



Doc. 12625

01 June 2011

Request for Partner for Democracy status with the Parliamentary Assembly submitted by the Parliament of Morocco

Report¹

Committee on Political Affairs and Democracy

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Summary

In February 2010, the Parliament of Morocco made an official request for partner for democracy status with the Parliamentary Assembly.

The report offers an overview of the institutional and political situation in Morocco. It concludes that the request of the Parliament of Morocco meets, both in form and in substance, the requirements laid down in Rule 60 of the Rules of Procedure of the Assembly. It therefore proposes to grant partner for democracy status to the Parliament of Morocco.

At the same time, the report stresses the need for Morocco to continue and deepen reforms aimed at consolidating democratic transformations, the rule of law and the respect for human rights. It singles out benchmarks which are of key importance for this.

It suggests that the Assembly should review in two years' time the state of progress achieved in implementing the political commitments undertaken by the Parliament of Morocco and the political and institutional reforms.

1. Reference to committee: Bureau decision, Reference 3672 of 30 April 2010.



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A. Draft resolution²

1. In adopting [Resolution 1680 \(2009\)](#) on the establishment of a “partner for democracy” status with the Parliamentary Assembly, the Assembly resolved to establish a new status for institutional co-operation with parliaments of non-member states in neighbouring regions wishing to benefit from the Assembly’s experience in democracy building and to participate in the political debate on common challenges which transcend European boundaries. A new Rule 60 in the Assembly’s Rules of Procedure, setting forth the conditions and modalities for granting such a status, including formal political commitments that the Parliament concerned must undertake, came into force in January 2010.
2. Less than two months later, on 22 February 2010, the Speakers of the two Chambers of the Parliament of Morocco addressed to the President of the Assembly an official request for partner for democracy status. The Parliament of Morocco thus became the first parliament to make such a request.
3. The Assembly takes note that, in their letter, the Speakers of the two Chambers of the Parliament of Morocco, in line with the requirements set out in Rule 60.2, reaffirmed that “the Parliament [they] represent shares the same values as the Council of Europe, namely pluralist and gender parity-based democracy, the rule of law and respect for human rights and fundamental freedoms”, and committed themselves to:
 - 3.1. “continuing [their] efforts to raise the awareness of the public authorities and the main players in politics and civil society of the need to make progress in the discussion of issues relating to the death penalty and [to continuing] to encourage the authorities concerned to maintain the de facto moratorium that has been established on executions of the death penalty since 1993. [They] intend to base [their] institutional and legislative work on the experience of the Assembly and of the European Commission for Democracy through Law (Venice Commission), bearing in mind that Morocco has been a member of the Venice Commission since 2007”;
 - 3.2. “continuing their efforts to raise the awareness of the public authorities and politicians so that favourable conditions can be established for the holding of free, fair and transparent elections”;
 - 3.3. “encouraging the balanced participation of women and men in public life and politics”;
 - 3.4. “encouraging the authorities concerned to accede to relevant Council of Europe conventions and partial agreements that can be signed and ratified by non-member states, in particular those dealing with human rights, the rule of law and democracy, bearing in mind that Morocco is – in addition to its participation in the Venice Commission – already a member of the North-South Centre, a member state of the European and Mediterranean Major Hazards Agreement (EUR-OPA) and also a Contracting Party to the Convention on the Conservation of European Wildlife and Natural Habitats”;
 - 3.5. “inform[ing] the Assembly regularly on progress made in implementing Council of Europe principles in [their] country”.
4. The Assembly therefore considers that the request by the Parliament of Morocco meets the formal criteria set forth in its Rules of Procedure.
5. Furthermore, the Assembly acknowledges that the Parliament, political forces, state and public officials and civil society of Morocco broadly share the objectives of the partnership for democracy, which aims to strengthen democracy, the rule of law and the respect for human rights and fundamental freedoms in the country.
6. At a time when the people in a number of Arab and Mediterranean countries have clearly expressed the wish to acquire fundamental political and social rights, the Assembly deems it important that Morocco, with its well-established political institutions and traditions of political pluralism, continues on the path of democratic transformation.
7. The Assembly welcomes Morocco’s commitment to deep constitutional, institutional, political and legal reforms, and encourages the state authorities to make full use of the Council of Europe expertise and draw inspiration from Council of Europe standards in carrying out such reforms. It considers that the partner for democracy status provides an appropriate framework for a stronger involvement of the Parliament of Morocco in the process of reforms.

