

Parliamentary Inquiry on Myanmar: Request for Information

1. *What is the European Union's assessment of the international response to the Myanmar crisis so far? What are some of the areas of success? What could be improved?*

The reactions of the community of like-minded partners has been aligned since the coup, which is already a success in itself. EU's objectives remain clear, as set out in the Council Conclusions of 22 February: strong condemnation of the coup, immediate and unconditional release all those arbitrarily detained since then, de-escalation, and restoration of the democratic path. EU policy response is robust, multifaceted and coordinated with like-minded partners: four strong rounds of sanctions against the junta and the military's economic interests; the withholding of development assistance payments to the Government and the re-orientation of future assistance; humanitarian help.

The EU and like-minded partners stand ready to adopt further packages of restrictive measures if the situation does not improve. If we can certainly regret that the packages of sanctions adopted by the EU and partners have not changed the course of action and brought back the military on the path of dialogue and the end of violence, it has sent nonetheless a powerful message of support to the population and democratic forces.

Our assessment of the international response to the Myanmar crisis is that it could not have been fundamentally different from where it is now, given the restrictive attitude of the junta on the implementation of the 5 Points Consensus or the prohibition of the two UNSE's to visit the country up to now.

2. *The Five Point Consensus, agreed between ASEAN Member States and the head of Myanmar's junta, has faced criticism for failing to halt the violence currently taking place in Myanmar. Some have argued for a fresh approach to be taken to the crisis. What is the European Union's assessment of this? Is a fresh approach required? If so, what might this look like?*

The EU continues to support ASEAN centrality and ASEAN's Five Point Consensus, but we are concerned about the lack of progress in implementing it and there must be doubts whether the junta will facilitate the conditions which would allow it to be implemented. Indeed, the recent executions of civil society activists are a terrible setback in the process: they constitute a risk for escalating violence and it is perhaps not surprising that National Unity Government figures have questioned the possibility of engaging with representatives of a regime which is executing opposition activists. The EU has taken note of the most recent statement from the ASEAN Foreign Ministers (4 August 2022) which expressed deep disappointment at the lack of commitment of the military to the Five Point Consensus and suggests that the ASEAN November Summit assesses the progress (or lack of it) made in its implementation before deciding on next steps. The EU also stands ready to adjust all diplomatic instruments with partners to the evolution of the situation.

- 3. There appears to be a gap in how to approach the crisis in Myanmar among ASEAN's members, with some calling for stronger action against the junta. As a Dialogue Partner, what steps could the European Union take to ensure a cohesive response by the bloc?*

Political differences amongst ASEAN Member States are not new but seem to have become more pronounced by the Myanmar crisis. ASEAN as a consensus based organisation governed by the principle of non-interference. In this context, ASEAN should be commended for having established the Five Point Consensus – this was viewed by many as a bold step forward at the time (April 2021). But the junta's failure to implement it, and differences of view over what to do in response to that, have negatively affected ASEAN's ability to play a more assertive role. That said, ASEAN diplomatic pressure has increased over time, as the military have been gradually excluded from ASEAN Summits and foreign ministers' meetings. Against its backdrop, it is of critical importance that the EU continues supporting ASEAN centrality in the Myanmar crisis to ensure a cohesive response by the bloc and be ready to support further initiatives which it may take.

- 4. Although the European Union has implemented sanctions against some military figures and their business interests, there are calls for more action to be taken. Is the EU planning on placing more sanctions against the military? If so, in what areas? Is the EU coordinating its sanctions efforts with its democratic allies?*

The European Union has already been leading the international community's efforts to put pressure on the military junta. In an unprecedented move, on 21 February 2022, the EU was the first international actor to target Myanmar's state-owned oil and gas company (MOGE) – the junta's largest source of revenue – together with 22 individuals as well as an additional four companies, responsible for undermining democracy and the rule of law and for serious human rights violations in the country.

It is also worth mentioning that the European Union's willingness to respond to the unacceptable violation of human rights by the military has been inspired by the principle of "do no harm". In this context, only military and state-owned entities have been targeted, or businesses or individuals directly supporting the regime's action and a "humanitarian clause" has been added to reducing the negative impact on the wider population. These measures come on top of those directly targeting those responsible for undermining democracy, such as members of the State Administration Council or junta-appointed Union Election Commission.

The EU keeps working closely with like-minded partners with the aim to adopt coherent and efficient measures to tackle the Myanmar crisis while also upholding the principle of ASEAN centrality and engaging with the opposition forces. There is a significant overlap between the different sanctions packages of different likeminded partners and we do share our respective assessments of the way forward. Although sanctions are not a policy themselves, we do keep our sanctions under review, including with regard to their possible extension, but – as in all such cases – we cannot comment in advance on possible new measures.

5. *A humanitarian catastrophe is currently taking place in Myanmar, while it has also been argued that the AHA Center does not have the capabilities to effectively provide humanitarian assistance to those in need. What steps does the European Union think should be taken to ensure that aid reaches those who need it most?*

It is estimated that, this year, there are 14.4 million people in need of humanitarian aid, a sharp increase from the 1 million at the start of 2021.

The major concern for the EU is the limited humanitarian access in the country. First of all, the escalation of the crisis requires humanitarian advocacy and diplomacy efforts in Myanmar to be stepped up. In addition, it is important to exclude the military forces from the distribution of humanitarian aid, so to ensure aid reaches all those in need in a non-discriminatory manner.

This is best achieved with common donor positions, joint advocacy and coordination with like-minded partners through the leadership of the United Nations. DG ECHO is already developing a humanitarian diplomacy strategy while also engaging at the local level to support civil society organisations, which are important emergency responders.

