

Benita Ferrero-Waldner
European Commissioner for External Relations

Brussels, 25 November 2008
Our Ref: B831

Dear Ms Ferrero-Waldner,

Subject: Revision of the EU-Israel Action Plan

Following on from our letter of 11 June 2008, Amnesty International would like to urge the EU once again to ensure that concrete human rights provisions and measurable benchmarks are included in the revision to the Action Plan, currently being discussed.

Since the coming into force of the EU-Israel Association Agreement in 2000, the human rights and humanitarian situation in the Occupied Palestinian Territories (OPT) has significantly deteriorated. Such deterioration has to a large extent resulted from measures taken by Israel and which the Israeli authorities contend are necessary for security. However, many of the measures that have had the most devastating impact on the lives of the Palestinian population are clearly not motivated by security considerations. All sides have a duty to respect fundamental rights, regardless of whether or not they are engaged in a peace process. Their obligation to abide by international law must not rest on the implementation of such a process or on other political considerations. Please find attached in Annex 1 a brief summary of the current human rights concerns in Israel and the OPT.

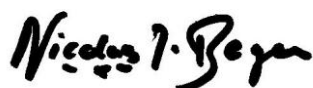
Amnesty International therefore calls on the EU, as it reviews the Action Plan, to put in place the necessary mechanisms to ensure a consistent approach with regards to other Neighbourhood countries and implementation of Article 2 of the Association Agreement (the human rights clause). If the EU intends the clause to become meaningful, concrete mechanisms must be put in place to regularly and impartially monitor developments in the field of human rights and civil liberties in Israel and the OPT, together with clear measurable benchmarks for their implementation.

The current Action Plan contains no such mechanisms, nor any of the detailed human rights provisions contained in the Action Plans for other Neighbourhood countries. Attached in Annex 2 are some of the 'action points' contained in other countries' Action Plans, alongside a number of additional points that have direct relevance to Israel and to the conduct of Israeli forces and the Israeli judiciary in the OPT. These priorities for action should be included as a minimum in the revised Action Plan.

In addition, the Action Plan must include clear and unambiguous requirements reflecting the EU and the UN's opposition to the existence and continued construction and expansion of Israeli settlements and related infrastructure in the OPT, including East Jerusalem – as provided for in UN resolutions (notably UN SCR 465), and in the recommendations of UN Human Rights bodies.

Amnesty International remains at your disposal to discuss this issue in greater depth.

Yours sincerely,



Dr. Nicolas Beger
Director
Amnesty International EU Office

ANNEX 1. Summary of human rights concerns in Israel and the OPT

Settlement activity

The continued construction and expansion of Israeli settlements in the OPT is in flagrant breach of the Fourth Geneva Convention, to which Israel and EU Member States are High Contracting Parties. Israel has also undertaken, in the context of international agreements with the EU (such as the 2003 Road Map and the November 2007 Annapolis peace plans) to freeze the expansion of existing settlements and to remove so-called settlement “outposts” established since 2001. However, Israel has failed to deliver on these commitments, as Israeli government and army officials at the highest level have approved the construction of thousands of new buildings both in existing settlements and in new settlements. Often new settlements are referred to as new “neighbourhoods” of existing settlements, in a deliberate attempt to avoid criticism.

Since the Annapolis conference, more houses have been built and approved in Israeli settlements in the occupied West Bank, including in and around East Jerusalem, than in the previous seven years. The construction and expansion has been carried out with the approval of the very same Israeli government which has pledged to freeze settlement expansion. As well as being illegal under international law, placing an increasing number of Israeli settlers throughout the occupied West Bank, an area which is under Israeli military occupation, and which is considered by Israel and by the EU as a conflict area, cannot in any way contribute to improving Israel’s security. On the contrary it aggravates tensions and undermines security for both Israelis and Palestinians.

Closure regime / Movement restrictions

Resulting from the continued expansion of unlawful Israeli settlements in the West Bank, including East Jerusalem, are the stringent restrictions imposed by Israel on the movement of the Palestinian population within the West Bank. There are currently some 600 checkpoints and barriers of various kinds, including a 700 km fence/wall which is being built more than 80% inside the West Bank, and kilometers of roads which are for the use of Israeli settlers and are banned for Palestinians.

