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

### Report<sup>1</sup>

Committee on Political Affairs and Democracy

Rapporteur: Mr Bogdan KLICH, Poland, Group of the European People's Party

### Summary

The report is a follow-up to Resolution 2061 (2015) whereby the Parliamentary Assembly resolved to continue reviewing the implementation of the partnership for democracy with the Parliament of Morocco, and to make a new assessment when appropriate.

The report makes an overall positive assessment of the results achieved. Progress has been particularly tangible in the field of the rule of law, whether it is the adoption of almost all of the organic laws provided for in the 2011 Constitution or the ambitious reform on the independence of the judiciary. There has been progress in the field of democracy for which the report pleads for an increased strengthening of the powers of the Moroccan Parliament, but progress has been more uneven in the field of human rights: while the Moroccan migration policy is exemplary in its consideration of human rights, and while human rights bodies are now clearly rooted in the institutional landscape, more efforts are needed on the part of the Moroccan Parliament to achieve the abolition of the death penalty, to prevent human rights violations, in particular freedom of the press and freedom of association, and ensure equal opportunities for women and men. The way in which the Rif events are dealt with will be a test for certain reforms in favour of human rights.

The report proposes that the Assembly continue to review the implementation of political reforms in Morocco and make a new assessment of the partnership when appropriate.

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1. Reference to committee: Bureau decision, Reference 4246 of 14 October 2016.



| <b>Contents</b>                                                                                                      | <b>Page</b> |
|----------------------------------------------------------------------------------------------------------------------|-------------|
| A. Draft resolution.....                                                                                             | 3           |
| B. Explanatory memorandum by Mr Bogdan Klich, rapporteur.....                                                        | 5           |
| 1. Introduction.....                                                                                                 | 5           |
| 2. General political background.....                                                                                 | 5           |
| 3. Implementation of political commitments.....                                                                      | 6           |
| 3.1. Death penalty: progress without abolition despite a long-standing debate.....                                   | 6           |
| 3.2. Elections: exemplary provisions and a question mark over turnout.....                                           | 7           |
| 3.3. Balanced participation of women and men in public life and politics: mixed progress.....                        | 8           |
| 3.4. Accession to Council of Europe conventions and partial agreements.....                                          | 9           |
| 4. A number of examples of the situation in Morocco in the areas of democracy, the rule of law and human rights..... | 10          |
| 4.1. Democracy.....                                                                                                  | 10          |
| 4.2. Rule of law: the reform takes root.....                                                                         | 10          |
| 4.3. Human rights: progress and limits.....                                                                          | 11          |
| 4.4. The events in Rif: a test for certain human rights reforms.....                                                 | 11          |
| 5. An exemplary reform: Moroccan migration policy.....                                                               | 12          |
| 6. Western Sahara: recent developments.....                                                                          | 13          |
| 7. A high-quality dialogue with the Parliament that can be further developed.....                                    | 15          |
| 8. Intergovernmental co-operation.....                                                                               | 16          |
| 9. Conclusions.....                                                                                                  | 17          |

## A. Draft resolution<sup>2</sup>

1. On 21 June 2011, the Parliament of Morocco became the first partner for democracy with the Parliamentary Assembly under the terms of [Resolution 1818 \(2011\)](#) on the request for partner for democracy status with the Parliamentary Assembly submitted by the Parliament of Morocco.
2. The Assembly points out that upon making its official request for this status, the Parliament of Morocco declared that it shared the same values as those upheld by the Council of Europe and undertook substantive political commitments in accordance with Rule 64.2 of the Rules of Procedure of the Assembly. When granting the status, the Assembly took note of these commitments and pointed to a number of specific measures which were essential to strengthen democracy, the rule of law and respect for human rights and fundamental freedoms in Morocco.
3. As progress in taking forward reforms was the prime aim of the partnership for democracy and should constitute the benchmark for assessing the effectiveness of this partnership, the Assembly already reviewed in 2013 and 2015 the progress achieved in implementing the political commitments and reforms considered to be essential ([Resolution 1942 \(2013\)](#) and [Resolution 2061 \(2015\)](#)).
4. After seven years of implementation of the partnership with the Parliament of Morocco, the Assembly makes a positive assessment of its results. In this context, the Assembly notes that Morocco has made progress in strengthening democratic governance and calls on the authorities to pursue and take ownership of the reforms so as to implement fully the ambitions of the 2011 Constitution.
5. As regards the political commitments entered into by the Parliament of Morocco upon requesting partner for democracy status, the Assembly:
  - 5.1. notes the maintaining of the *de facto* moratorium on the death penalty applied since 1993, a clear trend towards restricting the scope of capital punishment and the continuing debate on its abolition, both within civil society and among its institutions. The Assembly reiterates its call on the Moroccan Parliament to work towards abolition of the death penalty and, pending such abolition, to promote a *de jure* moratorium on executions;
  - 5.2. welcomes the professionalism with which the Moroccan authorities organised the 2016 parliamentary elections, and the prior reform of the electoral legislation, even though it had been passed less than one year before polling. The Assembly encourages the Moroccan Parliament to take on board the recommendations of the National Human Rights Council and the ad hoc committee of the Bureau of the Assembly on the observation of the elections of 7 October 2016 ([Doc. 14201 rev](#)) in order to come up with ways of improving the representation of Moroccans living abroad and their participation in parliamentary elections. It calls on the parliament to promote the debate on modifying the system of voluntary voter registration in order to strengthen the legitimacy of national elections;
  - 5.3. welcomes the improved representation of women in the political sphere and encourages the Moroccan Parliament to act on the proposals of the National Human Rights Council to increase the proportion of women voters registered and to introduce alternate lists (women/men) at local elections. The Assembly also welcomes the decision to open up the profession of “adoul” to women and invites the Moroccan authorities to step up the protection of women against all the forms of violence and discrimination from which they suffer, including in inheritance and marriage matters;
  - 5.4. calls on the Moroccan authorities to continue with the process begun in 2011 to create a common legal area between Europe and Morocco by ratifying the Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol (ETS No. 127) and the Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health (CETS No. 211). It also calls on the Moroccan authorities to take up the 12 invitations from the Committee of Ministers to accede to certain conventions before those invitations expire. It once again calls on the Moroccan authorities to accede to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126) and the Council of Europe Conventions on Action against Trafficking in Human Beings (CETS No. 197) and on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210);

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2. Draft resolution adopted unanimously by the committee on 11 September 2018.

