
  - having regard to Rule 132(2) and (4) of its Rules of Procedure,
- A. whereas in its resolution of 5 July 2017 <sup>(2)</sup>, Parliament gave its consent to the PDCA, including clear conditions linked to the improvement of human rights and democracy in Cuba in recitals H, I, J, L and T and paragraphs 7, 8, 9, 10 and 12 thereof; whereas the EU recalled, during the third formal Human Rights Dialogue with Cuba on 26 February 2021, the need to respect international human rights law obligations; whereas its ratification process has not been fully completed and the agreement provisionally applies;
- B. whereas any political dialogue must include the direct and intensive participation of representatives of independent civil society and all opposition political actors, with no restrictions, as stressed in Article 36 of the PDCA; whereas Parliament has repeatedly condemned human rights violations in Cuba, underscoring the breaches of the provisions of Articles 1(5), 2(c), 5, 22 and 43(2) of the PDCA, in which the Cuban Government undertook to respect human rights;
- C. whereas Parliament has repeatedly reminded the EEAS that the participation of representatives of independent civil society in the political dialogues and the agreement's cooperation projects is an essential part of the PDCA and that excluding representatives of independent civil society from cooperation funds and/or participation in the agreement while, on the contrary, allowing participation and access to cooperation funds exclusively for companies in which the state participates or which it controls, as has been the case since the signing of the agreement, should be remedied immediately;
- D. whereas the PDCA includes a 'human rights clause', which is a standard essential element of EU international agreements, that allows the PDCA to be suspended in the event of violations of the provisions on human rights, as established in paragraph 11 of Parliament's resolution of 5 July 2017 approving the PDCA;
- E. whereas Parliament's approval of the PDCA was linked to the commitment by the Commission and the EEAS to guarantee the establishment of a regular exchange with Parliament on the application of the agreement and on the fulfilment of the mutual obligations contained in it, especially those relating to the implementation of all provisions on human rights; whereas Parliament also requested that the EEAS do everything possible to closely monitor the situation of human rights and fundamental freedoms in Cuba when applying the PDCA;
- F. whereas the regime gradually imposed on Cuba rules out any prospects for democratic changes, as Article 5 of the Cuban Constitution states that the 'unique, Martí, Fidelista and Marxist-Leninist Communist Party of Cuba' is the superior political force and ruler of society and the State, and as Articles 4 and 229 establish the current political system as irreversible;
- G. whereas Articles 72 to 84 of the Cuban Criminal Code contain the definition of 'dangerous state' and 'pre-criminal security measures', for which thousands of people are being sentenced to between one and four years of imprisonment every year, without there being any attributable crime, and for which more than 8 000 people have been imprisoned and more than 2 500 have been sentenced to forced labour without internment;
- H. whereas the EU offers a socio-economic and socio-political model based on the pursuit of a democratic society and economic and social sustainability; whereas Parliament has repeatedly called for reforms in Cuba, which, in the context of the ongoing economic, social and human rights crises, are more necessary than ever;

<sup>(2)</sup> European Parliament resolution of 5 July 2017 on the draft Council decision on the conclusion, on behalf of the European Union, of the Political Dialogue and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Cuba, of the other part (OJ C 334, 19.9.2018, p. 99).