The Israeli authorities contend that the checkpoints/blockades and the fence/wall are aimed at preventing the passage of potential attackers, weapons and explosives into Israel. However, almost all of the checkpoints/blockades and around 85 percent of the fence/wall are inside the West Bank, around Israeli settlements and settlers’ roads – not between the West Bank and Israel. They separate Palestinian towns, villages, communities and families from each other; cutting off Palestinian farmers from their land, separating Palestinian communities from water resources and hindering their access to education and health care facilities and other essential services. These restrictions negatively affect every aspect of life for the Palestinian population, have virtually destroyed the Palestinian economy and are preventing its recovery.

House demolition

While unlawful Israeli settlements continue to expand, in violation of international law and contrary to pledges made to the EU, Israel continues to deny building permits to Palestinians in 60 percent of the West Bank and to demolish Palestinian homes and properties in these areas. In the space of just a few days at the end of October 2008, scores of Palestinians, most of them children, were left homeless when their homes were destroyed by Israeli forces in the Southern Hebron Hills and in the East Jerusalem area.

Gaza blockade

In the Gaza Strip, the ceasefire which came into force on 19 June 2008 between Israeli forces and Palestinian armed groups was the single most important factor in reducing civilian casualties and attacks on civilians to their lowest levels since the outbreak of the *intifada* in 2000 (30 Israelis and more than 400 Palestinians were killed in the first half of 2008, prior to the ceasefire). This brought a welcome respite to the civilian populations in Gaza and in the Israeli town of Sderot and surrounding areas. However, on 4 November the ceasefire collapsed after the killing by Israeli forces of six Palestinian militants, followed by a barrage of Palestinian rockets from Gaza into nearby Israeli towns and villages.

The blockade imposed by Israel on Gaza in June 2007 remained in place in spite of the ceasefire, with serious humanitarian consequences. Gaza's entire population of 1.5 million Palestinians is trapped, with dwindling resources and an economy in ruins. Some 80 per cent of the population now depend on the trickle of international aid that Israel allows into Gaza. Even patients in dire need of medical treatment that is not available in Gaza are often prevented from leaving and scores of them have died. Many students who have scholarships in universities abroad are likewise trapped in Gaza, denied the opportunity to build a future. The families of 900 Palestinians from Gaza who are detained in Israeli jails have not been allowed to visit them since May 1997.

The Israeli authorities previously argued that the Gaza blockade was in response to Palestinian rocket attacks but after the ceasefire came into effect they maintained that it would not be lifted until the release of the Israeli soldier Gilad Shalit, held in Gaza by Hamas militias since June 2006. However, the Israeli blockade does not target the Palestinian armed groups responsible for attacks or who are holding the Israeli soldier – it constitutes collective punishment of the entire population of Gaza. After the collapse of the ceasefire in November, Israel further tightened the blockade to an unprecedented level, banning even urgent humanitarian and medical supplies.

Unlawful killings

Unarmed Palestinian civilians are frequently killed as a result of disproportionate and reckless use of force by the Israeli army in attacks which show a pattern of disregard for the lives of unarmed bystanders. The Israeli army uses high explosive weaponry, missile strikes from aircrafts, and artillery, including tank shells containing thousands of *flèches*, in densely populated residential areas. Israeli government authorities have authorized hundreds of extrajudicial executions of Palestinians. In addition to those targeted in these assassinations, several hundred bystanders, including children, have also been killed in such attacks. The Israeli authorities maintain that the killings are in response to Palestinian attacks against Israeli civilians and soldiers.

In the first six months of 2008 alone, before a ceasefire was agreed between Israel and Palestinian armed groups in Gaza, 430 Palestinians, including some 70 children, were killed by Israeli forces. Most were killed in Gaza and at least half of them were unarmed civilians. In the same period 26 Israelis, including 17 civilians, were killed in attacks by Palestinian armed groups. Since the outbreak of the *intifada* at the end of 2000, Israeli forces have killed some 4,750 Palestinians, including some 900 children, while in the same period Palestinian armed groups have killed some 1,100 Israelis, including 120 children.

Torture and impunity

Palestinian detainees are often ill-treated or tortured, notably at the time of arrest and during often prolonged periods of *incommunicado* detention, when detainees are cut off from the outside world. Impunity remains widespread both for Israeli soldiers and members of other security forces responsible for unlawful killings and torture of Palestinians, and for Israeli settlers responsible for attacks on Palestinians and their properties and on Israeli and foreign peace activists. Even in the exceptional cases when police investigations are opened, they rarely lead to convictions of the perpetrators and in such cases the penalties imposed are generally not commensurate with the offences. To date not a single General Security Service (GSS) officer is known to have been prosecuted and convicted for torturing or otherwise ill-treating detainees.

