



**Ten years of EUROMED:
Time to end the human rights deficit**

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1. Summary of Recommendations

Amnesty International's recommendations to the EUROMED Summit stress that human rights must finally be given real priority within the Barcelona Process.

The 35 partner countries gathered in Barcelona should reaffirm human rights as a cornerstone of their vision for the future of the EURO-Mediterranean partnership. Countries should ensure that their efforts to enhance the security of their citizens and co-operation on all aspects of 'illegal immigration' will be based on full respect of all human rights and fundamental freedoms.

Amnesty International calls upon all the leaders of the 35 states that comprise the EUROMED partnership to renew their commitment to promote human rights in their own countries and across the wider region by ensuring that the work plan for the next five years includes:

- a special focus on safeguarding human rights when countering terrorism and managing migration;
- new mechanisms for human rights that enable partners to monitor regularly and effectively the ratification and application of international human rights instruments and to collaborate in securing their implementation;
- unimpeded participation of civil society in the EUROMED process, by ensuring freedom of expression and association and by fostering independent civil society organisations;
- an imperative that human rights within the EUROMED partnership are applied unequivocally to all 35 partner countries without distinction or favour.

2. Political context

When the Euro-Mediterranean Foreign Ministers met in Barcelona on 27-28 November 1995 and launched the EUROMED Partnership, the new regional framework for co-operation was set against a political context of hope for peace and stability in the region. After the end of the Cold War and with the recent signature of the Oslo Peace Accords, the region seemed set towards a path of renewed political endeavour and rapprochement.

In Barcelona, the Ministers set forth three main objectives of co-operation:

- to achieve peace and stability by strengthening human rights and democracy;
- to promote prosperity through the construction of an economic and financial partnership;
- to facilitate mutual understanding between peoples through a social, cultural and human partnership.

These three cornerstones of the partnership were to give the necessary impetus to reinforce the positive political trend.

Ten years later, the political environment has altered dramatically. Not only has the partnership been changed by EU enlargement and the introduction of the broader European Neighbourhood Policy, but the political agenda in 2005 is dominated by conflict and by the increasing pressures of counter-terrorism and fighting 'illegal immigration'. The achievement of the original objectives, in particular those of peace, stability and mutual understanding between peoples, seem more remote than ten years ago.

It is widely recognised at both political and institutional levels that human rights are essential to the partnership. As the Commission stated in its communication¹, advancing political reform towards human rights and democracy is key to achieving sustainable security and stability. However, there is common agreement that the Barcelona Process has failed to improve the human rights situation in the region.

In 2005, human rights continue to be violated on a serious and systematic scale in most of the Mediterranean partner countries. At the same time they are under growing pressure within the EU as

¹ "Tenth Anniversary of the Euro-Mediterranean Partnership: A work programme to meet the challenges of the next five years", COM (2005) 139 final

responses to the challenges of countering terrorism and irregular migration increasingly infringe on basic rights, against a troubling backdrop of racism, xenophobia and intolerance.

Instead of addressing the fundamental problem of the Barcelona Process' human rights deficit in its plan for the future, the Commission's proposals appear to relegate human rights to conferences and educational efforts. Though important, these can only be effective if they are deployed alongside, not instead of, concrete efforts to ensure respect for human rights and good administration of justice throughout the EUROMED countries.

In order to revive the original promises of the Barcelona Process, Amnesty International considers that the following conditions should be met:

- human rights must be placed firmly and squarely on the political agenda, underpinned by adequate implementation mechanisms and a clear time frame;
- counter-terrorism measures must be based on principles of human rights and democracy;
- efforts to control migration must be in accordance with international standards of refugee and migrants' rights protection;
- the EUROMED human rights agenda being essentially reciprocal, both sides must confront their shortcomings on a basis of shared responsibility.

3. The EUROMED partners: human rights deficit

Over the past ten years Amnesty International has produced numerous reports detailing the gross human rights deficit of the Barcelona Process.

