

José Luis Rodríguez Zapatero
Prime Minister of Spain
Presidency of the European Union

Brussels, 25 February 2010
Our Ref: B942

Dear Mr. Zapatero,

**Subject: First EU-Morocco Summit (7 March 2010) and revision of the
EU-Morocco ENP Action Plan**

The first EU-Morocco summit, to be held in Grenada on 7 March 2010, along with the planned revision of the ENP Action Plan, is important signals of the new enhanced relationship embarked upon by the EU and Morocco. Both therefore also present important occasions to clearly demonstrate that increased engagement on human rights issues is fundamental to this new relationship. This is an opportunity to define not only the future of the EU-Morocco relationship but also set a precedent for the future direction of the European Neighbourhood Policy as a whole.

EU-Morocco Summit (7 March 2010)

In line with the EU's guidelines on human rights dialogues, as well as the PSC conclusions on mainstreaming of human rights, Amnesty International calls on the EU and Morocco to include a specific item on human rights as part of the agenda of the summit. This item should consider the outcome of specific discussions held in the framework of the human rights subcommittee, as well as addressing pressing human rights situations. One such issue that is of immediate concern is the human rights situation in Western Sahara, which has markedly deteriorated in recent months reflecting a growing intolerance of the Moroccan authorities towards the right of Sahrawi human rights defenders, activists or others to peacefully express their views including in favour of the self-determination of Western Sahara.

The Moroccan authorities appear to be adopting an increasingly repressive approach to the exercise of the rights by Sahrawis to freedom of expression, association and assembly. Since the visit of seven Sahrawi activists to the Tindouf camps in late September and early October 2009, Amnesty International has noted an increase of reports of harassment of Sahrawi human rights defenders and activists. This has included violations of their freedom of movement, verbal intimidation and threats, increased surveillance, the prevention of activists meeting with foreign observers, and the confiscation of travel documents. The seven activists are facing military trial on charges of undermining Morocco's internal and external security. Amnesty International considers the six male activists currently detained in Salé Prison to be prisoners of conscience.

This worrying trend was reflected in King Mohamed VI's speech on 6 November 2009, the anniversary of the "Green March", when Morocco annexed the former Spanish territory of Western Sahara in 1975. He signalled that challenges to Morocco's "territorial integrity" – a reference to Western Sahara's annexation - would not be tolerated. "It is not possible to enjoy citizenship rights and to renounce them at the same time as plotting with enemies of the homeland", the King warned, suggesting that Sahrawis who advocate self-determination will face harsher consequences and may be stripped of their Moroccan citizenship for expressing their opinions.

In addition to the deteriorating situation in Western Sahara, the Moroccan authorities appear to have adopted an increasingly repressive approach to those deemed to criticize the monarchy. Several people, including journalists, political activists and human rights defenders, have been prosecuted and in some cases sentenced to prison terms, after peacefully expressing criticism of the monarchy. Independent media publishing information deemed offensive to the King or the royal family was dealt several severe

blows since October 2009. Of particular concern is the detention of Idriss Chahtane at Salé Civil Prison since 15 October, following the decision of the Court of First Instance of Rabat to sentence him to one year in prison. Idriss Chahtane was found guilty under Article 42 of the Moroccan Press Code of spreading false information with "malicious intent" in relation to an article published in a September edition of the *Almichaal* (issue 226), where he has worked for nearly six years, on the health of King Mohamed VI. *Almichaal* was closed in November after Idriss Chahtane's sentence was confirmed upon appeal.

Furthermore, the vast majority of the institutional and legal reforms aimed at combating impunity and ensuring non-repetition of human rights violations, proposed by the Equity and Reconciliation Commission in its final report made public in January 2006, have yet to be implemented.

EU-Morocco ENP Action Plan

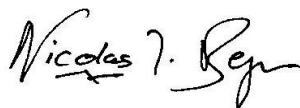
The current EU-Morocco ENP Action Plan, adopted in July 2005, will expire in July 2010. It is therefore currently in a process of revision, particularly in light of the enhanced relationship agreed between the EU and Morocco. Within this process, it is imperative to build on the human rights objectives contained in the current Action Plan, to reflect the clear willingness of both the EU and Morocco to increase the level of commitment to human rights within the enhanced relationship and to set a positive precedent for the revision of other ENP Action Plans over the coming months.

