



Open letter regarding the EU-Israel Association Council on 17-18/11/2003

To : EU Foreign Affairs Ministers
EU High Representative for CFSP, Javier Solana
EU Commissioner, Chris Patten

13/11/2003

On behalf of the Euro-Mediterranean Human Rights Network (EMHRN), the World Organisation against Torture (OMCT) and the International Federation of Human Rights Leagues (FIDH) we address this letter to you in view of the fourth EU-Israel Association Council on 18 November 2003. We would like to express our great concerns regarding the continuously deteriorating human rights situation in the Occupied Palestinian Territories and of the Arab minority in Israel.

Article 2 of the EU-Israel Association Agreement states that the relationship between the EU and Israel shall be based on respect for human rights and democratic principles, which guide their internal and international policy as an *essential* element of the Agreement.

The Communication on human rights, adopted on 8 May 2001 by the European Commission states that in all future dialogues it will "*seek to ensure that the discussion covers issues of concern relating to human rights and democracy*" and that in some cases where countries refuse to co-operate "*negative measures may be therefore more appropriate*". In June 2001, the Council's conclusions on the European Union's role in promoting human rights and democratisation in third countries also affirmed that these issues should be included "*in all EU political dialogues and bilateral relations with third countries*".

These principles have been reiterated in the May 2003 Commission Communication on reinvigorating EU Actions on Human Rights and Democracy with Mediterranean Partners. Said Communication affirms that "*A dialogue on Human Rights and democratization should be pursued in a coherent and consistent way, based on internationally agreed standards and instruments, and in particular those of the UN*".

This document specifies that the “*essential element*” clause in Association Agreements “*allows for either Party to take measures in response to a failure on the part of the other to respect democratic principles and Human Rights*”. Complementary to this, the March 2003 Commission Communication on a ‘Wider Europe’ provides for reinforced co-operation with the EU’s Mediterranean partners providing there is progress on issues such as respect for human rights, which should be evaluated according to “*clear and public objectives and benchmarks spelling out the actions which the EU expects of its partners*”.

Notwithstanding these commitments and its legal obligations measures chosen by the European Union have not up until now helped redress Israel’s violations of human rights in many areas despite the EU’s close relationship with Israel. The situation with regard to human rights has continued to deteriorate with certain new and ominous violations appearing in recent months.

1. Violations of International Human rights and Humanitarian Law committed by Israel in the occupied territories

The EMHRN, the FIDH and OMCT condemn very strongly any attacks against civilians in Israel. However, our organisations oppose the use of these attacks to exonerate Israel from its international obligations under international law. The activities of the Israeli security forces in the occupied territories continue to violate international human rights law, including the fourth Geneva Convention relative to the protection of civilians in time of war. Israel has continued to refute the applicability of the fourth Geneva convention to the occupied territories despite international consensus to the contrary.

- **Wilful killings, arbitrary executions and targeted assassinations have continued.** Over **195** Palestinians have been extra-judicially executed by Israel since the beginning of the current intifadah¹. Such actions are contrary to international human rights and humanitarian law and cannot be justified. Apart from this the manner in which they are conducted, often involving attacks by military aircraft in densely populated areas, has resulted in the deaths of over **114** ‘civilian’ bystanders. All together at least 2235 Palestinian civilians have been killed since the beginning of the Intifada.
- Massive **violations of the freedom of movement**, guaranteed by article 12 of the International Covenant on Civil and Political Rights.
- The prolonged closure of the Occupied Territories gives rise to many **violations of economic, social and cultural rights, as guaranteed by the International Covenant on Economic, Social and Cultural Rights ratified by Israel**. In particular the right to health is being denied by preventing hospitals from getting supplies, and by preventing Palestinians from reaching health centres, resulting in the deaths of at least 63 Palestinians (PCHR) over the past 3 years. Similarly, the policy of closure seriously affects the enjoyment of other economic, social and cultural rights such as the right to food, the right to education and the right to

¹ All figures in this letter come from the Palestinian Centre for Human Rights (PCHR).

work. The UN Committee against Torture has stated in November 2001 that in certain instances this may amount to cruel, inhuman or degrading treatment or punishment.