In the Southern Mediterranean countries, this deficit includes the continuing use of arbitrary detention, unfair trials, torture and the death penalty in most countries; sharp curbs on freedom of expression and association, targeting of human rights defenders, unresolved "disappearances", and extrajudicial killings in a number of countries; and violations of the rights of women and widespread impunity for perpetrators of human rights violations throughout the region.

In EU Member States, the human rights deficit has been exemplified by patterns of excessive use of force, ill-treatment and even torture by state agents, often marked by discriminatory elements and with impunity for perpetrators; unlawful detention and *refoulement* of asylum seekers; and compromising important human rights principles when devising counter-terrorism measures.

In spite of the EU's stated commitment to further the "respect for human rights and democratic principles" in its international co-operation with third countries, it has failed to intervene and to effectively apply the human rights clause of Article 2 common in the agreements to either the partner countries or to its own Member States. Furthermore, the failure to address human rights violations by individual EU Member States makes the EU as a whole complicit and can only undermine its political and moral authority to raise human rights concerns with third countries.

Within the Barcelona Process, Amnesty International notes with concern the paradox that while the EU develops frameworks and allocates significant resources to promote human rights, it tolerates or turns a blind eye to practices which have undermined human rights protection in partner countries. Similarly EU Member States export their restrictive agendas on countering terrorism and 'illegal immigration', effectively undermining human rights protection in the partner countries, as well as their own ambition to provide durable solutions to the challenges posed by terrorism and irregular migration.

4. Combating terrorism: human rights eclipsed

The parties to the Barcelona Declaration expressly declared that "the peace, stability and security of the Mediterranean region are a common asset which they pledge to promote and strengthen by all means at their disposal". They further committed to 'strengthening their co-operation in preventing and combating terrorism, in particular by ratifying and applying the international instruments they have signed, by acceding to such instruments and by taking any other appropriate measure."

The Euro-Mediterranean Conference of Ministers of Foreign Affairs held in Brussels in October 2001 was the first after the 11 September tragedy in the United States. In their conclusions, the Ministers "express their total condemnation of terrorism everywhere in the world (...) and welcome the adoption of Res.1373(2001) of the United Nations Security Council aimed at eliminating all forms of support for terrorism and pledge rapidly to take the measures needed to implement it."

Amnesty International unconditionally and unreservedly condemns attacks on civilians and calls for those responsible to be brought to justice. States have an obligation to take measures to prevent and protect against attacks on civilians; to investigate such crimes; to bring to justice those responsible in fair proceedings and to ensure prompt and adequate reparation to victims. Amnesty International recognises that in the aftermath of the 11 September attacks and other attacks in several EUROMED countries, it was incumbent upon the EU and its Mediterranean partners to review legislative and other measures with a view to ensuring non-repetition of such attacks and protection of those under their jurisdiction.

However, within the EUROMED context, counter-terrorism measures have eclipsed other agendas and human rights in particular. With the political and security partnership in disarray by the flaring crisis in the Middle East, the fight against terrorism appears to provide the only common ground for advancing the political dialogue between the EU and its Mediterranean partners. This is reflected in the agendas of the annual meetings of Ministers of Foreign Affairs, and by the fact that all recent Association Agreements (as of 2000) contain a specific clause on terrorism. This increased focus has culminated in the European Commission five-year work programme put forward to mark the 10th anniversary of the EUROMED Partnership, which turns the fight against terrorism and irregular migration into primary elements of the partnership.

The absolute necessity for states to ensure that all counter-terrorism measures be implemented in accordance with international standards of human rights, humanitarian and refugee law has repeatedly been made clear by the UN Security Council, the European Court of Human Rights, and the Committee of Ministers of the Council of Europe, among others. In official pronouncements, the EU too has consistently subscribed to the principle that there can be no security without human rights, and distanced itself from portraying human rights as a barrier to effective protection from terrorist acts rather than as a prerequisite for genuine security.