2. Draft resolution adopted unanimously by the committee on 31 May 2011.

8. Against this background, the Assembly considers that the following specific issues are of key importance for strengthening democracy, the rule of law and the respect of human rights and fundamental freedoms in Morocco:

- 8.1. holding free and fair elections;
- 8.2. enhancing public interest in, and awareness of, the democratic process, as well as ensuring a higher level of participation in elections;
- 8.3. strengthening public monitoring of elections by independent observers, including strengthening the capacities of domestic observer networks;
- 8.4. involving and consulting civil society organisations in legislative and other decision-making processes;
- 8.5. ensuring equal opportunities for women and men in political and public life;
- 8.6. strengthening local and regional democracy;
- 8.7. striking out the death penalty from the Penal Code, building on the *de facto* moratorium on executions that has been established since 1993;
- 8.8. fighting corruption;
- 8.9. implementing justice reform with a view to ensuring the independence and impartiality of the judiciary;
- 8.10. adhering to and effectively implementing relevant international instruments in the field of human rights, including full co-operation with United Nations' special mechanisms and implementation of the United Nations Universal Periodic Review recommendations;
- 8.11. providing better training of judges, prison staff and law-enforcement agents as regards respect of international human rights standards;
- 8.12. preventing torture and inhuman or degrading treatment of persons deprived of their liberty; fighting impunity for crimes of torture and ill-treatment;
- 8.13. improving conditions of detention, in line with the United Nations prison-related norms and standards;
- 8.14. fully implementing the recommendations of the Equity and Reconciliation Commission (*Instance Équité et Réconciliation*);
- 8.15. fighting racism, xenophobia and all forms of discrimination;
- 8.16. ensuring full respect for freedom of conscience, of religion and belief, including the right to change one's religion;
- 8.17. promoting freedom of expression and media independence and plurality; removing censorship; introducing a new Code of the Press that effectively guarantees press freedom;
- 8.18. promoting freedom of association and of peaceful assembly; ensuring strict implementation of the law on associations;
- 8.19. fighting all forms of discrimination (in law and in practice) against women; ensuring effective legal equality between women and men, including as regards inter-religious marriages; fighting all forms of gender-based violence; promoting equal opportunities for women and men;
- 8.20. fully implementing and further improving the Family Code;

9. Furthermore, the Assembly expects that Morocco will continue to seek the settlement of international disputes by peaceful means in accordance with the United Nations Charter. In this context, it particularly calls on the Parliament of Morocco to enhance its contribution to solving the Western Sahara problem in accordance with the relevant resolutions of the United Nations Security Council.

10. Noting that the Parliament of Morocco has reiterated its determination to work to ensure full implementation of the political commitments contained in Rule 60.2 and entered into by the joint letter of the Speakers of its two Chambers on 22 February 2010, the Assembly resolves to:

- 10.1. grant Partner for Democracy status to the Parliament of Morocco as from the moment of the adoption of the present resolution;

10.2. invite the Parliament of Morocco to appoint a Partner for Democracy delegation consisting of six representatives and six substitutes to be composed in accordance with Rule 60.4 of the Assembly's Rules of Procedure.

11. The Assembly believes that progress in taking forward reforms is the prime aim of the partnership for democracy and should constitute the benchmark for assessing the efficiency of this partnership.

12. It accordingly resolves to review, no later than two years from the adoption of this resolution, the state of progress achieved in implementing the political commitments taken by the Parliament of Morocco, as well as the reforms in areas mentioned in paragraph 8 above.

13. The Assembly stresses the importance of free and fair elections as a cornerstone of a genuine democracy. It therefore expects to be invited to observe parliamentary elections in Morocco as from 2012.

14. The Assembly is confident that granting Partner for Democracy status to the Parliament of Morocco will contribute to intensifying co-operation between this country and the Council of Europe and promoting Morocco's accession to Council of Europe conventions. It therefore encourages the Secretary General of the Council of Europe, in co-ordination, as appropriate, with the European Union, to mobilise the Organisation's expertise, including that of the Venice Commission, with a view to contributing to the full implementation of democratic reforms in Morocco, in particular in the framework of the forthcoming constitutional reform.