Administrative detention

Some 600 Palestinians are currently being detained in Israel under 'administrative detention' orders. Administrative detention is a procedure under which the Israeli authorities can hold individuals, effectively indefinitely, without charge or trial. The Israeli authorities allege administrative detainees are a "security risk", but provide no information to the detainees or their lawyers to substantiate such allegations, thereby denying them the opportunity to contest the allegations. Administrative detention orders are issued by the Israeli army for a term of up to six months, which can be renewed indefinitely. The Israeli authorities have used administrative detention to detain Palestinians arbitrarily, as an intimidation measure and/or in order to put pressure on others (e.g. relatives of the detainee) who are themselves wanted by the Israeli authorities.

Detention of children and denial of family visits

Some 275 Palestinian children are detained in Israeli prisons and are not protected by the legal and procedural safeguards that apply to Israeli children. They are instead subject to Israeli military orders and procedures which do not comply with the UN Convention on the Right of the Child (CRC), to which Israel is a party. Moreover, they, like the overwhelming majority of Palestinian detainees, are held in jails inside Israel in violation of the Fourth Geneva Convention, which stipulates that Palestinian detainees must be held within the OPT and not in Israel. The detention of Palestinians in prisons located in Israel results in additional difficulties for family visits, with detainees' relatives often denied permits to enter Israel and thus barred from visiting their detained relatives.

Imprisonment of conscientious objectors

Israelis who refuse to perform military service in the OPT because of their opposition to the occupation of the Palestinian Territories or who refuse to serve in the army for other reasons of conscience are often imprisoned. Even though in theory it is possible for conscientious objectors to be exempted from military service and to carry out civilian service instead, in practice youths who refuse to be drafted on grounds of conscience are often imprisoned.

Arab minority in Israel

Concerns remain about discriminatory policies and practices against members of the Israeli Arab minority, notably against some 70,000 members of the Israeli Bedouin communities who live in "unrecognized" villages in the Negev desert in the south of Israel. Even though the community has lived in the area since before the establishment of the State of Israel, their villages are considered "unauthorized" by the Israeli authorities and do not receive basic services, such as electricity, running water or public transport. They are systematically denied building permits and their homes are frequently demolished and their crops destroyed. By contrast, Israeli Jewish citizens in the same region receive services as well as economic incentives to encourage them to move to the area.

Refugees/ Asylum seekers

The treatment of asylum-seekers contradicts Israel's obligations under the 1951 Convention relating to the Status of Refugees and other international human rights treaties. In August and September 2008, the Israeli army sent scores of asylum-seekers and migrants, originating from countries such as Sudan, Eritrea and Somalia, back to Egypt without giving them the opportunity to challenge the decision to expel them, and despite the danger they faced upon being forcibly returned to Egypt, including the danger of being detained incommunicado and then being forcibly returned to countries where they are at risk of further human rights violations.

A draft law tabled by the interior minister in May 2008 and currently before the Israeli parliament would - if passed - criminalize non-nationals entering Israel at non-authorized border crossings and with forged documents. Such people would face a five-year prison sentence regardless of why they entered or whether they face human rights violations in their own country. Certain nationalities, such as Sudanese and Iraqis, would face a harsher seven-year sentence. This provision giving harsher custodial penalties to specific nationalities, would contravene Israel's obligations to ensure freedom from discrimination, stipulated in several international human rights treaties.

Trafficking in women

Israel remains a destination country for women trafficked for commercial sexual exploitation and subjected to human rights abuses. Many women are lured to work in Israel under false pretence and are then forced to work in the sex industry. Others are reportedly aware that they will be working as sex workers, but they are not aware that they will be subjected to violent and exploitative environments and serious human rights violations, including rape, deprivation of liberty and debt-bondage. Measures taken by the Israeli government, in law and in practice, in recent years have led to an improvement of the situation but serious concerns remain.

