



EURO-MEDITERRANEAN HUMAN RIGHTS NETWORK
RÉSEAU EURO-MÉDITERRANÉEN DES DROITS DE L'HOMME
الشبكة الأوروبية - المتوسطية لحقوق الإنسان

10 December 2008

Note: EMHRN recommendations regarding the new EU-Israel Action Plan

The new EU-Israel Action Plan should include strong mutual human rights commitments

Since the adoption of the first EU-Israel Action Plan in 2005, the human rights situation in Israel and the Occupied Palestinian Territory (OPT) has grossly deteriorated.¹ A humanitarian crisis and the imprisonment of 1.5 million Palestinians in Gaza looms large; movement restrictions throughout the OPT impede access on a daily basis to education, health care and employment; Israeli settlements remain and are continuing to expand throughout the West Bank including in East Jerusalem, despite repeated calls from the International community to put an end to the settlement expansion; around 9,000 Palestinians are incarcerated in Israeli jails and are submitted to harsh conditions of detention including torture and ill-treatment; and the Palestinian citizens of Israel continue to be victim of institutionalized discrimination.

These facts challenge the effectiveness of the "shared values" provisions contained in the current EU-Israel Action Plan.

The current EU-Israel Action Plan makes only a brief and rather general reference to human rights issues under its section devoted to shared values, without mentioning any specific action item. This omission contrasts sharply with the Action Plans between the EU and other Mediterranean countries, such as that of the EU and Morocco². The human rights language in the current EU-Israel Action Plan is very vague and generally worded. Indeed, although respect for human rights and international humanitarian law have found their way into the text of this Action Plan, it is only through insubstantial formulations such as to "work together", "promote" or "explore".

The weakness and the general character of the Action Plan make the monitoring of Israel's human rights record by the EU as well as various human rights organisations very difficult.

¹ For an evaluation of Israeli violations of human rights in 2008, please see [EMHRN Contribution in relation to the ENP Progress Report on the implementation of the Human Rights Chapter of the EU-Israel Action Plan in 2008](#), 28 November 2008.

² The EU-Morocco Action Plan devotes more than two pages to democracy, rule of law, human rights and fundamental freedoms and includes concrete objectives to be achieved in the short term and in the medium term.

Moreover, the EU should ensure a consistent approach with regard to all European Neighbourhood countries, and ensure that the EU-Israel Action Plan will no longer be an exception regarding its human rights provisions.

Given the deficiencies of the current EU-Israel Action Plan regarding human rights protection and promotion, the lack of progress made on the human rights issues raised in this Action Plan³ and the deterioration of the human rights situation in Israel and in the OPT since the adoption of the Action Plan in 2005, the EMHRN urges the EU to place the substantial improvement of human rights at the center of its relations with Israel.

In this regard, the **EMHRN wishes to make the following general recommendations** to the EU regarding the new EU-Israel Action Plan:

1. The new Action Plan should contain stronger commitments to respecting international human rights and humanitarian law. The agreed points of cooperation that currently read as a list of items should be translated into concrete, detailed and sequenced actions to express explicit rights protections for Israelis and Palestinians (see below for detailed recommendations).
2. Each action item should be accompanied by measurable benchmarks of performance and accompanied by a clear timetable, in order to allow the effective monitoring of EU-Israel engagements.
3. Israel has a duty to respect international human rights and humanitarian law with regards to the territory which it occupies, namely the West Bank, including East Jerusalem and the Gaza Strip. The EU should encourage the parties to put the respect for international human rights and humanitarian law at the heart of the Middle East Peace Process. This should be reflected in the EU-Israel Action Plan by clearly referring to Israel's obligations under international law, specifically with regards to the OPT.
4. The EU and Israel must ensure that respect for human rights is effectively guaranteed in the implementation of all priorities of the EU-Israel Action Plan including among others, the issues of terrorism, migration, economic cooperation and trade. The new Action Plan between the EU and Israel should therefore include precise references to respect for human rights in its sections on "migration" and "strengthening co-operation to combat terrorism". The EU should also include provisions in the new EU-Israel Action plan to

³ In analyzing the EU progress report on the implementation of the European Neighborhood Policy by Israel, dated April 2008, it appears that the EU recognizes that there has been little concrete progress on human rights issues raised in the Action Plan, other than some development regarding gender equality and the rights of persons with disabilities. Concerning the continuing discrimination against the Arab minority in Israel the EU states that "*The promotion and protection of the Israeli Arab minority did not advance significantly during the reporting period, particularly in areas like land allocation, housing, planning, economic development, investment in social infrastructure and justice*" (p. 3). Nothing is mentioned in the EU progress report regarding any progress made on the first objective to "*work together to promote the shared values of democracy, rule of law and respect for human rights and international humanitarian law*". Re the situation in the Middle East, the progress report states: "*Issues raised in the framework of the political dialogue included inter alia: the peace process, the situation in the Middle East, the situation of the Arab minority in Israel, restrictions of movement in West Bank and Gaza Strip, the construction of the separation barrier, administrative detentions, the dismantling of outposts, the envisaged expansion of certain Israeli settlements in East Jerusalem, more checkpoints. Little concrete progress has however been achieved on the issues as such*". In Commission Staff Document accompanying the Communication from the Commission to the Council and the European Parliament, *Implementation of the European Neighbourhood Policy in 2007' Progress Report Israel*, 3 April 2008, p.5.