B. Explanatory memorandum by Mr Volontè, rapporteur

1. Introduction

1. In June 2009, the Parliamentary Assembly adopted [Resolution 1680 \(2009\)](#) on the establishment of a “partner for democracy” status with the Parliamentary Assembly,³ by which it resolved “to establish a new status for institutional co-operation with parliaments of non-member states in neighbouring regions wishing to benefit from the Assembly’s experience in democracy building and to participate in the political debate on common challenges which transcend European boundaries” (paragraph 11).
2. Following the adoption of [Resolution 1698 \(2009\)](#) on the amendment of various provisions of the Parliamentary Assembly’s Rules of Procedure, a new Rule 60, setting forth the conditions and modalities for granting the partner for democracy status, was inserted in the Rules of Procedure of the Assembly. Rule 60 came into force in January 2010.
3. In particular, Rule 60.2 contains formal political commitments that the Parliament concerned must undertake when requesting Partner for Democracy status. Moreover, Rule 60.1 foresees a possibility for the Assembly, if appropriate, to lay down specific conditions to be met by the Parliament concerned before or after the status has been granted.
4. On 22 February 2010, the Speakers of the two Chambers of the Parliament of Morocco addressed to the President of the Assembly an official request for partner for democracy status. The Parliament of Morocco thus became the first parliament to make such a request.
5. I was appointed rapporteur in June 2010. I see my duty in this capacity as follows:
 - to verify whether the official request by the Parliament of Morocco contains the formal commitments foreseen in Rule 60.2;
 - to consider whether these commitments correspond to reality and, as a result, whether the status may be granted;
 - to assess whether any specific conditions, to be met by the Parliament of Morocco before the status is granted, should be laid down;
 - to determine the areas where further reforms are most needed and which should be in the focus of the review and follow-up process in the future.
6. In March 2011, I carried out a fact-finding visit to Morocco and had an opportunity to discuss with various partners the current state of political developments in the country and the prospects for the future.
7. Having analysed the letter from the Speakers of the two Chambers of the Parliament of Morocco to the President of the Assembly, I have come to the conclusion that their request contains the necessary political commitments foreseen, and therefore meets the formal criteria laid down in Rule 60.2.
8. Moreover, during my visit to Morocco, I was able to see that those political commitments reflect the reality and that the purpose of the partnership – strengthening democracy, the rule of law and respect for human rights – is broadly shared in Moroccan political circles, among state and public officials and in civil society.
9. Against the background of the historic turn towards democracy across the Southern Mediterranean and the Middle East, which was set in motion by the Jasmine Revolution in Tunisia, it is fair to say that Morocco is well ahead of all its neighbours in the Mediterranean as regards its level of democratic development.
10. As other countries of the region take their first steps towards democracy, Morocco is far from being at square one on this road. It has well-established political institutions and deep-rooted traditions of political pluralism, inspired by the universal values promoted and protected by the Council of Europe.
11. Furthermore, on its way to these values, Morocco has chosen to rely on the experience of our Organisation – the Council of Europe – which is recognised internationally as a reference point in these areas.
12. Therefore, in my view, the Parliament of Morocco deserves to be granted partner for democracy status.

3. See [Doc. 11913](#), rapporteur: Mr Luc Van den Brande.

13. At the same time, we all know that a perfect democracy does not exist. Moroccans are aware that their country needs deep and courageous reforms in many areas in order to meet the people's expectations. It is all the more true now as the people in many countries of the region have clearly expressed the wish to enjoy fundamental political and social rights, and to be represented by transparent institutions which provide fairness, protect dignity and take care of their needs.

14. Partnership for democracy should not be considered as an honorary award, but as a tool allowing us to work together to push forward constitutional, political, institutional and legal reforms in the country, and to make regular assessments of the progress made. Granting the status would be the beginning, not the end of the process. Our Moroccan partners are fully aware of that.

15. Accordingly, as the Assembly decides to grant the status, it is essential to determine the areas where reforms are most needed and which should be in the focus of the review and follow-up process in the future.

16. In my view, setting clear objectives for the future would contribute to the credibility of the partnership for democracy process by establishing an accountability mechanism. At the same time, it could develop, in the Parliament of Morocco, a sense of co-ownership of the process and contribute to increasing its role in the political and institutional system of Morocco.

17. I have made it clear that partner for democracy status does not provide immunity from criticism in the Assembly. On the contrary, it should provide a basis, and create conditions, for the Assembly to take a more attentive and specific look at areas where the situation needs to be seriously improved. It is very likely that the country will be criticised, just in the same way as the member states are often criticised. The Moroccans should not be afraid of this. The purpose of such criticism is to help identify shortcomings, to overcome deficiencies and, ultimately, to strengthen the legitimacy of the state and its institutions vis-à-vis the people.

2. General information on Morocco

18. The Kingdom of Morocco (commonly referred to as Morocco) is located in north-west Africa. With a population of nearly 33 million, it is one of the most populous countries of the Southern Mediterranean. It is a part of the Maghreb region, together with Tunisia, Algeria, Mauritania and Libya, with whom it shares cultural, historical, and linguistic ties. It also administers the disputed region of the Western Sahara.

19. Morocco is a *de jure* constitutional monarchy with an elected parliament. The King of Morocco enjoys vast executive powers and plays a key political role in the country. He is also the Commander of the Faithful (*le Commandeur des croyants*). Since Mohammed VI came to the throne in 1999, the country has embarked on a process of reform aimed at building a modern and democratic society.

20. Executive power is exercised by the government. Legislative power is vested in both the government and the two chambers of parliament, the House of Representatives (Lower House), and the House of Councillors (Upper House). The bicameral system was introduced by a constitutional reform in 1996.

21. The House of Representatives has 325 members elected for a five-year term, 295 elected in multi-seat constituencies and 30 in national lists consisting only of women.

22. The House of Councillors has 270 members elected for a nine-year term, elected by local councils (162 seats), professional chambers (91 seats) and wage earners (27 seats).

23. The Moroccan Parliament's powers, though limited, were consolidated under the 1992 and 1996 constitutional revisions and include budgetary matters, approving bills, questioning ministers, and establishing ad hoc commissions of inquiry to investigate the government's actions. The House of Representatives may dissolve the government through a vote of no confidence.

24. Morocco has had a multi-party system since independence in 1956. It has a multiple experience – rather unique in the region – of democratic change of power resulting from competitive elections. About 20 parties are currently represented in the Parliament.