ANNEX 2: 'Action points' to be included in the revised EU-Israel Action Plan

Human rights subcommittee

- Establish a formal and regular dialogue on Human Rights and Democracy in the framework of the Association Agreement in the context of the relevant subcommittee;

Administration of justice

- Further develop measures to increase the capacity and efficiency of the justice administration (including prison) and access to justice for both Israelis and Palestinians;
- Address reported shortcomings in the work of the law enforcement organs and prosecution;

International conventions

- Support efforts to protect human rights and fundamental freedoms in line with international conventions to which Israel is a party;
- Review national legislations to further align the laws and practices with international human rights instruments to which Israel is a party and taking into account relevant UN recommendations – notably concerning torture, trafficking, asylum-seekers and impunity;
- Examine the possibility of accession to the optional protocols to international human rights conventions to which Israel is a party;
- Examine the possibility for Israel to sign the UN Convention on the Rights of Migrant Workers and Members of their Families;
- Promote a dialogue on the Rome Statute of International Criminal Court;

International cooperation

- Enhance cooperation with UN human rights treaty mechanisms as well as with the UN Human Rights Council;
- Examine the relevant UN recommendations, including those pertaining to the administration of the justice, impunity, torture, discrimination, freedom of movement, with a view to their practical implementation in order to protect the human rights of all sectors of the population and of detainees and to fight impunity;

Israeli settlements in the OPT

- Cease the expansion of Israeli settlements in the OPT, including East Jerusalem and take measures to remove these settlements, in compliance with relevant UN resolution and the recommendations of UN Committees (UN ESCRC, CERD);

Ensuring freedom of movement in the OPT

- Ensure freedom of movement for the Palestinian population in the OPT, as recommended by UN Committees (Human Rights Committee, ESCRC, CERD) notably by taking measures to lift the checkpoints and barriers within the OPT and to remove the sections of the fence/wall which are located inside the West Bank;

Unlawful killings

- Clearly condemn and take steps to prevent unlawful killings, ensure that the utmost consideration is given to the principle of proportionality in all responses to attacks by armed groups and ensure that complaints about the disproportionate use of force are investigated promptly by an independent body;

Prevention of torture and ill-treatment

- Further improve the legal basis and practice in the sphere of detention, in particular pre-trial detention, in order to address effectively the problem of arbitrary detentions, detention conditions and ill-treatment of detainees by law enforcement officials, including through provision of training;
- Implement the recommendations of the UN Committee against Torture;
- Initiate a review of laws and regulations dealing with pre-trial and administrative detention systems taking into consideration the relevant UN recommendations;
- Consolidate the rights of the child through the application of the relevant UN Convention on the Rights of the Child and consider revising existing legislation taking into account the recommendations of the relevant UN Committee, notably with regard to the detention of Palestinian children;

Humanitarian situation in Gaza

- At a minimum allow the passage into Gaza of aid, fuel, electricity and other necessities to resume unhindered; and allow passage out of Gaza for all patients in need of medical treatment not available in Gaza, for students wishing to pursue their studies abroad, and for others who need to travel for business, family and other reasons;

House demolition

- Cease expropriating land, water and resources, demolishing houses and carrying out arbitrary evictions and take steps to respect and implement the right to an adequate standard of living, including housing, as recommended by the UN ESCR Committee;

Fight against discrimination, intolerance, racism and xenophobia

- Cooperate to combat all forms of discrimination, intolerance, racism and xenophobia and in particular hate or defamatory discourse based on religion, beliefs, race or origin, inter alia through exchange of best practices and legislative action, as required;
- Promote efforts, in Israel and the EU, towards increasing tolerance, understanding and respect of all religions and cultures;
- Strengthen the culture of respect for human rights and fundamental freedoms in Israel and in the EU;

Ensure respect for rights of persons belonging to national minorities

- Initiate legislation to ensure practices to effectively protect the rights of persons belonging to national minorities;
- Increase efforts to ensure the equal enjoyment of economic, social and cultural rights by Arab Israeli citizens, including measures to ensure that State land is allocated without discrimination, direct or indirect, based on race, colour, descent, or national or ethnic origin; and measure to recognized existing "unauthorized" Bedouin villages in the Negev, as recommended by the UN Committee on the Elimination of Racial Discrimination (CERD);

Strengthen provisions against human trafficking

- Intensify efforts to combat all forms of trafficking in women and girls (as recommended by the UN Committee on the Elimination of Discrimination against Women, CEDAW);

Improve provisions for conscientious Objectors

- Review the law, criteria and practice governing the determination of conscientious objection, as recommended by the UN Human Rights Committee;