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Evaluation of the partnership for democracy in respect of the Parliament of Morocco

Committee Opinion[1]
Committee on Legal Affairs and Human Rights
Rapporteur: Mr Jordi XUCLÀ, Spain, Alliance of Liberals and Democrats for Europe

A. Conclusions of the committee

1. The Committee on Legal Affairs and Human Rights congratulates the rapporteur of the Committee on Political Affairs and Democracy, Mr Luca Volontè, on his well-balanced and comprehensive report, and supports by and large the proposed draft resolution.

2. The Parliament of Morocco was granted partner for democracy status on 21 June 2011 (see Resolution 1818 (2011)). Beforehand, the Committee on Legal Affairs and Human Rights supported the request of the Parliament of Morocco in this respect, whilst stressing the need to pursue constitutional reform, adhere to Council of Europe conventions and respect human rights and fundamental freedoms in Morocco (see the committee's opinion on "Request for Partner for Democracy status with the Parliamentary Assembly submitted by the Parliament of Morocco"[2]). Although Morocco has taken further constitutional reform measures, concerns have been raised regarding the human rights situation, in particular the use of torture, inhuman or degrading treatment, poor conditions of detention, and violations of the freedoms of religion, expression, assembly and association.

3. The committee wishes to propose some amendments to further strengthen the draft resolution regarding human rights aspects.

B. Proposed amendments

Amendment A (to the draft resolution)

In the draft resolution, at the end of paragraph 6, add the following sentence:

> *"However, the Assembly deplores the fact that so far only a few constitutional laws have been adopted to implement certain provisions of the constitution".*

Amendment B (to the draft resolution)

In the draft resolution, after paragraph 7, insert the following paragraph:

> *"However, the Assembly is concerned about the human rights situation in Morocco, in particular in relation to the use of torture, inhuman or degrading treatment, poor conditions of detention, violations of the freedoms of religion and expression, the independence of the media, and the freedoms of*

1. Reference to Committee: Bureau Decision, Reference 3831 of 23 January 2012. Reporting committee: Committee on Political Affairs and Democracy. See Doc. 13230. Opinion approved by the committee on 24 June 2013.
2. Doc. 12646 (rapporteur: Mr Arcadio Díaz Tejera, Spain, SOC).

association and of peaceful assembly. Thus, it stresses the importance for Morocco to take all necessary measures to address the specific issues referred to in paragraph 8 of Resolution 1818 (2011) in order to strengthen democracy and respect for human rights".

Amendment C (to the draft resolution)

In the draft resolution, paragraph 8.2, second sentence, after the words "an in-depth analysis of the organisation of these elections", insert the following words: ", taking into account the need to address the reported irregularities,".

Amendment D (to the draft resolution)

In the draft resolution, paragraph 13, replace the words: "its primary aim" by "progress in taking forward reforms".

C. Explanatory memorandum by Mr Xuclà, rapporteur for opinion

1. I can only congratulate Mr Volontè on his report, which takes stock of political reforms in Morocco and of the implementation of political commitments undertaken by its parliament in June 2011, after the Assembly granted the Moroccan Parliament the status of partner for democracy. The report rightly points out that this partnership has created new dynamics in co-operation between the Council of Europe and Morocco which has led to further progress in implementing reforms in the country.

2. I should like, however, to propose a few amendments to the draft resolution, with a view to putting emphasis mainly on respect of human rights and fundamental freedoms as well as on the need to hold free, fair and transparent elections.

In the draft resolution

Amendment A

The amendment aims to stress that the adoption of all constitutional laws (*lois organiques*), mentioned in the appendix to Mr Volontè's report, is required in order to fully implement the constitutional reform, in particular for the establishment of new democratic structures foreseen by the constitution. Whilst the deadline for completing the latter is set for autumn 2016 (see paragraph 31 of the report), so far only a small number of constitutional laws has been adopted by the Moroccan Parliament, with 15 others still outstanding (see paragraph 58 of the report). Therefore, given the complexity of the issues at stake, which may sometimes require the expertise of the European Commission for Democracy through Law (Venice Commission), it would be useful to incite the Moroccan Parliament to respect the above-mentioned deadline.

Amendment B

The amendment aims to put emphasis on the human rights situation in Morocco, which is far from being compliant with international human rights standards. I will not deal here with the situation of women and other discrimination issues, as I expect that they will be examined in detail by the Committee on Equality and Non-discrimination.