25. The last elections to the House of Representatives were held in 2007 and the next are due in 2012. Elections are widely regarded as mostly free and fair.

26. Morocco's human rights record has considerably improved since the repressive "Years of Lead" (*Les Années de Plomb*) under King Hassan II's reign (1961–1999), but there are still complaints about abuses of power. Most recently, there were reports of mistreatment of peaceful demonstrators by the police in the city of Casablanca (13 March 2011), where dozens were injured.

27. Freedom of the press is relatively good compared with most other North African and Middle Eastern countries, though many journalists are thought to practice self-censorship. However, there are some limitations: questioning the legitimacy of the monarchy is a taboo, the debate on political Islam is severely restricted and it is illegal to question the kingdom's "territorial integrity", for example the annexation of the Western Sahara.

28. Government repression of political dissent has dropped sharply since the mid-1990s. The previous decades are described as the "Years of Lead", where systematic and serious human rights abuses, such as forced disappearances, killings of government opponents and secret internment camps, such as Tazmamart, were a common feature.

29. To examine the abuses committed during that period, Mohammed VI set up an Equity and Reconciliation Commission (*Instance Équité et Réconciliation*, IER), which aimed to collect statements from the victims and their relatives, investigate the crimes committed, rehabilitate the victims and pay compensation for state outrages against them. According to estimates by the IER, 528 persons were killed during Hassan II's reign in both judicial and extrajudicial executions.

30. The IER presented its final report to the King in December 2005. The former President of the IER, Mr Driss Benzekri, held an exchange of views with the Political Affairs Committee in January 2006. The work of the IER has been welcomed internationally as an example to the Arab world. However, most recommendations made by the IER in order to prevent any possibility of a repetition of crimes have yet to be implemented.

31. There are also persistent allegations of violence against Sahrawi pro-independence and pro-Polisario demonstrators in Western Sahara, considered by Morocco as its Southern Provinces. Morocco has also been accused of detaining Sahrawi independentists as prisoners of conscience.

32. Freedom of religion is generally observed, with some limitations. Although Islam is the official state religion, Moroccans are allowed to practise other faiths, but it is illegal for Muslims to renounce Islam. Therefore, restrictions apply to Christian proselytising. Political activities under the aegis of Islam are also restricted by the state. There still exists a Moroccan Jewish community, although most Jews emigrated in the years following the creation of Israel in 1948. On the contrary, according to my contacts, there is no local Christian community.

33. In 2005, the Parliament of Morocco took steps to improve the status of women and children, and passed a new family law (*Mudawanat al Asra* – Family Code), which is considered as very progressive by regional standards. As regards women's political participation, in addition to being candidates in mixed electoral lists, women have a national list in parliamentary elections that allow them at least 10% of the seats. In parallel, a national observatory to fight violence against women has been established.

34. Though capital punishment is still not abolished in law in Morocco, the country has implemented a *de facto* moratorium on the death penalty since 1993. A total of 198 people were sentenced to death between 1956 and 1993, leaving aside the question of extrajudicial executions (see above). There has been only one execution since 1982: in 1993.

3. Morocco and the Council of Europe

35. Morocco is considered to be the closest neighbour of Europe in the Mediterranean region – in every sense of the word. Geographically, only 14 kilometres of the Strait of Gibraltar separate it from European soil.

36. Historically, the destinies of Europeans and Moroccans have been closely linked for many centuries. Culturally, the mutual influence and cross-fertilisation have been important.

37. Last but not least, also politically, Morocco has been close to the political traditions and practices which most Europeans share and value as fundamental principles. Morocco's ambition is to serve as an example of democratic transition and to share its experience with other countries.

38. As democratic changes are now coming to the Mediterranean region, the Moroccans stress that their country made this choice many years ago and that it has tried to promote it at the regional level – sometimes at a high price and without any recognition from Europeans.

39. Recently, however, this leading position of Morocco in the field of political reform was recognised by the European Union. It is the only country to enjoy, since 2007, the "advanced status" (*statut avancé*) with the European Union, which provides for an advanced political partnership.

40. Morocco is also the leader, among the countries of the Mediterranean, as regards co-operation with the Council of Europe. It is a member state of the European and Mediterranean Major Hazards Agreement (EUR-OPA) (since 1995) and participates in the European Commission for Democracy through Law (Venice Commission) (since 2007).

41. Morocco was the first non-European country to join the North-South Centre (since 2009) and the Enlarged Partial Agreement on Sport (since 2010).

42. Morocco also enjoys observer status with the European Pharmacopoeia (since 1997). In 2010, Morocco was invited to accede to the Pompidou Group (partial agreement against drugs abuse and trafficking).

43. As far as Council of Europe conventions are concerned, Morocco is a Party only to the Bern Convention on the Conservation of European Wildlife and Natural Habitats (ETS No. 104) (since 2001).