It is also essential to avoid a further instrumentalisation of ASEAN's humanitarian aid by the SAC by assessing carefully which local partners to cooperate with when delivering humanitarian aid. In this view, the EU will keep advocating – together with its Member States – with ASEAN and neighbouring countries to open a dialogue with the de facto authorities at the local level to grant the access on the field to the expatriate staff of humanitarian organisations.

However, the EU has set its red lines on participation or collaboration of and with the de facto military authorities in Myanmar or other parties to the conflict, especially in the delivery and distribution of aid. AHA's actions must meet the humanitarian principles of independence and impartiality.

The EU believes that it is necessary to support the UN-coordinated humanitarian response by all parties and the international community. The UN has the mandate to ensure the principled and coordinated delivery of aid in a context of growing instrumentalization by different parties. UN engagement efforts with all parties to ensure humanitarian access is critical to meet growing urgent humanitarian needs across the country.

6. *Some actors have been highly critical of plans by the junta in Myanmar to hold an election within the next year, viewing it as an attempt to gain some form of legitimacy, while many members of the National League for Democracy (NLD) also remain in prison. What is the European Union's position on this?*

The election planned by the junta in 2023 must be taken seriously, as a certain number of important countries have expressed some support for this objective which is seen by many others as aiming to grant some form of legitimacy to the regime while providing a chance to the military to continue holding its grip on power for the coming years.

According to international standards on democratic elections, the junta planned election by 2023 could in no way be seen as transparent, inclusive and credible in the present circumstances while the most prominent members of the NLD remain in prison and given the selective engagement of the junta excluding NUG, CRPH, NUCC and key EAO's from dialogue.

Moreover, certain pre-conditions would need to be met to credibly hold this election and namely: the end of violence; the release of all detainees, the acceptance by the most important opposition forces including the EAO's of the principles and modalities to hold an election. The EU has the view that the recent executions of the 4 civil society activists totally negate all prospect of holding an election in 2023 under the terms and conditions set by the junta.

At this stage, the EU remain convinced that a return to the status quo, building on the results of the 2020 elections, is no longer a credible scenario. It is also clear that the 2008 Constitution reserving a 25 % of the seats as to the military including key portfolios on defence and home security is no longer a workable basis to durably install a democratic civilian power in Myanmar. In the present context, and provided that all above preconditions are met only a caretaker Government could possibly organise an election based on a consensus of all stakeholders.

7. What does the European Union think of the efforts of the National Unity Government (NUG) to be recognized as the government of Myanmar?

The EU acknowledges that the dialogue with all parties, including the NUG and National League for Democracy (NLD) (the legitimate democratic opposition) and Ethnic Armed Organisations (EAO's) is essential in restoring the path to democracy. This proves particularly relevant in view of the junta's plan for 2023 elections. The EU will call for an inclusive participation of the opposition in any preparations for elections as one precondition to consider them credible and able to deliver stability.

In an attempt to send a strong signal to the junta, we stepped up our engagement with the opposition and started to give more public exposure to our contacts with political figures, including the NUG and the Committee Representing the Union Parliament (CRPH) as well as civil society organisations. On the other hand, we also carefully avoid legitimising the junta in international organisations or through bilateral contacts.

In terms of recognition, many EU Member States have a formal position of "recognising States, not governments" under international law. But we certainly recognise the NUG as one of the key stakeholders who must be engaged to determine the future of the country.

8. The international response to the crisis in Myanmar has faced considerable criticism. As a global leader for democracy, what further steps is the European Union considering to help end the violence, and the widespread suffering of the Myanmar people?

We continue actively supporting both ASEAN and UN in the peaceful settlement of the crisis in Myanmar. ASEAN efforts have been slow, not least due to obstruction from the military leadership in Myanmar.

However, ASEAN showed resolve in 2021 in refusing representation of Myanmar by members of the junta in their own summits. It is important that in taking forward efforts to engage all stakeholders in Myanmar, the ASEAN Chair and Special Envoy continue this resolve not to legitimise the junta.

Yet, geopolitical calculations and the rising tensions and the war in Ukraine also hamper progress (witness FM Lavrov's August visit to Myanmar) whilst the lack of progress of the ASEAN peace process contributes to polarizing the positions both within and outside Myanmar. This is not new in Myanmar, as the country is at the crossroads of the strategic interests of several countries. We have witnessed this at several occasions in the UN Security Council, which for example could not agree an arms embargo.

However, we will continue engaging with the UN Special Envoy, Noleen Heyzer, and support her action. We also continue to work with partners on initiatives to facilitate de-escalation and the establishment of a proper dialogue process, which should take into account all key stakeholders (i.e. including the National Unity Government, CRPH (Committee Representing the Union Parliament) and Myanmar's National Unity Consultative Council (NUCC). Engaging dialogue with the military regime while avoiding all forms of legitimisation should also not be discarded when conditions allows. No options should be ruled out a priori.

9. Is there anything else you would like to add?

On development, aid and cooperation the EU remain committed to directly support the population of Myanmar, having adopted in December 2021 a EUR 65 M Special Measure to contribute to peace building and resilience, inclusive education and sustainable livelihoods. A second EUR 60 M Special Measure is now under preparation with particular focus on the humanitarian-development-peace nexus, basic education and green rural electrification, expected to be adopted in late 2022.

As regards justice and accountability, we increased our financial support to the UN Independent Investigative Mechanism for Myanmar by EUR 1 million to also take into account the gross violation of Human Rights as a result of the coup.