- 5.5. welcomes the high-quality dialogue with the Moroccan Parliament, whether with regard to the Moroccan delegation's level of participation in the Assembly's activities or the various forms of co-operation set up between 2015 and 2018 between the parliament and the Assembly. It calls for a deepening of this dialogue and states its willingness, in due course, to give thought to how the partner for democracy status could develop in the future.
6. In addition, the Assembly:
- 6.1. urges the Moroccan authorities to promote ownership of the reforms at national level by strengthening the resources available to parliament, and at local level by the implementation in practice of the process of devolution; to this end, the expertise of the Assembly, the Congress of Local and Regional Authorities of the Council of Europe and the European Commission for Democracy through Law (Venice Commission) could be requested;
- 6.2. notes with satisfaction the progress in the construction of a State governed by the rule of law, in particular the passing of almost all the institutional acts provided for in the 2011 Constitution and the reform of the judiciary, which has, amongst other things, made the public prosecution service independent of the Ministry of Justice;
- 6.3. takes note of the results of the Universal Periodic Review carried out by the United Nations Human Rights Council; applauds the active role of the National Human Rights Council and the Royal Ombudsman in defending human rights, and the recognition enjoyed by these institutions in civil society; welcomes the extension of the powers of the National Human Rights Council to the implementation of the National Mechanism for the Prevention of Torture, and to the protection of the rights of children and of people with disabilities;
- 6.4. urges the Moroccan authorities, and in particular the parliament, which has expressed its commitment to the fundamental values of the rule of law and respect for human rights and fundamental freedoms which stem from the partnership, to address the issues identified in these areas by representatives of civil society and to ensure respect for freedom of expression, freedom of the press and the right of association;
- 6.5. welcomes the migration policy adopted by Morocco, based on a comprehensive and inclusive vision of the integration of migrants into Moroccan society.
7. Recalling its [Resolutions 2004 \(2014\)](#) and [2061 \(2015\)](#), the Assembly reaffirms its strong support to the ongoing efforts by the United Nations Secretary-General to find a political solution in the Western Sahara. It concurs with United Nations Security Council Resolution 2414 (2018) which encouraged the parties "to work with the international community to develop and implement independent and credible measures to ensure full respect for human rights, bearing in mind their relevant obligations under international law".
8. The Assembly takes note of serious concerns raised by the United Nations Secretary-General about alleged human rights violations in Western Sahara and urges the Moroccan authorities to ensure that these concerns are duly addressed, in accordance with their international obligations and in the spirit of respect of the basic values upheld by the Council of Europe. In this regard, it welcomes the role played by the National Council on Human Rights commissions operating in Dakhla and Laayoune, and Morocco's interaction with Special Procedures of the United Nations Human Rights Council.
9. In the field of intergovernmental co-operation between the Moroccan authorities and the Council of Europe, the Assembly welcomes the positive assessment made on 21 March 2018 by the Committee of Ministers of the implementation of the Neighbourhood Partnership with Morocco 2015-2017, particularly with regard to the technical aspects. It is pleased to see the continuation of this Partnership for the period 2018-2021 and the projected increase in the resources to be allocated to it.
10. The Assembly resolves to continue to review the implementation of political reforms in Morocco and to offer its assistance to the Moroccan Parliament, and to make a new assessment of the partnership when appropriate.

## B. Explanatory memorandum by Mr Bogdan Klich, rapporteur

### 1. Introduction

1. “It is incumbent upon me, as per the Constitution, to ensure the country’s security and stability and to safeguard people’s interests as well as their rights and freedoms. At the same time, I will not accept any backtracking on democratic achievements, nor will I tolerate any obstruction as far as the work of institutions is concerned.” These words were spoken by the King of Morocco in a speech on 29 July 2017<sup>3</sup> and summarise the country’s policy to establish a democratic culture within a stable framework.
2. On 21 June 2011, the Parliamentary Assembly adopted [Resolution 1818 \(2011\)](#) on the evaluation of the partnership for democracy in respect of the Parliament of Morocco. The Parliament of Morocco accordingly became the first to request and to be granted this status, introduced by the Assembly in 2009 to develop institutional co-operation with the parliaments of the Council of Europe’s neighbouring States.
3. Upon making its official request, the Parliament of Morocco declared that it shared the same values as those upheld by the Council of Europe and undertook substantive political commitments in accordance with Rule 64.2 (then Rule 62.2) of the Rules of Procedure of the Assembly. These commitments appear in paragraph 3 of [Resolution 1818 \(2011\)](#).
4. In addition, the Assembly stated, in paragraph 8 of the aforementioned resolution, that a number of specific measures were essential to strengthen democracy, the rule of law and respect for human rights and fundamental freedoms in Morocco.
5. Furthermore, the Assembly stressed 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”.
6. The purpose of this report is to review the progress achieved in implementing the political commitments and reforms considered to be essential, seven years after the granting of that status. The partnership has been reviewed on two previous occasions, in 2013<sup>4</sup> and 2015,<sup>5</sup> and our colleague, Ms Liliane Maury Pasquier, today President of the Parliamentary Assembly, presented a report in 2014 on the parliamentary contribution to resolving the Western Sahara conflict.<sup>6</sup> The present report is mainly based on my fact-finding visit to Rabat in February 2018.<sup>7</sup>
7. As in the case of past evaluations, I consider the partnership for democracy with the Parliament of Morocco to be extremely satisfactory. With regard to the situation in Morocco, I note genuine progress in some key areas and question marks over others.

### 2. General political background

8. From 2011 to 2016, the coalition government dominated by the Justice and Development Party (JDP) enjoyed a degree of stability, marked by a limited reshuffle in 2013 after the withdrawal of the long-established Istiqlal party and its replacement in the government by the National Rally of Independents (RNI).
9. Three major developments have taken place since then. First of all, the results of the October 2016 parliamentary elections, which the Parliamentary Assembly was invited to observe, reflected a trend towards the bipolarisation of the political landscape. The JDP strengthened its position and obtained 125 seats in the House of Representatives, 18 more than in the previous parliament. The Authenticity and Modernity Party (PAM) became the biggest opposition force by far with 102 seats (55 more than in 2011). All the other parties, whether they had been members of the previous government coalition or had been in opposition, such as Istiqlal, lost seats, in some cases in significant numbers.
10. The former Prime Minister, Mr Abdelilah Benkirane, then head of the Islamist JDP, was asked by the King to form a new government but was unsuccessful, in particular because of his refusal to allow the Socialist Union of Popular Forces (USFP) to join the majority. In March 2017, the King thanked him for his

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3. King’s speech on the occasion of the 18th anniversary of the Sovereign’s accession to the throne of His glorious ancestors.