In its Resolution 1818 (2011), the Assembly considered that a number of specific issues, listed in its paragraph 8, were of key importance for strengthening, *inter alia,* the respect of human rights and fundamental freedoms. Some of these issues require further attention, in the light of submissions coming from various sources, including the United Nations and prominent international non-governmental organisations (NGOs) advocating respect for human rights. Despite the fact that in its Resolution 1818 (2011) the Assembly stressed the necessity of "preventing torture and inhuman or degrading treatment of persons deprived of their liberty; fighting impunity for crimes of torture and ill-treatment" (paragraph 8.13), there have been serious allegations of abuses in this respect, especially by the Directorate for Surveillance of the Territory. For example, Amnesty International reported that in May 2012, a Moroccan/German national, Mohamed Hajib, needed hospital treatment after he had been severely beaten and threatened with rape by guards at Toulal Prison in Meknes,[3] and that suspected Islamists and members of the 20 February Movement were singled out

3. Amnesty International Annual Report 2012, Morocco/Western Sahara: www.amnesty.org/en/region/moroccowestern-sahara/report-2012#section-6-6.

for ill-treatment.[4] Moreover, the United Nations Special Rapporteur on Torture, Juan Mendez, stated that he had received "credible testimonies of undue physical and mental pressure on detainees in the course of interrogations" as well as "credible reports of beatings [by police] (with fists and sticks), application of electric shocks, and cigarette burns".[5] He noted that while there was the "political will" amongst Moroccan authorities to prohibit and prevent torture and ill treatment, "in practice, the safeguards against torture do not effectively operate" and "no serious effort is made to investigate, prosecute, and punish perpetrators".[6]

As regards conditions of detention (see paragraph 8.14 of Resolution 1818), they do not seem to be in line with the United Nations prison-related norms and standards. According to the United Nations Special Rapporteur on Torture, overcrowding persists in Moroccan penitentiary centres and the official numbers of detainees may even be underestimated.[7]

Concerning freedom of conscience, of religion and belief, including the right to change one's religion (see paragraph 8.17 of Resolution 1818), the constitution protects freedom of religion in theory. In practice, the Moroccan authorities tend to restrict religious expression, with Islam being protected sometimes to the detriment of other religions. They discourage conversion from Islam (apostasy) and prohibit efforts by representatives of other religions aimed at converting Muslims. Some Moroccan Christians reported police harassment.[8]

As regards freedom of expression and media independence (see paragraph 8.18 of Resolution 1818), journalists and others often face prosecution and imprisonment for publicly criticising state officials or institutions, or for reporting on politically sensitive issues.[9] While there may be nominal freedom of expression through a lack of explicit censorship, the possible or likely threat of legal action taken *after* publication means that Moroccan journalists and publications engage in a great deal of self-censorship.[10]

Freedom of association and of peaceful assembly (see paragraph 8.19 of Resolution 1818) also remains an issue. While the law provides for freedom of association and peaceful assembly, in practice these rights are not guaranteed and the government severely restricts these freedoms. Human Rights Watch notes that although there are thousands of independent associations, government officials impede the legalisation of many of them, effectively restricting their activities *de facto*. While organisations can appeal to administrative courts to challenge the government's decision not to register them, the administrative courts cannot enforce their decisions.[11] As regards freedom of peaceful assembly, the use of excessive force by security forces against pro-reform protesters, causing death and injuries, have been reported on several occasions. Some of the protesters were also placed in detention.[12]

Besides that, issues related to the Western Sahara conflict remain of crucial importance for establishing a clear picture of the human rights situation in Morocco. Sahrawis advocating self-determination for the people of this region continue to face prosecution and restrictions to their fundamental rights and freedoms.[13] However, I will not go into more detail here, as these questions will be further examined by the Committee on Political Affairs and Democracy in another report on "Parliamentary contribution to solving the Western Sahara conflict" (rapporteur: Ms Liliane Maury Pasquier, Switzerland, SOC).[14]

Amendment C

The amendment aims to put emphasis on the irregularities (electoral corruption, vote-buying, improper use of administrative resources, etc.), of which the Assembly's ad hoc committee observing the parliamentary elections in Morocco was informed in November 2011 (see paragraphs 71-72 of Mr Volontè's report). The ad hoc committee asked the competent Moroccan authorities to elucidate these allegations and establish

4. Ibid.
5. Statement of 22 September 2012, "Culture of human rights is emerging in Morocco but more is needed to eradicate torture": www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12569&LangID=E.
6. Ibid.
7. Ibid.
8. U.S. Department of State, Bureau of Democracy, Human Rights and Labor, International Religious Freedom Report for 2012: www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper.
9. For more details on cases, see Amnesty International Report, footnote 3 above.
10. U.S. Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2012, Morocco: www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper
11. Human Rights Watch, World Report 2013: Morocco/ Western Sahara: www.hrw.org/world-report/2013/country-chapters/morocco/western-sahara?page=1.
12. See Amnesty International Annual Report 2012, footnote 3 above.
13. Ibid.
14. See Doc. 12603, Reference 3783.

responsibility. So far, no findings in this respect have been presented to the Assembly by the Moroccan authorities. Thus, without a clear reference to the said irregularities, paragraph 8.2 of the draft resolution sounds too positive about the holding of parliamentary elections in November 2011. The amendment in question aims to encourage the Moroccan authorities to analyse the alleged deficiencies in the electoral process and to shed light on them.

Amendment D

In paragraph 4 of the draft resolution, it is stated that “progress in taking forward reforms is the prime aim of the partnership and should constitute the benchmark for assessing its efficiency” (see also paragraph 13 of Resolution 1818 (2011)). Thus, it would be better to specify that granting partner for democracy status to the Moroccan Parliament contributed to achieving “progress in taking forward reforms”.