Amnesty International therefore urges the EU to ensure that a strengthened human rights chapter with concrete human rights provisions and measurable benchmarks is included in the revision to the Action Plan, including where appropriate a realistic timescale for their accomplishment. In this context, please find in the attached annex a list of recommendations that Amnesty International believes should be added to the existing Action Plan.

In addition, we draw to your attention once again the set of recommendations sent to the EU institutions by the Euro-Mediterranean Human Rights Network (EMHRN) in November 2009. In particular we would like to highlight the deficiency in the current Action Plan regarding economic, social and cultural rights, a deficiency which we strongly urge the EU to rectify in order to underline the universality and indivisibility of all human rights.

Amnesty International remains at your disposal to discuss these issues in greater depth. We would appreciate hearing the outcomes of the summit.

Yours sincerely,



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Director
Amnesty International EU Office



Esteban Beltrán
Director
Amnesty International Spain

cc: Herman van Rompuy, President of the European Council
Catherine Ashton, High Representative for Foreign Affairs and Security Policy
Miguel Angel Morantinos, Foreign Minister of Spain, Presidency of the European Union
Stefan Fühle, European Commissioner for Enlargement and European Neighbourhood Policy

ANNEX: Specific 'Action points' to be included in the revised EU-Morocco Action Plan

International Conventions

- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance, signed by Morocco on 7 February 2007 and the Rome Statute of the International Criminal Court; and
- Lift all reservations and declarations to the Convention to the Rights of the Child and the Convention on the Elimination of all Forms of Discrimination against Women, which are not compatible with the object and purpose of the treaties.

Institutional and Legal Reforms

- Implement the recommendations of the Equity and Reconciliation Commission to reform the judicial system and ensure its independence in line with international law and standards, in particular the UN Basic Principles on the Independence of the Judiciary and UN Basic Principles on the Role of Lawyers. Ensure that any reform of the justice system guarantees the right of victims of human rights violations to an effective remedy;
- Introduce constitutional amendments to include additional human rights principles and provisions in the text of the Constitution, as recommended by the Equity and Reconciliation Commission. Such amendments should be in accordance to international law and standards;
- Publish proposals to reform the judiciary submitted by the former Minister of Justice, Abdelwahed Radi, to King Mohamed VI in the course of 2009 in order for public debate and consultation of all relevant stakeholders including lawyers and judges, human rights organizations and victims of human rights violations and associations representing them;
- Amend national legislation to include all crimes under international law: genocide, crimes against humanity, war crimes, disappearances, extrajudicial executions and torture. Ensure that these definitions are in accordance with international law, and barriers to prosecutions of these crimes, such as amnesties, immunities and statutes of limitations are prohibited.

Western Sahara

- Immediately and unconditionally release six Sahrawi human rights defenders detained since October 2009 in Salé Prison solely for peacefully advocating for the right of Sahrawi people to self determination. They, along with Dakga Lashgar, provisionally released in January 2010, are awaiting military trial on charges of threatening Morocco's internal and external security;
- Respect of the rights to freedom of expression, association and peaceful assembly in the territory of Western Sahara, and for human rights activists to work without fear of reprisals;

- Lift the restrictions on freedom of movement imposed on Sahrawi human rights defenders and activists;
- Lift administrative obstacles preventing Sahrawi human rights organizations including the Sahrawi Association of Victims of Grave Human Rights Violations Committed by the Moroccan State and Collective of Sahrawi Human Rights Defenders from legally registering.

Enforced disappearances and impunity for gross human rights violations of the past