44. The Committee of Ministers of the Council of Europe has invited Morocco to accede to several conventions, namely:

- the European Convention on Information on Foreign Law (ETS No. 62) and its Additional Protocol on Criminal Law (ETS No. 97) (extension of the system of international mutual assistance to the field of criminal law and procedure);
- the European Agreement concerning Programme Exchanges by means of Television Films (ETS No. 27);
- the European Agreement on the Protection of Television Broadcasts (ETS No. 34);
- the European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories (ETS No. 53);
- the European Convention on the Protection of the Archaeological Heritage (ETS No. 66).

45. The Council of Europe should take co-operation forward, subject to specific requests from the Moroccan authorities. Emphasis should be put on certain key conventions open to non-European non-member states, in the fields of the fight against corruption, cybercrime, human trafficking, sexual exploitation of children, financing of terrorism and money laundering.

46. Considering that an efficient and independent justice system is a prerequisite for successful action against organised crime, the Council of Europe should also encourage co-operation in the judicial reform area.

47. I will further develop areas of priority for future co-operation between the Council of Europe and Morocco in the following chapters.

4. Statutory requirements for Partner for Democracy status: state of play

48. As mentioned above, my main task as rapporteur is to assess whether the Parliament of Morocco fulfils the criteria for the status of Partner for Democracy.

49. I recall that, in accordance with Rule 60.2, any formal request for Partner for Democracy status shall contain the following political commitments:

- an explicit reference to the aspiration of the parliament to embrace the values of the Council of Europe, which are pluralist and gender parity-based democracy, the rule of law and respect for human rights and fundamental freedoms;
- a commitment to act to abolish the death penalty and to encourage the competent authorities to introduce a moratorium on executions;
- a statement on the intention of the parliament to make use of the Assembly's experience, as well as the expertise of the Venice Commission, in its institutional and legislative work;
- a commitment to organise free and fair elections in compliance with relevant international standards;
- a commitment to encourage balanced participation of women and men in public and political life;
- a commitment to encourage the competent authorities to become party to the relevant Council of Europe conventions and partial agreements which are open for signature and ratification by non-member states, in particular those dealing with human rights, the rule of law and democracy issues;

- an obligation to inform the Assembly regularly on the state of progress in implementing Council of Europe principles.
50. In their joint letter of 22 February 2010 (see Appendix), the Presidents of the two Chambers of the Parliament of Morocco clearly undertook those political commitments as required by Rule 60.2.
51. In particular, with regard to fundamental values, they stated as follows:
- “The Parliament which we represent shares the same values as the Council of Europe, namely pluralist and gender parity-based democracy, the rule of law and the respect of human rights and fundamental freedoms.”*
52. During my visit to Morocco, this statement was repeatedly and convincingly confirmed by the two Speakers, as well as by all the members of the Parliament whom I met.
53. With regard to the death penalty, the letter states:
- “We are continuing our efforts to raise the awareness of the public authorities and the main players in politics and civil society of the need to make progress in the discussion of issues relating to the death penalty and will continue to encourage the authorities concerned to maintain the de facto moratorium that has been established on executions of the death penalty since 1993.”*
54. In all my contacts with Moroccan interlocutors, I strongly emphasised the principled position of the Assembly, and of the Council of Europe as a whole, on the abolition of the death penalty. I also called on the Moroccan partners to find ways to officialise the *de facto* moratorium before the death penalty is abolished in law.
55. I was able to see that there is a genuine debate on this issue, both in the Parliament and in society. I heard arguments both in favour of abolition – including in the framework of the ongoing revision of the Criminal Code – and in favour of keeping it in law. It has to be stressed that the proponents of the latter option, representatives of the Justice and Development Party (Islamic opposition party), do not argue for the actual implementation of the death penalty, but for keeping it in the legislation on the basis of Islamic values. They do not oppose the moratorium on the death penalty.
56. My impression is that, even if a considerable part of the political establishment supports abolition, they are not yet ready to take resolute steps in this direction, as they believe that more time is needed to prepare public opinion. Public and political debate on this issue should therefore be broadened. Discussions between the Moroccan Parliament and the Assembly would, in my view, contribute to this.
57. As far as the facts are concerned, the last execution took place 18 years ago, in 1993, and the previous one had taken place in 1982 (leaving aside the issue of extrajudicial killings mentioned also above). The death penalty being on the books, the courts in Morocco continue to pass death penalty sentences. However, the King systematically refuses to enact these sentences, which are commuted into life imprisonment.
58. With regard to the use of the Council of Europe experience, the request contains the following statement:
- “We intend to base our institutional and legislative work on the experience of the Assembly and of the European Commission for Democracy through Law (Venice Commission), bearing in mind that Morocco has been a member of the Venice Commission since 2007.”*
59. I discussed, both at the Parliament and with representatives of the executive, the areas of legislative work where such experience, and the contribution of the Venice Commission, would be useful. At the parliamentary level, I felt a genuine interest on the part of the Moroccans to make full use of the possibilities which such co-operation offers.
60. This is all the more important if one takes into account the statement made by King Mohammed VI on 9 March 2011 announcing a future constitutional reform in the country. The appointment of Mr Abdeltif Menouni, member of the Venice Commission, and of Mr Abdelaziz Lamghari, his substitute, respectively as Chair and member of the ad hoc commission in charge of preparing the constitutional reform creates good opportunities for co-operation between the two bodies. The Moroccan side should be encouraged to fully use the potential of the accumulated experience of the Venice Commission.
61. Moreover, the Venice Commission, with its internationally recognised legal expertise, could provide a valuable contribution to finalising the bills under preparation, for instance, in the framework of the reform of the judiciary.