- The building of the **so-called security barrier/wall inside the occupied territory** further exacerbates these violations of political, social, cultural and economic rights. Israel has continued building this construct, of which over 150 kilometres have been completed, in the face of intense international opposition. Where the barrier has already been constructed, it has cut off significant numbers of local Palestinian inhabitants from their schools, work places, hospitals etc. It also separates and isolates some Palestinian areas, caught between the wall and the 1967 border, from the rest of the West Bank. In particular its planned path in East Jerusalem would isolate over 200,000 Palestinians from the rest of the West Bank. Also the recent announcement that Palestinians living on the Israeli side of the wall within the occupied territories will require special residence permits implies that far from being a temporary barrier it is indeed changing the legal status of local inhabitants and may in fact amount to a de facto annexation.
- Thousands of house demolitions have been carried out for a variety of reasons; punishment of the families of those who have engaged in attacks against Israel, demolitions of houses allegedly illegally built or recently massive house demolitions in Gaza in the name of security. All are unacceptable. In particular punitive measures are in contravention of article 53 of the International Covenant on Civil and Political Rights. In August 2003 the United Nations Human Rights Committee affirmed that the demolition of the houses of wanted Palestinians constitutes a violation of the international prohibition on torture and ill treatment. Apart from house demolitions, Israeli forces have continued demolitions of civilian property and infrastructure in general.
- Massive **arbitrary arrests** of Palestinians. Some are transferred to detention centres without their families being informed. Over 1150 Palestinians are currently held without trial in administrative detention. This involves been detained without access to legal counsel or effective appeal for renewable periods of up to six months. In addition, Israel is attempting to resume its policy of illegally transferring detainees from the West Bank to the Gaza Strip in cases of “assigned residence” which constitute unlawful transfers within the meaning of article 49 of the Geneva Convention and constitutes a grave breach of said convention (article 47).
- Moreover, many sources indicate **inhuman conditions of detention, including torture**, in violation of the International Covenant on Civil and Political Rights and the International Convention against torture and other cruel inhuman, and degrading treatment or punishment.

2. Violations of International Human Rights law inside Israel

Inside Israel discriminatory laws and practices against the Palestinian minority have existed since 1948. They involve land confiscation, house demolition and unequal

access to civic, social, cultural and economic rights. Recent moves to reinforce this discrimination include:

- A new ban on family reunification passed by the Knesset which prevents Palestinians married to Israeli citizens from gaining residence in Israel. This is blatant discrimination and the UN Committee on Elimination of Racial Discrimination has called for this ban to be revoked.
- The discrimination in housing policy has been exacerbated with massive incentives given to discharged Israeli soldiers to build homes in Galilee in the North and the Negev in the south. Meanwhile severe legal and bureaucratic constraints are placed on development in Arab areas. This enables the Authorities to label many Arab homes illegal and there has been a significant increase in the demolitions of 'illegal' Arab houses in the Negev.
- The undersigned organisations are concerned about the Israeli harassment of Muslim religious leaders. In May this year members of the Northern Islamic Movement were arrested, 1200 policemen and special security police joined the operation to which about 200 media persons attended. Five of the members, including the Movement's leader Sheikh Ra'ed Salah have over a long period been held in one room of approximately 12 square metres with hands and legs chained when they leave to another section. Telephone calls are forbidden and the members' meetings with their lawyers are restricted as a result of the defendants being defined as 'military security prisoners'.

3. Other violations of the EU-Israel association agreement.

The EU-Israel association agreement applies only to the state of Israel as defined under international law and not the occupied territories. In spite of this Israel has continued to issue origin certificates to products wholly produced or substantially processed in its illegal settlements in the Palestinian Occupied Territories. In doing so Israel fails to comply with its obligations under the territorial clause of the Agreement (Protocol 4 on the "definition of the concept of originating product and methods of administrative cooperation") and under the Agreement's provisions on customs cooperation (Protocol 5 on "mutual assistance between administrative authorities in customs matters"). At the same time it is strangulating the Palestinian economy through the activities described in section 1. It is incumbent on the EU to make further efforts to ensure that its trade preferences are not used to support illegal settlement activity in the Occupied Territories.

Recommendations

The EMHRN, FIDH and OMCT urge the EU to:

- Call for an immediate and complete withdrawal from all the Occupied Palestinian Territories in conformity with the relevant UN resolutions;

- Produce a systematic evaluation of the human rights situation in the Occupied Territories and Israel in line with the Commission's Communication on reinvigorating EU Actions on Human Rights and Democracy with Mediterranean Partners. Following on from this there should be an agreed action plan with benchmarks and a monitoring mechanism.

As a preliminary to this the EU should:

- Call for the repeal of discriminatory legislation within Israel.
 - Demand an immediate cessation of the building of the alleged 'security wall' on Palestinian territory. Where it already has been erected on Palestinian territory it should be removed to allow local inhabitants their basic right to freedom of movement.
- Build support and lead an initiative for the presence of an international force for the protection of the population in the Occupied Territories.

A clear link must be made between the Israel's privileged partnership with the EU and action with regard to increased respect for human rights. Israeli violations of human rights and humanitarian law are on a scale that justifies the suspension of the Association Agreement between the EU and Israel as recommended by the April 2002 resolution of the European Parliament and several human rights NGOs at the occasion of the last Association Council meeting. The signing organisations believe that activation of Article 2 is imperative and should be used efficiently and urgently to promote and protect human rights in the Occupied Territories and Israel.

The EU has consistently expressed its disapproval of Israeli extra-judicial killings, closures, settlement expansion, the 'security barrier' and other restrictions imposed on the Palestinian people. It has also declared that a lasting peace settlement can only be based on respect for international law, including resolutions 242 and 338 of the Security Council of the United Nations. However if the EU does not seek to prevent the abuses cited herein in an effective manner it is breaching its own legal obligations as well as losing credibility in the eyes of EU citizens and human rights defenders in the region.