4. See the report ([Doc. 13230](#)) and Assembly [Resolution 1942 \(2013\)](#).

5. See my previous report ([Doc. 13807](#)) and Assembly [Resolution 2061 \(2013\)](#).

6. See [Doc. 13526](#) and Assembly [Resolution 2004 \(2014\)](#).

7. See the programme of the visit, document AS/Pol/Inf (2018) 03.

efforts, and his successor as Prime Minister, Mr Saadeddine El Othmani, who also took over as head of the JDP, agreed to a coalition expanded to six parties, including the USFP.<sup>8</sup> This coalition has had a comfortable majority in the House of Representatives (some 240 seats out of 395) since April 2017.

11. The third major political event is linked to the civil disturbances in Al Hoceima, Rif province, which was afflicted by considerable unrest in 2017. In response, the King requested an audit of the province's development programme, which had been launched in 2015. The significant delays that have affected its implementation (the result of poor design and massive bureaucratic inertia, according to the General Finance Inspectorate, the General Local and Regional Authority Inspectorate and the Court of Auditors) led Mohammed VI to exercise his power under Article 47.3 of the Constitution and dismiss three ministers and a secretary of State in October 2017. These dismissals did not affect the balance of the government coalition and five new ministers were appointed in January 2018. In his speech on 29 July 2017, the King vigorously reiterated the principle set out in the second paragraph of Article 1 of the Constitution, namely the linkage between public office and accountability.

### 3. Implementation of political commitments

12. The political commitments undertaken by the Moroccan Parliament derive from Rule 64.2 of the Assembly's Rules of Procedure. They were referred to and in some cases spelled out in detail by the Speakers of the two Houses of the Moroccan Parliament in their letter requesting partner for democracy status, of which the Assembly took note in its [Resolution 1818 \(2011\)](#).<sup>9</sup>

13. On the basis of my discussions with Moroccan parliamentarians, as well as taking into account the input from human rights organisations and independent observers, I am in a position to provide the following comments on the implementation by the Moroccan authorities of these political commitments.

#### 3.1. Death penalty: progress without abolition despite a long-standing debate

14. Morocco has observed a *de facto* moratorium since 1993 but the courts continue to impose the death penalty (14 times between 1 January and 1 October 2017 according to Human Rights Watch<sup>10</sup>; 15 times in 2017 according to Amnesty International), despite the fact that Article 20 of the Constitution provides that the right to life is the first right of every human being and that the law protects this right. Moreover, the government has clearly stated its position: the Minister for Human Rights, Mr Mustapha Ramid, rejected the recommendation to abolish capital punishment made by the Working Group of the United Nations Human Rights Council on the occasion of the Universal Periodic Review of Morocco closed on 21 September 2017. Furthermore, I have not been made aware of any draft legislation to change the *de facto* moratorium into a *de jure* one.

15. However, after having a new Code of Military Justice adopted in 2014, which would have reduced the number of offences punishable by death from 13 to 5, the government is considering having the number of capital crimes lowered from 30 to 11 in the new Criminal Code. The latter is currently the subject of draft legislation before parliament. At the same time, the draft new Code of Criminal Procedure would require the criminal court to reach a unanimous collective decision in order to impose the death penalty. Moreover, the Public Prosecutor's Office sees in the fact that there were 115 individuals awaiting execution in 2017 compared with 214 in 2004 an indication that the Moroccan courts are imposing fewer death sentences than in the past. Finally, from the regional point of view, as shown by the Amnesty International reports on death sentences and executions in 2016 and 2017, the Moroccan courts sentence fewer people to death than their Algerian or Tunisian counterparts, although both Algeria and Tunisia also operate a *de facto* moratorium.<sup>11</sup>

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8. In addition to the JDP, these parties were the RNI (37 seats in 2016), the People's Movement (27 seats), the USFP (20 seats), the Constitutional Union (19 seats) and the Party of Progress and Socialism (12 seats).

9. See also [Doc. 13807](#), paragraph 45.

10. Human Rights Watch, World report 2018: [www.hrw.org/world-report/2018/country-chapters/morocco/western-sahara](http://www.hrw.org/world-report/2018/country-chapters/morocco/western-sahara).

11. In 2016, there were six death sentences in Morocco, compared with 50 in Algeria and 44 in Tunisia. In 2017, there were 15 in Morocco, 27 in Algeria and 25 in Tunisia. [www.amnesty.org/download/Documents/ACT5057402017ENGLISH.PDF](http://www.amnesty.org/download/Documents/ACT5057402017ENGLISH.PDF). [www.amnesty.org/download/Documents/ACT5079552018ENGLISH.PDF](http://www.amnesty.org/download/Documents/ACT5079552018ENGLISH.PDF). For information, Morocco has approximately 35 million inhabitants, Algeria 40 million and Tunisia 11 million.

16. As reflected in official communiqués or articles in the Moroccan press, the reasons that led the present government to maintain its anti-abolitionist position have to do both with the desire not to be bound by an international agreement, such as the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), which would entail the abolition of the death penalty,<sup>12</sup> and the fact that there is no consensus on this issue; rather it is one that divides Moroccan society.

17. However, the debate underway goes back many years. As early as 2009, the Truth and Reconciliation body, the transitional justice mechanism tasked with shedding light on the serious violations of human rights from the time of the country's independence to 1999, recommended Morocco's accession to the Second Optional Protocol to the ICCPR. On the occasion of the World Forum on Human Rights in 2014, the King made an appeal to launch a national debate on the death penalty. The National Human Rights Council (*Conseil national des droits de l'homme*, CNDH), an independent administrative authority with considerable expertise, led by Mr Driss El Yazami, regularly advocates the abolition of the death penalty and did so again at the time of the Universal Periodic Review of Morocco, for which it was consulted by the United Nations. Finally, seven Moroccan non-governmental organisations (NGOs) known for their activist stance have grouped together as the Moroccan Coalition against the death penalty, regularly rekindling the debate on the subject and taking a stand against capital punishment.

18. As can be seen, Moroccan society is far from united on this issue and encouragement to debate it comes both from the highest authority in the Kingdom and from independent administrative authorities or civil society players.