- Publish without delay the full detailed list of all cases of enforced disappearance brought to the attention of the Equity and Reconciliation Commission and its Follow-up Committee within the Advisory Council for Human Rights. The list should contain the names of the disappeared, the circumstances of their disappearance, the information gathered in each case, and whether the case has been transferred to the authorities for further investigations;
- Ensure that full, impartial and independent investigations are conducted into all cases of human rights violations committed in the period falling under the remit of the Equity and Reconciliation, giving particular attention to cases of enforced disappearances, where conclusions have not been reached. The investigative body should have the authority to compel witnesses including past and current state officials, and powers of subpoena, search and seizure;
- Establish a vetting system to ensure that those reasonably suspected of crimes under international law or human rights abuses are not placed in positions where they could repeat such violations; such a screening mechanism should work alongside independent and impartial investigations to identify suspected perpetrators and judicial proceedings to bring them to justice. It should comply with international law, in particular standards of fairness;
- Establish an appeal mechanism to enable victims of human rights violations who feel that their claim for reparation has not been examined adequately to challenge the decision;
- Ensure that human rights groups are consulted in the design and implementation of “development projects” in regions targeted for collective reparations, that such projects are guided by human rights principles, and that the programme is extended to Western Sahara;
- Bring together all relevant stakeholders, including independent human rights organizations, to design and implement a national strategy to combat impunity that would build upon the full implementation of all of IER’s recommendations designed to combat impunity and ensure non-repetition of grave human rights violations. Such a strategy should include the establishment of monitoring mechanisms to ensure its effectiveness.

Torture or other ill-treatment

- Amend the Moroccan Code of Criminal Procedure to ensure its full conformity with human rights law and standards, including the amendment of Article 66, by limiting the period of *garde à vue* to a strict minimum and granting detainees immediate access to their lawyers and families;
- Introduce amendments to the legislation prohibiting torture to ensure its full conformity with international law and standards, specifically ensure that the “attempt to commit torture” and “complicity or participation in torture” are explicitly defined as an

offence, as they should be according to Article 1 and Article 4 of the CAT;

- Enact legislation to ensure that no statement obtained under torture can be used as evidence in trial proceedings in accordance to Article 15 of the CAT;
- Amend the Moroccan Penal Code to criminalize sexual harassment and violence against women including marital rape, to ensure the protection and rehabilitation of victims of domestic violence, and to bring perpetrators to justice;
- Ensure that the conditions in Moroccan prisons and other detention facilities are in line with international law and standards as set out in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the Basic Principles for the Treatment of Prisoners and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Any reform should ensure that all allegations of torture and other cruel, inhuman or degrading treatment or punishment inside penitentiary establishments are investigated and that perpetrators are brought to justice;
- Conduct training for administrators, guards and other employees at penitentiary establishments in national and international human rights law and standards; and
- Conduct full, impartial and independent investigations into all allegations of torture and bring those responsible to justice in proceedings meeting internal standards of fair trial.

Freedom of expression

- Release all individuals detained solely for peacefully exercising their rights to freedom of expression (including human rights defender Chekib El-Khiari, retired military officer Kaddour Terhzaz and publisher Idriss Chahtane);
- Amend other provisions in the Penal Code and the Press Code to bring them in line with international human rights law and standards, particularly those criminalizing activities that amount to the peaceful exercise of freedom of expression, such as Article 267-1 of the Penal Code under which individuals who express criticism of the monarchy have been prosecuted.

Excessive Use of Force

- Conduct full, impartial and independent investigations into reports of the excessive use of force by Moroccan law enforcement officials during anti-government demonstrations and protests and other security operations; and to bring perpetrators of human rights violations to justice;
- Reform the security and law enforcement agencies in order to ensure that their policies and practices are in line with international law and standards including the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. As a matter of urgency clear instructions on the use of force, including the use of firearms must be adopted and made public;
- Introducing clear procedures to report or investigate cases of death or injury resulting from the use of force or firearms by law enforcement officials.

Asylum seekers, refugees and migrants

- Reaffirm and fully respect the principle of non-refoulement and to ensure that all asylum-seekers have access to fair and satisfactory procedures for determining whether they are in need of international protection, including but not limited to the right to appeal, with suspensive effect, to an independent specialized body, legal assistance and interpretation, in accordance with international law;
- Halt the refoulement of refugees and asylum-seekers; and the arbitrary and collective or mass expulsion of migrants to neighbouring countries;
- Conduct full, impartial and independent investigations into any allegation of death, injury or sexual assault of migrants and asylum-seekers caused by the use of force or firearms by law enforcement officials, including the drowning of a boat of the port of El-Hoceima in April 2008 and the shooting of a migrant in 1 January 2009 at border between Moroccan and the Spanish enclave of Mellila and that the results are made public.