62. I also stressed that drafting laws and signing international conventions is only the first step, and that effective implementation is of key importance. The Parliament should play a more active role in ensuring that legal acts are actually implemented. A periodical review of the implementation of reforms by our Assembly could become an essential tool in carrying out the programme of reforms.

63. As regards elections, the Moroccan Parliament has committed itself to:

“continuing our efforts to raise the awareness of the public authorities and politicians so that favourable conditions can be established for the holding of free, fair and transparent elections.”

64. In this context, I stressed the importance that the Assembly pays to free and fair elections as a crucial element of democracy. I also referred to the Assembly’s experience and interest in observing elections in member, observer and partner states, and I further asked about the possibility of inviting the Assembly to observe parliamentary elections starting from 2012.

65. With regard to gender equality in politics, the Parliament has committed itself to:

“encouraging the balanced participation of women and men in public life and politics.”

66. I was able to see that there is an awareness of the gender dimension at party level and in public administrations. As mentioned above, women constitute at least 10% of the Parliament thanks to a national list comprising only women. In addition, many parties have recently increased the number of women on their electoral lists and promoted women to key positions at national, regional and local levels. Obviously, these efforts must continue. Currently, women have 10.5% of seats in the lower Chamber of the Parliament, but only 2.2% in the upper Chamber.

67. With regard to Council of Europe conventions, the Moroccan Parliament has made a commitment to:

“encouraging the authorities concerned to accede to relevant Council of Europe conventions and partial agreements that can be signed and ratified by non-member states, in particular those dealing with human rights, the rule of law and democracy ...”

68. I welcomed the interest expressed recently by the Moroccan authorities in Morocco becoming party to a number of Council of Europe conventions, and I referred to a visit under preparation of a delegation of Council of Europe officials with the aim of discussing with the authorities practical steps in order for Morocco to step up its participation in conventions of our Organisation. This visit finally took place from 28 to 30 March 2011.

69. I further stressed the role of a Parliament with regard to concluding and implementing international treaties and encouraged an active involvement of the Parliament of Morocco in following and speeding up this process. I also referred to the need for capacity-building for the proper implementation of conventions and encouraged a closer “triangular co-operation” (Council of Europe–European Union–Morocco) in this matter.

70. Finally, as concerns accountability, the Moroccan Parliament made the commitment “to inform the Assembly regularly on progress made in implementing Council of Europe principles in our country”.

71. In this context, I recalled the importance of a periodical parliamentary review of the progress made in the implementation of reforms in the areas where the situation needs improvement. Obviously, our Assembly would be most interested in the progress achieved in the fields related to democracy, respect of human rights and the rule of law.

5. Need for further reforms

72. As demonstrated in the previous chapter, the Parliament of Morocco meets, in my view, the criteria for being granted Partner of Democracy status with our Assembly. This does not, however, mean that Morocco has achieved perfection in building democracy and the rule of law. On the contrary, much remains to be done.

73. I recall that, in the past, the Assembly has many times drawn attention to a serious democratic deficit in the Southern Mediterranean, and stressed that there cannot be sustainable stability and prosperity without democracy and the rule of law.

74. We know from our European experience that democracy is never perfect and cannot be taken as granted once and for all. It is a process which needs to be constantly adapted to the rapidly evolving reality and to be ready to face new challenges. The strength of a true democracy is measured by its capacity to implement reforms in order to meet the changing needs of the people.

75. Morocco launched in the mid-1990s and 2000s a series of reforms aimed at building a modern and democratic state. However, according to many analysts, the pace of those reforms has slowed down and needs a new political impetus.

76. During my contacts, I was able to witness that there is a common understanding, among representatives of the political establishment, state officials and public figures of Morocco, that additional efforts are needed in order to speed up reforms and make further progress towards more democracy, better protection of human rights and fundamental freedoms, and enhanced rule of law.

77. Moreover, there is a strong demand for further reforms from civil society activists and from parts of the population, as was shown by mass demonstrations on 20 February 2011 and subsequently.

78. Some recent developments could be seen as positive steps in that direction. For instance, mechanisms for the protection of human rights have been upgraded with the establishment of the National Council for Human Rights, which replaces the former Consultative Council, and with the reform of the institute of Mediator (formerly *Divan Al Madhalim*).

79. Morocco has pursued a policy of regionalisation which aims to achieve a better governance and democracy at regional level.

80. A new consultative institution, the Social and Economic Council, has recently been established in order to provide an additional channel of representation of, and of harmonisation between, the interests of various groups of society.