19. At the level of the legislative, there is a network of Moroccan members of parliament against the death penalty (*Réseau des parlementaires contre la peine de mort*), comprising some 240 members from the two Houses and different political groups, but it does not seem to have been very active in the past two years. A private member's bill to abolish capital punishment was tabled in 2014 by members of the Socialist Union of Popular Forces but was not debated. In January 2018, a new private member's bill is said to have been tabled in the House of Representatives by two non-attached members belonging to the Unified Socialist Party.<sup>13</sup> This bill, which would give retroactive effect to the abolition of the death penalty and prohibit the extradition of any person to a country where he or she could be sentenced to death, could be debated in the House during the monthly slot granted by the government for the examination of private members' bills.

20. Several developments will need to be monitored in the coming years. From a legal point of view, will the public prosecution service, which is now completely independent, systematically cease requesting the death penalty? Will the Constitutional Court, which under Article 133 of the Constitution may be asked to rule on an objection of non-compliance with the Constitution<sup>14</sup> by a citizen during a trial, be called upon to decide on the constitutionality of the provisions of the new Criminal Code and the new Code of Military Justice? From a political point of view, will the Moroccan members of parliament who argue against the death penalty intensify their efforts to persuade their voters, perhaps together with civil society organisations? In the context of the partnership for democracy, I can only hope they will do so. In addition, I welcome the attitude of the Prosecutor-General at the Court of Cassation who declared himself ready to start to think with the Council of Europe about alternatives to the death penalty.

### **3.2. Elections: exemplary provisions and a question mark over turnout**

21. The Assembly had the opportunity to observe the 7 October 2016 parliamentary elections and debate the conclusions of the report of the ad hoc committee of the Bureau set up for that purpose. Those conclusions were extremely positive. For example, the committee held that the elections had taken place "in a calm atmosphere, with voters able to make their choice freely from the lists presented by parties of different political sensibilities". It also highlighted "the professionalism of the Ministry of the Interior and of the Ministry of Justice which organised the poll with integrity and in full transparency".<sup>15</sup>

12. A comparable argument was put forward by Mr Ramadi to explain Morocco's refusal to accede to the Statute of the International Criminal Court, since, according to him, the crimes contained in it are mentioned in the 2011 Constitution. A national legal basis is therefore preferred to an international instrument.

13. [www.leconomiste.com/article/1022329-peine-de-mort-une-proposition-de-loi-en-faveur-de-l-abolition](http://www.leconomiste.com/article/1022329-peine-de-mort-une-proposition-de-loi-en-faveur-de-l-abolition).

14. The institutional act giving effect to this provision was passed on 6 February 2018.

15. Doc. 14201 rev, paragraphs 66 and 67.

22. This election was also noteworthy because of the previous electoral law reforms, which in particular lowered the threshold above which political parties in the parliament are represented from 6% to 3% of the votes cast,<sup>16</sup> and the introduction of an affirmative action mechanism for candidates under 40 years of age,<sup>17</sup> the only downside being that these reforms were adopted less than a year before the election, which both the ad hoc committee and the CNDH found regrettable.

23. I conveyed to those with whom I spoke two of the ad hoc committee's three recommendations: modifying the system of voluntary voter registration and improving the parliamentary representation of Moroccans living abroad and their participation in elections.<sup>18</sup>

24. On this latter question, the discussions with the minister with responsibility for Moroccans living abroad and migration matters at the Ministry of Foreign Affairs show that the Moroccan authorities are fully aware of the problem and are not averse to making changes. The CNDH has, for example, recommended looking at the introduction of electronic or postal voting, which is currently not possible for the 3 million Moroccans living abroad.

25. The question of voluntary voter registration, which I raised in my discussions with the Minister of the Interior, is much more complicated. The turnout in the October 2016 elections was 43%, slightly down on the previous election in 2011 (45%) despite the intense efforts of the Ministry of the Interior, the media and civil society organisations to provide broad information on the election system and despite a campaign underlining the importance of exercising one's right to vote. This turnout, which is not very high, is calculated on the basis of the number of voters who have voluntarily registered on electoral lists (15.7 million), whereas the number of Moroccans of voting age is estimated by the ad hoc committee at 25 million.

26. The municipal and regional elections held on 4 September 2015 showed that local issues brought more voters out, with the turnout rising to 53.67% according to the CNDH, even though the devolution of powers and resources has not been completed.

27. Above and beyond the contentious debate in Morocco on the need to move from a system of voluntary voter registration to an automatic registration system, which would automatically significantly lower the turnout, the question that arises is the lack of interest in national elections among a large proportion of Moroccans and the problem of democratic legitimacy to which that may lead.

28. One possible response would be for the politicians to take ownership of the reforms underway for the past seven years at the King's initiative. I believe that a real strengthening of parliament's powers would be helpful in this connection and underpin the idea that mandate holders genuinely participate in the exercise of sovereignty.

### **3.3. *Balanced participation of women and men in public life and politics: mixed progress***

29. As far as political representation is concerned, the situation of women continues to improve as a result of the affirmative action mechanisms introduced for both national and local elections (one third of seats are reserved for women in municipal and regional elections). For example, after the 2016 parliamentary elections the House of Representatives had 81 women members, 21% of the total number of MPs, compared with 17% in 2011. For its part, the CNDH advocates increasing the proportion of women voters registered, which was 45% in 2015, to reflect the demographic situation in the country. Since 2011, it has also recommended the introduction of alternate lists (women/men) at local elections.

30. As far as equal rights between men and women outside the political sphere are concerned, the situation is more mixed, but some progress has been made.

31. The Minister for Family Affairs, whom I met, emphasised for example the establishment of the Authority for Gender Equality and the Fight against All Forms of Discrimination, which is provided for by the Constitution and for which the assistance of the European Commission for Democracy through Law (Venice Commission) was requested. She also welcomed the passing in 2018 of Law No. 103-13 on combating violence against

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16. Thereby complying with Assembly [Resolution 1547 \(2007\)](#) on the state of human rights and democracy in Europe, which states in paragraph 58: "In well-established democracies, there should be no thresholds higher than 3% during the parliamentary elections."

17. Of the 395 members of the House of Representatives, 305 are elected in local constituencies and 90 to a nationwide constituency with a dual quota: the lists of candidates must now contain two parts, the first comprising 60 women and the second 30 young men and women of a maximum age of 40 years on polling day. See [Doc 14201](#) rev, paragraph 16.

