



## RESPECTING HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

7 November 2006

Dear Madam, dear Sir,

The Euro-Mediterranean Human Rights Network (EMHRN) is concerned about the situation of human rights in Israel and the Occupied Palestinian Territories (OPT) and wishes to make recommendations aimed at improving that situation. It is our hope that the European Union will take this letter into account in view of the meeting of the sub-committee on political dialogue and cooperation between the EU and Israel, to be held on 9 November 2006.

We wish to recall, first, that article 2 of the Association Agreement provides that '*relations between the Parties, as well as all the provisions of this Agreement itself, shall be based on respect for human rights and democratic principles, which guides their internal and international policy and constitutes an essential element of this Agreement.*' We urge that this stipulation be fully implemented in future relations between the parties.

We also wish to recall that the EU in its external relations and in its Common Foreign and Security Policy is bound by commitments to respect and promote respect for human rights in third countries. These commitments are anchored in the Treaty establishing the European Community (TEC) and the Treaty on European Union (TEU)<sup>1</sup>.

Israel continues to misuse its right to defend its citizens and territory by committing grave violations of international humanitarian law and human rights of the Palestinian population in the OPT and of the Palestinian Arab minority citizens of Israel.

The up-coming evaluation at the end of the year of the European Neighbourhood Policy (ENP) Action Plans, in particular the EU/Israel Action Plan, is also a good opportunity to measure progress and/or set-backs of human rights within this specific framework. The development and application of (human) rights-based benchmarks are a necessary outcome of an evaluation of the Action Plan.

As stated in the ENP EU/Israel Action Plan, the EU and Israel should 'work together to promote the shared values of democracy, rule of law and respect for human rights and international humanitarian law'.

The EMHRN presents the following recommendations:

- The EU should ensure that the evaluation of the EU/Israel Action Plan includes a clear acknowledgement of Israel as an occupying power and of its obligations according to international law, and make explicit reference to the status of the Gaza Strip in this regard.

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<sup>1</sup> TEC Art. 181a; TEU Art. 11.

- As stated in the ICJ Advisory Opinion of 9 July 2004, Israel must cease the construction of the Wall in occupied territory and dismantle those parts of it that are situated on occupied Palestinian land. Israel must return all lands seized for this purpose and, in addition, compensate for all material damage. The European Union and its member states as signatories to the Fourth Geneva Convention, have the legal obligation to ensure Israel's respect for the Convention, as made clear by the ICJ Advisory Opinion on the Wall.
- Israel must ensure the freedom of movement of Palestinians and their access to health, education, work, and an adequate standard of living in the OPT promoted, which are guaranteed in the International Covenant on Civil and Political Rights of 1966 (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights of 1966 (ICESCR) respectively.
- Israel must respect the customary international legal principles of distinction and proportionality while carrying out military operations. The European Union and its member states are legally obligated to ensure Israel's respect for the Fourth Geneva Convention, under its Article 1.
- The EU and its member states, while reaffirming Israel's right to defend its citizens and territory, should continue to clearly condemn violations of international humanitarian and human rights law by Israel; they should support calls for a meeting of the High Contracting Parties to the Geneva Conventions aimed at ensuring that Israel respects its obligations and to protect the populations in the OPT.
- The EU has raised its 'concerns about collective punishments, and called on Israel to ensure that any abuses by members of the Israeli military forces, settlers and others are properly investigated and perpetrators are prosecuted'<sup>2</sup>. The EU should reiterate its concerns clearly in this regard.
- The EU should call on Israel to revoke the proposed 'Criminal Law Procedures Bill (Powers of Implementation - Special Directives for Investigating Security Violations Perpetrated by Non-Citizens)'. This law is mainly aimed at Palestinians from the Gaza Strip and it violates the principles of due process prohibiting that a person can be judged and denied freedom in his/her absence.
- Israel should immediately stop the use of torture and ill-treatment. The EU should urge Israel to respect and protect detainees' fundamental rights according to international law and according to EU Guidelines on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
- The EU should call on Israel to immediately release all administrative detainees or bring them before a fair trial for any criminal offences they are suspected of having committed. In addition, the EU should call upon the Israeli government to direct the military commanders to amend the military orders pursuant to which administrative detention is made, so that it conforms to international legal standards.
- In light of the effects of Israel's systematic discriminatory treatment of its Palestinian Arab citizens, the EU should ensure that the commitments included in the ENP EU/Israel Action Plan in this regard are respected<sup>3</sup>. It should therefore take steps to ensure that its cooperation with Israel is conditioned on concrete and effective steps to end all discriminatory state practice and rectify its effects.
- The EU and member states should monitor their own relations with Israel in order to make sure that they do not directly or indirectly contribute to human rights violations.

With regard to developing, putting into operation and monitoring human rights-based indicators, the EMHRN recommends the following:

The EU should make use of the momentum of the evaluation process of the ENP EU/Israel Action Plan to strengthen, in a transparent manner, its work for the respect of democratic principles and human rights in the framework of its bilateral relations with Israel. The EU needs to work out a set of indicators and benchmarks to measure progress and/or set-back in its relations to third countries, including Israel.

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<sup>2</sup> EU Annual Report on Human Rights, 2005, The Council of the European Union.

<sup>3</sup> 'Promote and protect rights of minorities, including enhancing political, economic, social and cultural opportunities for all citizens and lawful residents'.

- The EU should consult with civil society in Israel, the OPT and Europe when developing the indicators and benchmarks. Civil society can also be very useful for the monitoring process, as these organisations work on the ground.
- In order to support civil society's abilities to provide comparable and reliable data on the human rights situation on the ground, the EU and its member states should support local NGOs. That does not only imply financial support, but also political support, as in the case for example of freedom of movement. Due to the hard restrictions of movement the Israeli and Palestinian NGOs face big problems in working properly, including researching and monitoring the situation on the ground.

We would like to draw your attention to some EMHRN reports that deal with the matters of Israeli violations against international laws; [\*A Human Rights Review on the EU and Israel – Relating Commitments to Actions, 2003-2004; Israel's Human Rights Behaviour July 2004-July 2005 and A Human Rights Review on the EU and Israel – Mainstreaming or Selectively Extinguishing Human Rights? 2004-2005.\*](#)

We trust that the concerns expressed in this letter will receive the attention they deserve.

Yours faithfully,

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