However, amid the flurry of recent counter-terrorism initiatives both in the EU and beyond, the concept of human rights and the rule of law as the basis for genuine security is almost invisible. As the political focus on counter-terrorism measures has increased, the human rights agenda has fallen victim to a wrongly perceived 'Realpolitik', side-stepping not only countries' international obligations but also ignoring the vital role human rights play in conflict resolution and establishing long term stability.

Amnesty International is deeply concerned that in its policies and legislation on counter-terrorism the EU has failed so far to properly address the serious issue of protecting fundamental rights. In practice the EU and its Member States have a habit of ignoring breaches of rights protection within the EU, while too little attention is given to human rights abuses that may result when suspects are returned to their countries of origin or third countries. These include EUROMED partner countries.

In surveying the multitude of counter-terrorism initiatives at EU level since 11 September 2001, Amnesty International established that there are serious human rights deficiencies in the EU's criminal law response to terrorism, while a blind eye is turned to the questionable laws and practices on counter-terrorism in EU Member States as well as in EUROMED partner countries.

Many of the EUROMED partners have used the pretext of the 'war on terror' to reinforce or introduce repressive measures against political opponents, minorities and citizens in general. Anti-terrorist legislation contains broad definitions that are used to criminalise legitimate exercise of the rights to freedom of expression and association, and to clamp down on political opposition and human rights activists. Mechanisms applied to combat terrorism not only threaten human rights standards, but also thwart important democratic processes and initiatives. Within the EU, there is a real risk that counter-terrorism policies, in the way they are applied in practice, may lead to a sense of alienation within certain sectors of society that may feel as though they are being unfairly targeted.

The common values of human rights, democracy and the rule of law are a cornerstone of the EU's Common Foreign and Security Policy. Failure to address significant human rights deficiencies internally

undermines the EU's credibility when trying to promote human rights externally. Unless the EU takes active steps to address its own shortcomings and Member States' failure to comply with their international human rights obligations, it not only loses credibility and authority on human rights issues with its EUROMED partners, but it also seriously undermines the key objectives of its Common Foreign and Security Policy as a whole.

5. Managing migration: the human cost of Fortress Europe

In light of the tragic incidents in recent months in the Mediterranean area, Amnesty International has documented evidence of a consistent pattern of human rights violations in this region linked to interception, detention and expulsion of foreign nationals, including persons seeking international protection.

The string of incidents at the Southern European borders is tangible evidence that the integrity of the international refugee system is put at risk by EU Member States' practices. Despite a sharp decline in asylum applications in most EU Member States, these same countries are increasingly tempted to withdraw from their international commitments regarding refugee protection and to shift responsibility to neighbouring third countries where responsibility, enforceability and accountability for effective protection are likely to be minimal at best, and where states' practices towards refugees and migrants have also often been abusive of their human rights. These include EUROMED partner countries.

Beyond this 'protection crisis', these events have shed light on a major 'migration crisis' within the context of the continuing gross imbalance between Northern and Southern countries. In assessing the impact of EU policies on neighbouring countries, there can be little doubt that the manner in which the 'fight against illegal immigration' is conducted risks exacerbating rather than alleviating the problems associated with irregular migration. The lack of real solidarity, combined with abusive practices puts a strain on the EU's stated goal of seeking durable solutions and tackling its root causes. It undermines the EU's credibility and legitimacy in asking others to carry burdens that it is not prepared to accept itself.

Amnesty International acknowledges recent initiatives such as regional protection programs undertaken by the EU to enhance refugee protection in regions of origin and countries of transit. However, while keeping refugees close to their regions of origin is seen as a panacea from the perspective of European governments, the presence of large numbers of refugees may have a detrimental impact on the political stability of the host societies. The Barcelona Process should be used as a framework to develop a sustained and open dialogue on 'regional protection'. Central to the debate is the definition of what constitutes effective protection and who will be in charge of assessing refugee needs.