18. The third concerns the establishment of an independent central election commission, which would be responsible for organising the ballot instead of the Interior and Justice ministers.

women, which amends several articles of the Criminal Code and, for example, makes harassment a criminal offence. Moreover, the King's recent decision in support of the Ministry of Justice's wish to open up to women the profession of "*adoul*", traditionally reserved for men (these are notaries who specialise in certain civil, family and property-related matters in Islamic law), shows that changes are taking place, including in highly symbolic areas. Finally, the Moroccan delegation drew my attention to the fact that a government programme focused on the promotion of women's rights had been adopted, that various actions had already been taken, in particular the 2016 vote by parliament on the law regarding the Authority for Gender Equality and the Fight against All Forms of Discrimination and that, in addition, the draft Penal Code foresees strengthening the protection of women victims of violence.

32. However, civil society representatives told me that not only was progress on gender equality very weak but they were forced to defend certain achievements against opposition from the majority party in the government coalition which was in charge of the Ministry of Family Affairs. It is true that Law No. 103-13 was criticised by several NGOs and seen as a missed opportunity to give Morocco complete and ambitious legislation on protecting women against all forms of violence to which they are subjected, and perceived as not offering a level of protection similar to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210). According to these NGOs, neither their opinions nor those of the CNDH were taken into account, which, they say, explains for example the absence of any definition of marital rape.

33. In relation to paragraph 5 of Assembly [Resolution 2061 \(2015\)](#), I raised the subject of discrimination against women in matters of inheritance and the question of polygamy. The response from the Minister for Family Affairs was very clear: these two issues are not on the government's political agenda and the relevant legislation is currently sufficient as polygamy, for example, is strictly regulated by Moroccan law.

34. Pending more detailed observations from the Committee on Equality and Non-Discrimination, I cannot but urge Moroccan MPs to encourage progress on gender equality, including as concerns the economy and education.

#### **3.4. Accession to Council of Europe conventions and partial agreements**

35. In the previous review of the partnership in 2015, the Assembly called on Morocco to consider acceding to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126), and the Council of Europe Conventions on Action against Trafficking in Human Beings (CETS No. 197) and on Preventing and Combating Violence against Women and Domestic Violence.<sup>19</sup>

36. I reminded those with whom I spoke of this during my visit and urged them to take steps to ratify the two conventions that Morocco signed in 2012 and 2013 but has failed to ratify.<sup>20</sup> I also drew their attention to the fact that some of the 12 invitations to accede to conventions made by the Committee of Ministers were in danger of lapsing.<sup>21</sup> I particularly underlined the fact that these 12 conventions include the European Convention on the Exercise of Children's Rights (ETS No. 160), the Convention on Contact concerning Children (ETS No. 192) and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201).

37. As accession to the Council of Europe's conventions and partial agreements is one of the principal means of enabling the creation of a common legal area between Europe and Morocco, I urge Moroccan MPs to continue with the process that was begun in 2011 and has resulted in their country becoming, on 1 September 2018, party to six conventions and seven partial and/or enlarged agreements and a signatory to two other conventions.

19. [Resolution 2061 \(2015\)](#), paragraph 5.6.

20. Convention on Mutual Administrative Assistance in Tax Matters, as amended by the 2010 Protocol (ETS No. 127), and the Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health (CETS No. 211).

21. That will, for example, be the case on 16 January 2019 for the invitation to accede to the [European Convention on Compulsory Insurance against Civil Liability in respect of Motor Vehicles](#) (ETS No. 29).

#### **4. A number of examples of the situation in Morocco in the areas of democracy, the rule of law and human rights**

38. As already pointed out in paragraph 5, it is my responsibility to comment on “progress in taking forward reforms [which] is the prime aim of the partnership for democracy and should constitute the benchmark for assessing the efficiency of this partnership”. The selected examples below illustrate the diversity of situations.

##### **4.1. Democracy**

39. Civil society representatives gave a positive reply when I asked for their assessment of the role played by the Moroccan Parliament in the current reforms, saying that MPs were very accessible and were genuinely committed to conducting a dialogue with civil society. On the other hand, they emphasised the fact that MPs should be given more resources, especially in terms of assistants, to enable them to fully exercise their mandate.

40. The Moroccan House of Representatives was recently twinned with the French National Assembly and the United Kingdom House of Commons, a project financed by the European Union for a period of 24 months (2016-2018). The main aim was to strengthen legislative drafting skills, enhance their ability to scrutinise government action and help promote the “gender” approach in parliamentary work. Furthermore, the assistance provided by the twinning to make increased use of new technologies has given considerable impetus to e-parliament, making the work of the House of Representatives more easily accessible to internet users through a high quality website.

41. Its ownership of the reforms makes it necessary for the parliament to be given sufficient resources to be able to fully exercise the powers vested in it by the Constitution. I therefore urge the Moroccan authorities to sustain the momentum in this area.

42. Ownership of the reforms will also have to be assured in the devolution process begun by Morocco, which was granted, in June 2018, the partnership for local democracy with the Congress of Local and Regional Authorities of the Council of Europe.

##### **4.2. Rule of law: the reform takes root**

43. The previous partnership evaluation report pointed to a slowdown in the pace of the reforms compared with the period 2011-12. This is not my finding as regards the construction of a State governed by the rule of law.

44. For example, 19 of the 22 institutional acts provided for by the 2011 Constitution have been passed, the most recent, on objections as to unconstitutionality, on 6 February 2018. The three institutional acts still pending are: the Act on the Amazigh language, the Act on the National Council for Moroccan Languages and Culture and the Act on the right to strike. The Minister for Culture and Communication told me that the first two are likely to be passed in the near future.

45. Progress here is plain to see: in 2015, only 10 of the 22 institutional acts had been passed by parliament. The legal tools are therefore in place to ensure that the 2011 Constitution is fully implemented.

46. The most notable progress as regards the rule of law is the recent judicial reform, which brought about two principal changes. Firstly, the High Council of the Judiciary (*Conseil supérieur du pouvoir judiciaire*), the successor of the High Judicial Council (*Conseil supérieur de la magistrature* – CSM) has been in place since July 2017, pursuant to the 2016 Institutional Act, its governing legislation. This body has benefited from a significant transfer of powers by the Ministry of Justice and has the task of guaranteeing the independence of the judiciary, whether with regard to their appointment, promotion, retirement or any disciplinary measures against them. It is completely separate from the Ministry of Justice and is presided over by the King and not, as used to be the case with the CSM, by the Minister of Justice.