- I. whereas Parliament has awarded its Sakharov Prize for Freedom of Thought to Cuban activists on three occasions: Oswaldo Payá in 2002, the Ladies in White in 2005 and Guillermo Fariñas in 2010; whereas Sakharov laureates and their relatives are still being regularly harassed, intimidated and prevented from leaving the country and participating in international events;
- J. whereas IACHR Report No 83/23 on Case 14.196 concludes that the Cuban state is directly responsible for the deaths of Oswaldo Payá and Harold Cepero; whereas the report also recalls that the IACHR 'has identified that violations of the rights to freedom of expression and association have been institutionalized 'as a policy of the Cuban State to prevent any critical position contrary to the regime or to the political, labor, educational, etc. situation';
- K. whereas when evaluating the human rights situation in Cuba in its 2022 annual report, the IACHR decided to incorporate a special chapter on Cuba (Chapter IV.B), considering that, in the view of the IACHR, the situation on the island qualifies as a serious violation of the fundamental elements and institutions of representative democracy provided for in the Inter-American Democratic Charter; whereas the IACHR considers these elements and institutions to be essential for the defence of human rights; whereas the IACHR recognises that the Cuban regime has carried out massive, serious and systematic violations of the human rights guaranteed in the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights and other applicable human rights instruments;
- L. whereas no concrete progress has been made in Cuba vis-à-vis the general principles and objectives pursued by the agreement towards improving the situation of human rights and, on the contrary, the Cuban regime has intensified its repression and labour and human rights violations, including an increasing number of political prisoners; whereas the PDCA has failed in its core aim of improving fundamental freedoms in Cuba;
- M. whereas the Cuban regime has deepened its relationship with the Putin regime since the start of Russia's illegal, unjustified and unprovoked war of aggression against Ukraine; whereas Cuba has not supported any UN resolution regarding the Russian aggression against Ukraine and has praised the annexations of several Ukrainian provinces; whereas the Belarusian and Cuban authorities have announced that the island's military personnel will receive training in Belarus, the most involved ally in Russia's invasion of Ukraine, and with whom Havana is strengthening its political and economic ties; whereas during his visit to Moscow in June 2023, Minister of the Revolutionary Armed Forces of Cuba Álvaro López Miera stated that NATO's expansion up to Russia's borders led Russia to engage in its 'special military operation' and that, in this context, Russia is playing a key role in the fight against the expansion of fascism in Europe;
- N. whereas, in its resolution of 22 June 2023, the Parliamentary Assembly of the Council of Europe recognises Cuba as an ally of Putin's regime and 'calls on the parliaments of Council of Europe member States to withdraw from the pending ratification of free trade agreement between the European Union and the Republic of Cuba (PDCA)';
- O. whereas human rights organisations continue to document the ongoing crackdown on the rights to freedom of expression, peaceful assembly and association in the country and the Cuban authorities' stifling of dissenting voices and targeting of human rights defenders; whereas on 31 May 2023, there were a total of 1 037 political prisoners and prisoners of conscience in Cuba, including 35 minors;
- P. whereas the human rights situation in Cuba is alarming, particularly for dissidents and vulnerable populations, such as women, Afro-descendants, and the LGBTIQ+ community; whereas there has been an increase in cases of femicide in Cuba;
- Q. whereas the Cuban regime blames the US embargo for all the economic problems on the island, while the poverty levels in Cuba are nothing more than the result of the total failure of its economic and productive system; whereas the Cuban regime uses the economic situation as a pretext for its abuses and as a way of obtaining the support of foreign governments that might otherwise be willing to condemn the country's repressive practices more forcefully;

- R. whereas the harassment and repression perpetrated by the Cuban regime have long been marked by restrictive laws, constant surveillance, censorship and intimidation tactics, with ever-increasing machinery to control the right to freedom of expression and peaceful assembly, while individuals defending human rights are facing unfair trials, arbitrary detention and bogus and abuse-ridden criminal charges; whereas, according to the 2021 report of the UN Committee on Enforced Disappearances, Cuba had more urgent action requests relating to enforced disappearances than any other country in the world in 2021 and ranks third for the overall number of such requests since 2012;
- S. whereas on 11 July 2021, the largest protests in Cuba since the 1994 'Maleconazo' took place; whereas numerous protesters have been detained in Cuba since the July 2021 protests, including journalists, numerous opponents of the government, human rights activists, artists and young people;
- T. whereas the Cuban authorities have refused to allow EU or Member State diplomats, international media outlets or human rights organisations to monitor the trials of those detained during the 11 July 2021 protests; whereas over 100 Cuban civilians who took part in the protests of 11 July 2021, unrelated to military service or function, were tried by military tribunals, in violation of international law, and received sentences ranging from 2 to 22 years in prison;
- U. whereas those arbitrarily imprisoned are subjected to continuous isolation, including stays in punishment cells, cruel torture and inhumane treatment without access to their lawyers or proper medical treatment, thus putting their lives in danger; whereas some of them are being detained in prisons far away from their homes, which prevents their families from visiting them; whereas reportedly over 1 000 political prisoners in Cuba are being tortured, including minors, young people and women; whereas the organisation Prisoners Defenders documented, in a report dated 30 May 2023, 181 cases of systematic torture among political prisoners in Cuba;
- V. whereas in October 2020, the UN Human Rights Council's Working Group on Arbitrary Detention concluded that the arbitrary detentions that have occurred in recent decades in Cuba are not isolated cases, but are rather part of 'a systematic practice ... in which ... the Cuban authorities have participated for decades';
- W. whereas the letters from the Special Rapporteur on contemporary forms of slavery, including its causes and consequences and from the Special Rapporteur on trafficking in persons, especially women and children, of the UN, Human Rights Watch, the Human Rights Foundation and other organisations have denounced the fact that Cuban civilians working abroad are subjected to human trafficking by inherently coercive laws and regulations of very explicit basic freedoms, such as Article 176 of the Penal Code on Migration Law, Mincex Resolution 368 of 2020, and others; whereas the Cuban Government prohibits workers labelled as defectors and undesirables from returning to Cuba for eight years under the Migration Law and categorises them as 'emigrants', whereby they lose all their citizenship protections, rights and any property, and are not allowed to visit their children or family in Cuba;
- X. whereas José Daniel Ferrer remains in jail solely as a result of his beliefs and the peaceful exercise of his human rights; whereas his health condition is precarious; whereas together with Luis Manuel Otero Alcántara and Maykel 'Osorbo' Castillo Pérez, they are just several examples of the hundreds of Cubans facing injustice and repression imposed by their own government; whereas, at its 87th, 88th and 89th sessions, the UN Working Group on Arbitrary Detention ruled on nine cases against Cuba, among them those of Ferrer (part of the Group of 75, arrested for his involvement in the 11 July 2021 protests) and Aymara Nieto (a member of the Ladies in White, imprisoned for more than five years without cause);
- Y. whereas Sakharov Prize laureate Guillermo Fariñas began a new hunger strike on 26 June 2023 to campaign for the unconditional release of all political prisoners on the island;
- Z. whereas the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR), Josep Borrell, travelled to Cuba on 25 May 2023 to represent the EU at the third Joint Council meeting; whereas this visit represented an opportunity to reopen political dialogue between the EU and Cuba and to put the human rights situation in Cuba at the centre of the discussion; whereas the VP/HR deliberately neglected to meet with credible and independent civil society organisations, as well as with political prisoners and/or their relatives;
- AA. whereas, during his visit, VP/HR Borrell publicly declared that the EU has 'neither the capacity nor the will' to impose political changes on the island;