prevent Israel from applying its privileged relationship with the EU to its illegal settlements in the OPT.⁴

5. As it is the case with other Mediterranean countries (including Morocco and Lebanon), the EU should encourage Israel to establish a comprehensive human rights strategy.
6. It is of utmost importance that the human rights subcommittee the EU and Israel agreed to established holds its first meeting as soon as possible. Such a subcommittee will provide the EU and Israel with a mechanism to make proposals regarding the development of a closer EU-Israel relationship in the field of human rights and international humanitarian law. The efficiency of the subcommittee as an instrument monitoring Israel's implementation of its human rights obligations laid out in its Action Plan with the EU, necessitates a close cooperation with and consultation of relevant civil society - particularly human rights - organizations, in a transparent manner. The agenda and the protocol of the human rights subcommittee meetings must be made publicly accessible and a public review mechanism with a clear timetable and working process should be established. The EU and Israel should regularly organize consultations with human rights organizations ahead of the human rights subcommittee meetings at the local and the EU level.
7. The EU and Israel should, at the earliest possible date, consult civil society organizations, inviting them to contribute to the drafting of the new EU-Israel Action Plan. It is regretful that the first Action Plans adopted by the EU and its Mediterranean partners were developed and negotiated in secret and that NGOs were not consulted. This action is contrary to commitments to support involvement of Euro-Mediterranean civil society in the European Neighbourhood Policy (ENP) process.

The EMHRN recommends a list of action items that should, at the very least, be included in the new EU-Israel Action Plan. The list below is non-exhaustive.

- 1. Ratify the optional protocols of international human rights conventions to which Israel is party; and ratify the Rome Statute of the International Criminal Court (ICC)**
- 2. Ensure respect for international human rights and humanitarian law in the OPT**
 - a) Ensure respect for freedom of movement for Palestinian people and goods within and between the West Bank, Jerusalem and the Gaza Strip and ensure that Palestinians' access to health, education, work and an adequate standard of living are maintained, in accordance with international law. As a first step, Israel should immediately implement the November 2005 Agreement on Movement and Access.
 - b) Ensure respect for the right to life and the protection of civilians in accordance with the basic norms and principles of international human rights and humanitarian law, such as proportionality and distinction and cease immediately extra-judicial killings.
 - c) Ensure special protection of children and women under armed conflict/occupation

⁴ See [EMHRN and FIDH note in view of the EU-Israel political subcommittee meeting on 28 October 2008](#), pp. 3-6.

- d) Dismantle the Israeli settlements and outposts in the West Bank and East Jerusalem and cease their construction and expansion, including for reasons of natural growth. Cease the appropriation and confiscation of Palestinian land in compliance with relevant UN resolutions and international humanitarian law.
- e) Refrain from using the practice of administrative detention of Palestinians in an illegal manner, e.g. administrative detention may not be used as an alternative to implementing a detainee's right to a fair trial or as a tool for arresting political opponents.
- f) Take effective legislative, administrative, judicial and other measures to prevent the occurrence of acts of torture and ill-treatment in any territory under Israel's jurisdiction
- g) Take all necessary measures to combat impunity including by conducting prompt, impartial and effective investigations of all violations of human rights and international humanitarian law committed by Israeli security forces and initiate criminal prosecutions against those responsible.

3. Promote and protect rights of the person belonging to national minorities in Israel

- a) Design and implement relevant legislation effectively to protect the rights of persons belonging to national minorities (e.g. the Palestinian national minority in Israel), based on the provisions of the Council of Europe's *Framework Convention for the Protection of National Minorities*⁵ and other international human rights standards relating to the rights of minorities and indigenous peoples⁶.
- b) Guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law, and prohibit any discrimination based on national belonging.
- c) Adopt adequate special measures, including the just and fair allocation of state budgets, land and other resources, in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to national minorities and those belonging to the majority.
- d) Provide effective mechanisms for prevention of, and redress for any action which has the aim or effect of dispossessing persons belonging to national minorities from their lands.

These specific actions items should be accompanied by clear benchmarks. The EMHRN will offer suggestions and recommendations toward developing those benchmarks and will be pleased to cooperate with the European Commission in this regard.

⁵ The Framework Convention is available at: <http://conventions.coe.int/Treaty/EN/Treaties/Html/157.htm>.

⁶ See e.g., the Universal Declaration of Human Rights (1948); the International Covenant on Civil and Political Rights (1966); the International Convention on the Elimination of All Forms of Racial Discrimination (1966); the International Covenant on Economic, Social and Cultural Rights (1966), UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992); and the UN Declaration on the Rights of Indigenous Peoples (2007).