47. The second important change is radical in nature: it consists in the absolute separation of the Public Prosecutor’s Office, which is headed by the Prosecutor-General at the Court of Cassation, from the Ministry of Justice. Prosecutors, once hierarchically subject to the authority of the minister, are now independent. Civil society representatives expect a great deal from this reform and the Prosecutor-General, whom I met, was optimistic regarding the impact of such a reform on ensuring the fairness of criminal trials.

48. Finally, civil society representatives informed me about the significant improvements in the implementation of decisions of the administrative courts, in particular the Rabat court.

### **4.3. Human rights: progress and limits**

49. In 2013, the Special Rapporteur on torture of the United Nations Human Rights Council noted “an emerging culture of human rights in Morocco”.<sup>22</sup> I am convinced that this is the case, as evidenced by the results of the Universal Periodic Review carried out by the Human Rights Council in 2017, but the situation varies according to the field concerned.

50. Institutionally, for example, it is clear that some of the independent authorities that promote human rights, such as the CNDH or the Royal Ombudsman (a genuine ombudsman), both endorsed by the Constitution, have recognised expertise and substantial resources to carry out their tasks. Civil society representatives had a very positive view of the CNDH’s legal expertise, its influence and its ability to engage in a dialogue with various players, such as the government, parliament, civil society and the King, even though some would like it to go beyond the mere promotion of human rights and defend them in a more public way, for example in the case of the four journalists who reported on the work of a parliamentary committee of inquiry on the Moroccan Retirement Fund and were prosecuted for failing to respect its confidentiality and the principle that its meetings are held behind closed doors.

51. A major step forward was the passing in February 2018 of Law No. 76-15 modifying the statute of the CNDH in order to extend its powers to the implementation of the National Mechanism for the Prevention of Torture (NMPT),<sup>23</sup> the protection of children’s rights and the protection of the rights of people with disabilities. It will be important to monitor the implementation of the NMPT, since Morocco faces frequent criticism concerning its treatment of detainees or the use before the courts of confessions obtained following ill-treatment. In this connection, the NMPT complements the examination by the United Nations Committee against Torture of the implementation of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the possibility, under certain conditions, for that committee to consider individual complaints.

52. I noted contradictory trends regarding freedom of expression and freedom of the press. On the one hand, the National Press Council, which will bring together journalists, editors, publishers, owners of press titles and members of the CNDH and will participate in regulating the sector, is likely to be elected in the near future. Moreover, the new Press Code adopted in 2016 seems relatively positive in terms of protecting journalists. Furthermore, there are more private than public media and they are allowed to receive foreign funding. On the other hand, both the facts and testimony from civil society representatives seem to show that “old habits” die hard: the four journalists accused of breaching the confidentiality of the deliberations of the committee of inquiry on the Moroccan Retirement Fund face one to five years’ imprisonment under the Criminal Code. In addition, seven bloggers, most of them said to be journalists and human rights activists, are also being prosecuted for covering the social unrest that shook the Rif region in 2017.

53. Lastly, with regard to freedom of association, civil society representatives drew my attention to the fact that the administrative authorities are continuing with their practice of refusing to issue a notification of registration to certain organisations. They claim that Human Rights Watch, for example, is not able to open an office in Morocco.

54. In addition to having reinforced its interaction with United Nations human rights mechanisms, the Moroccan parliamentary delegation gave me a number of examples of the promotion of economic, social, cultural and environmental rights.

### **4.4. The events in Rif: a test for certain human rights reforms**

55. In 2017, extensive social unrest shook the town of Al Hoceima, in the Rif region, which is often described as poor and marginalised. Initially, the authorities allowed the demonstrations to take their course but then took strict measures to maintain public order. Approximately 400 people were arrested, nearly 800 police officers were injured and there was 1.7 million euros worth of damage (20 million dirhams). Of these 400 people arrested, 300 were prosecuted, some of them journalists. Accusations of abuse, ill-treatment and torture were brought to the attention of NGOs and were refuted by the Moroccan authorities. In his speech on 29 July 2017, the King strongly defended the police action and condemned the local authorities’ inability to meet the legitimate economic and social expectations of the region’s population.

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22. A/HRC/22/53/Add.2.

23. Set up by an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the NMPT authorises the CNDH to inspect places of detention unannounced. This system is duplicated at international level: the UN Human Rights Council’s Sub-Committee on Torture can also make unannounced visits.

56. I believe that these events will be a test for several of the reforms embarked upon to guarantee human rights. I was informed that the CNDH had in fact investigated the allegations of torture but not publicly. The Royal Ombudsman was not asked to look into the matter as it did not fall within his responsibilities. Finally, when I questioned the Minister for Human Rights on this subject, he replied that if the rights of some of the demonstrators had been violated it was up to them to bring their case before the courts, but it should also be remembered that certain offences had been committed, and not only against police officers. Places of worship had, for example, been used for political purposes in order to pass on messages threatening public safety and security.

57. It will therefore be particularly interesting to see what weight will be given by the courts to freedom of expression, especially freedom of the press, and what importance they will attach to a fair trial. This will also provide an opportunity to assess whether the new independence of the Public Prosecutor's Office has any impact on how prosecutors conduct themselves and what sentences they call for. In order to be as objective as possible, I plan to add, if necessary, an addendum to this report on the aftermath of the events in Rif. The decision of the King, in August, to grant a pardon to 188 people convicted in relation to these events shows that new developments can still happen in this case.

## **5. An exemplary reform: Moroccan migration policy**

58. "Migration is a natural phenomenon which is part of the solution not the problem", stated the King at the 30th African Union Summit in January 2018. At his request, the Moroccan Government developed a national strategy for migration in 2013, which took into account the fact that, after being a country of emigration, then of transit, Morocco had become a country of immigration.

59. The authorities therefore began a process regularising the status of undocumented migrants in 2014. Out of 28 000 regularisation applications, 23 000 were accepted. A second wave of regularisations took place in the 2016-2017 period: 16 000 out of 27 000 requests were granted. The entire process was organised and monitored by the CNDH, which established guidelines for processing applications and acted as an appeal body. At the same time as these regularisations, Morocco stepped up its efforts to combat human trafficking networks and increased its security forces along its coastline facing Spain. The measures produced results: according to the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), approximately 14 000 irregular migrants arrived in Spain in 2016, whereas 180 000 arrivals were recorded in Italy during the same period.