81. As far as the rule of law is concerned, a vast reform of the legal system has been in preparation for several years. I was informed that a package of more than 20 draft laws, including on the status of the judiciary, on the competences of the Ministry of Justice, as well as on codes of civil and criminal procedures, is now being considered in the government.

82. On 9 March 2011, King Mohammed VI took a new major step in the reform process. He launched the preparation for a broad constitutional revision aimed at consolidating the rule of law and the democratic institutions and at better protecting individual and collective rights. The reform should, *inter alia*, implement the recommendations made by IER, consolidate the separation of powers, including by guaranteeing the independence of the judiciary, and strengthen the role of the Parliament and of political parties.

83. I consider these developments as particularly promising and creating conditions for fruitful co-operation between Morocco and the Council of Europe. Our Organisation, with its experience in democratic transition, is well suited to providing its competence and advice in designing and implementing constitutional and legal reforms. Our Moroccan colleagues should be encouraged to fully use these assets of the Council of Europe.

84. As I stressed before, the Partner for Democracy status should not be considered as an honorary title granted once and for all. It is a tool which should encourage reforms to improve the state of democracy. I believe that it would be very timely to grant it to the Parliament of Morocco, the country which has embarked on a process of consolidating its democratic institutions and constitutional and legal framework.

85. At the same time, it would be useful to identify areas where our Moroccan partners should make additional efforts to improve the situation and be more in line with international standards.

86. In particular, the constitutional reform announced by the King is a cornerstone for further democratisation. The Venice Commission is a natural partner of Morocco, its member country, in this process. The Parliament should encourage and facilitate co-operation between the ad hoc commission on constitutional reform and the Venice Commission.

87. The ongoing justice reform is a key element for strengthening the rule of law. It needs strong political support, including from the Parliament, which should follow up the process.

88. Other areas where progress is much needed include the fight against corruption, freedom of the media, freedom of association, implementation of the Family Code and protection of the rights of women and children.

89. The situation in these fields should be followed up regularly (for instance every six months) by means of exchanges of views with the Moroccan partners at the Political Affairs Committee level. Our committee should appoint a rapporteur to follow up developments in Morocco, including by making fact-finding visits to the country. In addition, the Assembly should review the progress made in these areas with a new report, to be

prepared after a given period of time (for instance two years). That would increase the sense of purpose of the partnership, introduce a degree of accountability of the partner Parliament and contribute to raising its role and responsibility in the political process in the country.

90. More specifically, the following elements could be taken into account when we assess the progress made by Morocco in pursuing the aims of the partnership:

- holding free and fair elections;
- enhancing public interest in, and awareness of, the democratic process, as well as ensuring a higher level of participation in elections;
- strengthening public monitoring of elections by independent observers, including strengthening the capacities of domestic observer networks;
- involving and consulting civil society organisations in legislative and other decision-making processes;
- ensuring equal opportunities for women and men in political and public life;
- strengthening local and regional democracy;
- fighting corruption;
- implementing justice reform with a view to ensuring the independence and impartiality of the judiciary;
- adhering to and effectively implementing relevant international instruments in the field of human rights, including full co-operation with United Nations' special mechanisms and implementation of the United Nations Universal Periodic Review recommendations;
- providing better training of judges, prison staff and law-enforcement agents as regards respect of international human rights standards;
- preventing torture and inhuman or degrading treatment of persons deprived of their liberty; fighting impunity for crimes of torture and ill-treatment;
- improving conditions of detention, in line with the United Nations prison-related standards and norms;
- fully implementing the recommendations of the Equity and Reconciliation Commission (IER);
- fighting racism, xenophobia and all forms of discrimination;
- ensuring full respect for freedom of religion and belief;
- promoting freedom of expression and media independence and plurality; removing censorship; introducing a new Code of the Press that effectively guarantees press freedom;
- promoting freedom of association and of peaceful assembly; ensuring strict implementation of the law on associations;
- fighting all forms of discrimination (in law and in practice) against women; ensuring effective legal equality between women and men as regards inter-religious marriages; fighting all forms of gender-based violence; promoting equal opportunities for women and men;
- fully implementing and further improving the Family Code;
- promoting public dialogue with a view to removing the death penalty from the penal code and, in the meantime, ensuring respect for the *de facto* moratorium on executions that has been established since 1993.

91. Obviously, when assessing the implementation of the partnership, we should also monitor the progress made in those areas which are referred to in Rule 60.2. insofar as they are not already mentioned above.

92. In addition, once the Assembly grants Partner for Democracy status to the Parliament of Morocco, it will have statutory grounds to follow up more closely, and if appropriate, to prepare specific reports on various aspects of the situation in that country.

93. At this point, I already see a matter for particular attention of our colleagues at the Committee on Equal Opportunities for Women and Men: unlike the Moroccan men who may marry women of any faith, Moroccan women are only allowed to marry Muslims; otherwise, the marriage is not recognised by law.

6. Question of Western Sahara

94. In the context of the request of the Parliament of Morocco to be granted Partner for Democracy status, several colleagues have already raised, and other colleagues may wish to raise, the issue of the Western Sahara.