However, the EU's contribution to enhancing the refugee system should not be limited to legal, financial and technical assistance to third countries. It should also be translated into practice by concrete solidarity measures with countries that are facing severe difficulties to develop proper reception facilities and integration schemes and are often hosting large numbers of refugees. In this context, expanded resettlement opportunities within EU countries would constitute a welcome development for the EU and a significant contribution to international protection.

Another significant step would be to develop emergency tools that would allow the EU to intervene promptly and efficiently when a neighbouring country is faced with a massive humanitarian or migration crisis. Such tools could range from adequate financial instruments to a joint team of experts who could assist in processing asylum claims and identifying vulnerable groups. Such tools should be geared towards the protection of people rather than focussing on border controls.

Central to the debate is also a renewed commitment towards the United Nations and the need to increase its capacity to prevent and solve humanitarian and political crises. Greater financial and political support to the UN High Commissioner for Refugees is a key element in enhancing refugee protection and developing durable solutions.

The recent crisis has highlighted the need for EU Member States to enhance the protection of migrants' rights. Migrants working illegally in the EU are suffering economic exploitation and are the victims of discrimination and xenophobia. The EU policy to fight irregular immigration has so far primarily targeted individuals through a control-driven approach, and there is as yet no coherent approach to labour

exploitation. Amnesty International believes that the starting point for a discussion on economic migration management must be the rights of migrant workers which should be firmly grounded in principles of non-discrimination and of equality before the law. Furthermore, the EU's policy on economic migration should seek to prevent and eliminate the exploitation of all migrant workers and members of their families, and provide mechanisms to ensure that those responsible for abuse are held to account.

Whereas most of the non-EU states party to the Barcelona Process have already ratified the 1990 UN Convention on the rights of migrants and their family members, this convention has not been acted upon by most EU Member States. In order for migrant workers to receive comprehensive protection, Amnesty International calls on the EU to encourage the Member States to ratify the Migrant Workers Convention, including the optional provision of article 77 regarding individual complaints.

6. The way forward: renewed focus on human rights and democracy

The governments of the EUROMED Partnership committed themselves to act in accordance with the UN Charter and the Universal Declaration of Human Rights. Their signature expressed a political will to develop the rule of law and democracy, and to respect human rights and fundamental freedoms, such as freedom of expression and freedom of association. In the current political climate it is more important than ever that the EU acts as a strong proponent of human rights standards in its relations with the EUROMED partners, and that it applies those standards scrupulously and systematically in its own conduct.

Respect for human rights in all EUROMED countries

To revitalise the human rights dimension of the EUROMED partnership as a matter of priority, human rights must be placed firmly on the political agenda of all relevant fora, with concrete mechanisms to be developed and applied consistently without favour to implement the human rights clause of the Association Agreements and the human rights commitments of the Action Plans under the European Neighbourhood Policy.

- The November EUROMED Summit should task the proposed Euro-Mediterranean conference on human rights and democratisation in 2006 to ascertain progress and problems to date and to design a framework of action for the next five years to include:
 - ✧ an annual review of the situation of human rights in all countries of the partnership;
 - ✧ priorities for corrective action on the basis of agreed benchmarks;
 - ✧ full participation of civil society based on unimpeded enjoyment of freedom of expression and association;
 - ✧ mainstreaming of human rights in all areas of co-operation including trade, education and security.
- The EU should end the bias in the Barcelona Process to date by which the focus is on human rights violations in the Mediterranean partner countries only.

Respect for human rights in combating terrorism

- All partner countries should ensure that all measures to enhance security and combat terrorism are in full compliance with international standards of human rights, international humanitarian and refugee law.

Respect for human rights in managing migration

- The EU should develop a comprehensive approach to migration and ensure respect of the integrity of the international refugee protection system as well as of basic human rights of all migrants, regardless of their legal situation.