60. According to the United Nations High Commissioner for Refugees (UNHCR), there were 7 000 refugees and asylum seekers in 2017 half of whom were Syrian. While it is difficult to estimate the number of irregular migrants, it seems that the majority of them were from sub-Saharan countries.

61. Morocco has a comprehensive migration policy concerning refugees and migrants residing legally in the country: the authorities or delegated structures (associations, unions, UNHCR, etc.) facilitate their access to education, social services and employment. Children of refugees attend school for free, resulting in a 75% enrolment rate. Two other measures are often highlighted by the Moroccan authorities: the efforts made to provide migrants and refugees with training in Arabic and French, in addition to culture lessons on Moroccan society in general with a focus on family values and the role of women.

62. A union, the Democratic Confederation of Labour, is responsible for the representation of migrants in Moroccan society and migrants have access to citizen participation mechanisms in municipalities. Municipalities also play their part in the various aspects of this integration policy, mainly through education (language courses) and access to social security benefits, with regard to housing in particular. In December 2017, Rabat City Council set up a committee responsible for the integration of migrants that works in close co-operation with two national structures: the National Agency for the Promotion of Employment and Skills and National Mutual Aid, which specialises in social action.

63. Morocco's migration policy has been applauded by the United Nations Secretary-General, the International Organisation for Migration and the African Union. It has enabled Morocco to become a recognised authority on migration issues in Africa and the African Union has asked Morocco to establish an Agenda for Migration. In January 2018, the King of Morocco proposed the creation of a Migration Monitoring Centre and a Special Envoy for this matter within the African Union. In addition, Morocco will organise a United Nations intergovernmental conference in December 2018, which is expected to adopt a global pact on migration, and a Global Forum on Migration and Development, at which the King has undertaken to ensure that Africa's voice is heard.

64. Morocco is now facing two challenges. First, violent confrontations took place in November 2017 in Casablanca between young Moroccans and migrants. In a country with a high poverty rate, there is a risk of a temptation to criticise migrants for having been given everything too easily, although the King's personal commitment to this matter has so far limited widespread protest. In addition, academic studies have highlighted the continuing depiction of stereotypes and prejudice against sub-Saharan migrants in certain Moroccan newspapers. In other words, Morocco is going to be faced with the same challenge of tolerance as that experienced in other countries of immigration.

65. Second, the real fear shared by the authorities in Rabat and Madrid that the route taken by migrants through the Central Mediterranean will shift from Libya to Morocco. Highlighting the lack of European Union support for Morocco, the former Spanish Minister of the Interior had expressed his wish for the European Union to sign an agreement with Morocco, similar to the one made between the European Union and Turkey.

66. In this connection, it is interesting to note that the draft agreement on readmission between the European Union and Morocco was negotiated for 12 years before being abandoned in 2015, with the Moroccan authorities criticising the European Union's exclusively punitive approach and calling for a global strategy to deal with migration.

## 6. Western Sahara: recent developments

67. With regard to Western Sahara, termed by the United Nations as "a non-self-governing territory"<sup>24</sup> under Moroccan *de facto* administration, and the "southern provinces" according to Morocco, the Assembly's position, in the context of the evaluation of the partnership for democracy, remains the same: it is not the Council of Europe's place to give an opinion on the political solution to this dispute, since the United Nations is dealing with the case and has an ad hoc mission, MINURSO, in the country.

68. However, respect for human rights in this region does fall within our remit, as noted moreover in Assembly [Resolution 2004 \(2014\)](#) adopted on the basis of the report by Ms Liliane Maury-Pasquier,<sup>25</sup> and in paragraphs 6-8 of [Resolution 2061 \(2015\)](#) on the last evaluation of the partnership with the Moroccan Parliament.

69. The Moroccan position on this matter is known: considering that Western Sahara is an integral part of its territory, Morocco expects to have sovereignty in managing human rights issues in this area and remains extremely sensitive to anything that appears to interfere in its domestic affairs. The consequences of this are varied to say the least.

70. It is therefore accurate that "the emergence of a human rights culture in Morocco", mentioned by the United Nations Special Rapporteur on torture in 2013, can also be seen in Western Sahara. It can mainly be seen through progress in the rule of law, as shown in the action taken in response to the Gdeim Izik case.<sup>26</sup>

71. The dismantling of a camp on 8 November 2010, originally erected in protest against economic and social conditions for Sahrawi's, resulted in the deaths of 11 members of the security forces and two civilians. Twenty-five militant Sahrawi's were arrested, most of whom were detained then brought before a military court. On 27 February 2013, that court handed down 25 sentences: two years imprisonment for two of the defendants and between twenty years and life for the other 23. The ruling was annulled by the Court of Cassation on 27 July 2016 on legal grounds. On closer inspection it is clear that the Court was extremely critical of the reasoning and motivation behind the military court's judgment, and even went so far as to consider that for some of the accused, the military court had failed to establish that the alleged crimes had been committed.

72. The 25 defendants then benefited from the law of 10 December 2014 promulgating the new Military Justice Code, which transferred all crimes committed against the Royal Armed Forces to ordinary courts, and saw the case sent back to the Rabat Court of Appeal's branch in Salé. During the hearings held between December 2016 and July 2017, the Court granted the defendants' request, which had previously been ignored by the military judge, to obtain an expert medical opinion to prove that acts of torture had been committed against them during their arrests and detention, as they had claimed. It also granted the defence's request to question the experts who carried out these medical tests, which had concluded that there was no link between the physical after-effects displayed by the defendants, recorded seven years after the alleged acts, and any possible acts of torture. At the same time, the CNDH, which has regional committees in Laayoune and

24. The expression "non-self-governing territory" comes from Chapter XI of the United Nations Charter.

25. [Doc. 13526](#).

26. Gdeim Izik is located about ten kilometres from Laayoune, the main city in Western Sahara.

Dakhla, followed the trials, both in the military court and the Court of Appeal and recounted the proceedings in detail without omitting to report the defendants' allegations of torture.<sup>27</sup> It concluded that the trial before the Rabat court had been a fair trial. In its ruling of 16 July 2017, the Court confirmed but did not increase the already severe sentences for 17 defendants and reduced the sentences in six cases. All the defendants have launched an appeal on points of law, which will be particularly interesting to follow.