95. I believe that the question of Western Sahara, as such, is not an issue for this report, and should not be used as an obstacle for, or be linked by any kind of conditionality with, the decision of the Assembly with regard to the status.

96. Western Sahara is an issue dealt with in the framework of the United Nations, in accordance with relevant resolutions of the Security Council. The last one, Resolution 1979 adopted on 27 April 2011, calls upon the parties “to continue negotiations under the auspices of the Secretary-General without preconditions and in good faith, taking into account the efforts made since 2006 and subsequent developments, with a view to achieving a just, lasting, and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations”.

97. The Council of Europe has no specific competence in this issue, but clearly supports the efforts by the United Nations. This position is contained in the Assembly [Resolution 1408 \(2004\)](#) on the situation in Western Sahara. At the same time, I take note that our colleague, Ms Maury Pasquier, has recently tabled a motion for a resolution on parliamentary contribution to solving the Western Sahara conflict.⁴ I also signed it. I believe that this motion, if referred to our committee, would constitute an appropriate framework for dealing with this issue.

98. Clearly, the issue of Western Sahara has an important human rights dimension (namely rights of refugees and displaced persons, conditions of detention, political rights, humanitarian situation, etc.), by which the Assembly should feel concerned. Granting Partner for Democracy status to the Parliament of Morocco will strengthen, not weaken, the capacity of the Assembly to follow these aspects more closely and on a more solid institutional basis, as appropriate, in the context of specific reports.

7. Conclusions and proposals

99. In my view, the Parliament of Morocco meets the criteria laid down in Rule 60 of the Assembly’s Rules of Procedure and should be granted Partner for Democracy status.

100. At the same time, reforms in the country need additional political impetus and the Parliament of Morocco should more actively contribute to providing such impetus. Granting the status should be seen as an encouragement for the Parliament to play a more prominent role in the process of reforms.

101. The draft resolution with a favourable view on the request for Partner for Democracy status with the Parliamentary Assembly from the Parliament of Morocco contains a list of priority areas where further progress is expected.

102. The Assembly should review, within two years at the latest, the progress achieved by the Parliament of Morocco in implementing the aims of the partnership, with particular attention to the priority areas listed in the resolution. In the meantime, the Political Affairs Committee should follow up developments in Morocco both through a regular dialogue with the Moroccan Partner for Democracy delegation in the Assembly and by fact-finding visits of a rapporteur.

103. The Parliament of Morocco would acquire Partner for Democracy status as from the moment of the adoption of the resolution by the Assembly.

104. In accordance with Rule 60.3, and taking into account the size of the population and the political diversity of Morocco, its Parliament should be allocated six seats of representatives and six seats of substitutes. Furthermore, in accordance with Rule 60.4, the Partner for Democracy delegation shall be so composed as to ensure a fair representation of the political parties or groups present in the Parliament, and of the two houses of the Parliament. It shall include at least the same percentage of the under-represented sex as is present in the Parliament and in any case one representative of each sex.

4. See [Doc. 12603](#).

Appendix

Unofficial translation

Rabat, 22 February 2010

Letter to His Excellency, Mr Mevlüt Çavusoglu, President of the Parliamentary Assembly of the Council of Europe

Dear President,

We have the honour of informing you that the Parliament of the Kingdom of Morocco has officially decided to request “partnership for democracy” status with the Parliamentary Assembly of the Council of Europe.

The Parliament which we represent shares the same values as the Council of Europe, namely pluralist and gender parity-based democracy, the rule of law and respect human rights and fundamental freedoms.

We are continuing our efforts to raise the awareness of the public authorities and the main players in politics and civil society of the need to make progress in the discussion of issues relating to the death penalty and will continue to encourage the authorities concerned to maintain the de facto moratorium that has been established on executions of the death penalty since 1993. We intend to base our institutional and legislative work on the experience of the Assembly and of the European Commission for Democracy through Law (Venice Commission), bearing in mind that Morocco has been a member of the Venice Commission since 2007.

We are also committed to:

- continuing our efforts to raise the awareness of the public authorities and politicians so that favourable conditions can be established for the holding of free, fair and transparent elections;
- encouraging the balanced participation of women and men in public life and politics;
- encouraging the authorities concerned to accede to relevant Council of Europe conventions and partial agreements that can be signed and ratified by non-member states, in particular those dealing with human rights, the rule of law and democracy, bearing in mind that Morocco is – in addition to its participation in the Venice Commission – already a member of the North-South Centre and of the Co-Operation Group on the Prevention of, Protection against, and Organisation of Relief in Major Natural and Technological Disasters and also a Contracting Party to the Convention on the Conservation of European Wildlife and Natural Habitats.

Finally, in keeping with Rule 60.2 of your Rules of Procedure, we undertake to inform the Assembly regularly on progress made in implementing Council of Europe principles in our country.

Yours faithfully,

Mr Mustapha MANSOURI - President of the House of Representatives

Mr Mohammed CHEIKHBIADILKAH - President of the House of Councillors