AB. whereas despite years of insisting on the need to visit the island, the Cuban authorities systematically refuse to allow official committees, delegations and some political groups from the European Parliament, international human rights organisations and other independent observers of the human rights situation, including UN special rapporteurs, to enter Cuba;

1. Recalls that the PDCA stresses that 'respect for and the promotion of democratic principles, respect for all human rights and fundamental freedoms as laid down in the Universal Declaration of Human Rights and in the core international human-rights instruments and their optional protocols which are applicable to the Parties, and respect for the rule of law constitute an essential element of this Agreement', yet the Cuban regime has continually ignored and breached these principles and rights for decades and these violations have escalated in recent times; believes that, despite the time that has elapsed since the entry into force of the PDCA, the lack of democracy and freedoms in Cuba has not improved at all; notes that, on the contrary, the human rights situation on the island has been further aggravated and has further deteriorated, in clear and systematic violation of the basic provisions of the PDCA;

2. Stresses the obligation for all parties to fulfil the binding provisions of the PDCA and to uphold the principle of the universality of human rights; regrets the fact that, despite the adoption of the PDCA, the situation of democracy and human rights in Cuba has worsened; recalls that the PDCA contains a 'human rights clause', as a standard essential element of EU international agreements, that allows the suspension of the agreement in the event of violations of human rights provisions;

3. Condemns in the strongest terms the systematic human rights violations and abuses against protesters, political dissidents, religious leaders, human rights activists and independent artists, among others, perpetrated by the Cuban regime; urges the Cuban authorities to immediately put an end to the policy of repression; condemns the lack of religious freedom in Cuba;

4. Calls for the immediate and unconditional release of all those detained solely as a result of exercising their human rights, including the right to freedom of expression and peaceful assembly; also calls for abusive criminal charges to be dropped and for those in exile to be allowed to return to their country;

5. Condemns the use of torture and ill treatment by the Cuban authorities; calls for prompt and impartial investigations, and immediate access to the medical care of their choice for detainees, as well as access to their families;

6. Reiterates its demand for the right to a fair trial and for the independence of the judiciary, and for persons deprived of their liberty to be guaranteed access to an independent lawyer;

7. Calls on the State of Cuba to protect human rights and ensure the right to peaceful assembly and freedom of expression, without discrimination based on political views; calls on the Cuban authorities to put an immediate end to their extensive censorship of the media and to their control of the internet; requests that the rights of freedom of expression, press and assembly be respected by the Cuban authorities; calls on the Cuban authorities to listen to the voices of its citizens and to engage in an inclusive national dialogue to further the country's modernisation and democratisation processes;

8. Highlights the key role played by civil society, human rights defenders, journalists and religious leaders in Cuba and calls on the Commission and the Member States to deliver support to all victims of human rights violations and arbitrary detentions in the country;

9. Reiterates its firm and unconditional support for the Cuban people, for all human rights defenders in Cuba and for their commendable dedication to freedoms that have been denied by the Cuban regime for decades;

10. Requests that the Cuban authorities grant access to a European Parliament, EU and Member State delegation and independent human rights organisations in order to monitor the trials of and conduct prison visits to the hundreds of activists and ordinary Cubans who remain detained for exercising their right to freedom of expression and assembly;

11. Underlines that Cuba's human rights crisis must be matched by a proportional response by the EU and the Member States in order to address the scope and severity of the situation; reiterates its call for the Member States, the EEAS and its delegation to Cuba to firmly and publicly condemn the repressive policy of the Cuban regime and to increase their support for representatives of genuine and independent civil society, including the Sakharov Prize laureates;

12. Deplores the VP/HR's failure to use his presence in the country to meet with independent civil society representatives, political prisoners or their relatives, which represents a missed opportunity; deeply regrets the fact that the VP/HR squandered the chance to support democracy through Cuban civil society and the political prisoners and to send a clear message about the EU's concerns regarding human rights violations in Cuba; regrets the counterproductive effect of whitewashing the Cuban regime, to which his visit contributed; recalls that any dialogue between the EU and Cuban civil society and funding opportunities must only include independent civil society organisations, not NGOs financed and tolerated by the regime, as supporting the latter ultimately equates to financing the very same regime that is curtailing the collective fundamental freedoms of the Cuban people; deeply deplores the remark by VP/HR Borrell, during his visit to Cuba, that the EU has 'neither the capacity nor the will to impose changes in Cuba', even though one of the core aims of the PDCA is to improve fundamental freedoms and living standards for Cuban citizens;

13. Regrets that, since the signing of the PDCA, the EEAS has accepted the Cuban regime's decision to exclude independent civil society organisations from participating in all EU-Cuba Civil Society Seminars as stakeholders in the development of the dialogue under the agreement<sup>(3)</sup>, depriving it of an essential part of its purpose and contravening the will of the European Parliament and the EU Member States that signed it;

14. Reiterates its call for the EU to trigger Article 85(3)(b) of the PDCA to request an immediate meeting of the joint committee owing to the Cuban Government's breaches of the agreement, which constitute a 'case of special urgency' that may lead to the suspension of the agreement, namely the continuous, serious and material violations of democratic principles and the lack of respect for all basic human rights and fundamental freedoms as laid down in the Universal Declaration of Human Rights, which are an essential element of the agreement as enshrined in Article 1(5), and the failure to address these violations despite the numerous calls to do so;

15. Reiterates its call on the Council to apply the provisions of the EU Global Human Rights Sanction Regime (the EU Magnitsky Act) and adopt sanctions against those responsible for the persistent human rights violations in Cuba, starting by sanctioning Miguel Díaz-Canel, as the most senior figure in the chain of command of the Cuban security forces, along with other high-ranking officials within the Cuban Government;

16. Stresses that the upcoming summit between the EU and the Community of Latin American and Caribbean States represents an opportunity to uphold the principles of the rule of law, democracy and human rights, and calls on all participants to abide by these principles; points out that this will not be possible without the truly transparent, comprehensive and meaningful inclusion of independent civil society; considers that autocratic regimes should not participate in such summits among countries that share democratic values and respect human rights; calls on those participating in the summit to issue a statement demanding due respect for human rights in both regions, with a particular focus on the lack of respect for democracy and fundamental freedoms in Cuba;

17. Condemns the Cuban regime's support for the Russian war of aggression against Ukraine and its defence of Russia and Belarus; recalls the VP/HR's declarations indicating that not supporting Ukraine against the Russian aggression would have consequences, and deplores the fact that these declarations have been shown to be mere rhetoric and have not been matched with practical implications;

18. Instructs its President to forward this resolution to the Government and National Assembly of People's Power of Cuba, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the Commission, the EU Special Representative for Human Rights, the governments and parliaments of the Member States, the United Nations High Commissioner for Human Rights and the governments of the members of the Community of Latin American and Caribbean States.

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<sup>(3)</sup> Preamble and Articles 19, 36, 42(1), 47(6)(e) and 59(2) of the PDCA.