73. The Gdeim Izik case serves as an example: the formal respect of the fair trial requirement really captured the attention of the Moroccan judicial system, particularly with regard to the Court of Cassation, and of the CNDH. In addition, from the outset, the justice system had opted for transparency by enabling many members of the national and international press, along with international observers, to attend the hearings.

74. At the same time, the fact that Morocco considers Western Sahara as its southern provinces and is extremely sensitive to anything that it perceives as foreign interference explains why, for example, it does not want MINURSO to broaden its remit to human rights issues or why it has no hesitation about restricting "access to Western Sahara for foreign visitors, including journalists and human rights defenders and lawyers from Morocco", as stated by the United Nations Secretary-General to the Security Council in 2018.<sup>28</sup> Human rights violations in Western Sahara are for the most part the consequence of a hardening of position on what it perceives as an attack on the Kingdom's territorial integrity. Consequently, the United Nations Secretary-General relayed allegations that Sahrawi human rights groups were experiencing difficulties in exercising their right to associate as the government refused to register them,<sup>29</sup> or that the right of assembly and the right to demonstrate were being routinely challenged to the west of the berm.<sup>30</sup> Lastly, the persistent lack of investigations into allegations of human rights violations perpetrated against Sahrawis, particularly allegations of torture in places of deprivation of liberty, continue to be reported by the United Nations.<sup>31</sup> In this connection, it will be important to monitor the specific impact of the implementation of the National Prevention of Torture Mechanism by the CNDH in Western Sahara.

75. Morocco has pursued its developmental efforts in Western Sahara, which constitute in particular a regional investment plan which, according to the Moroccan delegation, amounts to 8 billion dollars.

76. In addition to the human rights situation, three developments that have taken place since 2015 in Western Sahara are worth bringing to the attention of Assembly members.

77. The first concerns the Guerguerat crisis, which began in summer 2016 and lasted until the end of February 2017. The crisis, which saw armed contingents of the Polisario Front and the Royal Moroccan Gendarmerie deploy in a zone considered as a buffer zone, on either side of the ceasefire line,<sup>32</sup> reminds us that in the absence of a political solution to the Sahrawi question, there is always the possibility that tensions will mount, as will the resulting risk of matters getting out of hand. In this case, it should be noted that Morocco was responsible for the de-escalation by unilaterally withdrawing its gendarmes from the buffer zone at the request of the United Nations Secretary-General in February 2017. The Polisario Front did the same in April. Later on, a small group of apparently non-armed individuals from the Polisario Front established a "monitoring post" inside the buffer zone in order to block the Africa Eco Race, an off-road automobile rally which was to

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27. CNDH, preliminary report on the conduct of the trial of the defendants in the Gdeim Izik case, [http://ccdh.org.ma/sites/default/files/documents/Rapport\\_preliminaire\\_sur\\_le\\_deroulement\\_du\\_proces\\_des\\_personnes\\_accusees\\_dans\\_les\\_evenements\\_de\\_Gdeim\\_Izik.pdf](http://ccdh.org.ma/sites/default/files/documents/Rapport_preliminaire_sur_le_deroulement_du_proces_des_personnes_accusees_dans_les_evenements_de_Gdeim_Izik.pdf) and Gdeim Izik trial observation – Summary Report, [www.cndh.org.ma/sites/default/files/rapport\\_synthetique\\_sur\\_lobservation\\_du\\_proces\\_de\\_gdeim\\_izik.pdf](http://www.cndh.org.ma/sites/default/files/rapport_synthetique_sur_lobservation_du_proces_de_gdeim_izik.pdf).

28. Report on the situation concerning Western Sahara, S/2018/277, paragraph 69.

In the 2017 report (S/2017/307), paragraph 72 notes in particular that: "The Government of Morocco confirmed to OHCHR that some 187 foreigners were forcibly expelled from the 'southern provinces'."

29. Report on the situation concerning Western Sahara, S/2018/277, paragraph 68.

30. Ibid., paragraph 70.

31. Ibid., paragraph 66.

32. The United Nations Secretary-General explained the crisis in his report to the Security Council on the situation concerning Western Sahara on 10 April 2017 (S/2017/307, see paragraphs 2 to 13). Guerguerat is a village located in the south of Western Sahara, not far from the Mauritanian border. On 14 August 2016, Morocco started to tarmac a track linking its position at the berm, which protects the territory held by the Moroccan Armed Forces, and the Mauritanian border post 3.8 kilometres to the south. In response to what it considered a violation of the ceasefire agreement of 1991 and military agreement No. 1, Polisario Front deployed armed personnel on 15 August 2016 in order to stop the work, then fortified its position. According to the Secretary-General, "tensions continued to rise until they reached a peak in mid-February 2017, when Polisario Front started impeding the movement through Guerguerat of civilian and commercial vehicles displaying Moroccan insignia and maps showing Western Sahara to be part of Morocco" (paragraph 11).

pass through the area, which it disrupted on one occasion before ceasing its actions. According to the United Nations Secretary-General,<sup>33</sup> as of 1 March 2018, however, this group from the Polisario Front had not left the buffer zone.

78. The second important development is the willingness of the United Nations Secretary-General to relaunch the negotiations that have been blocked since 2012, in order to find a political solution. He subsequently appointed Mr Horst Köhler, former President of the Federal Republic of Germany, as his personal envoy to Western Sahara from September 2017. The latter launched a series of consultations in October 2017 and proposed a meeting in Berlin between Algeria, Morocco, Mauritania and the Polisario Front in 2018. He made a four day visit to Western Sahara during which he had a series of meetings, in particular with the Chairperson of the CNDH's regional human rights commissions in Laayoune and Dakhla.

79. In its latest resolution on the Western Sahara on 27 April 2016, the Security Council encouraged the parties "to work with the international community to develop and implement independent and credible measures to ensure full respect for human rights, bearing in mind their relevant obligations under international law".<sup>34</sup>

80. The third new development is linked to two judgments of the Court of Justice of the European Union and their consequences. In a judgment of 21 December 2016,<sup>35</sup> *Council v. Polisario Front*, the Court pointed out that the agreement between the European Union and Morocco concerning liberalisation measures in agriculture and fishing, which entered into force in 2012, was applicable only to the territory of the Kingdom of Morocco and not to Western Sahara, in the absence of a specific mention to that effect, therefore depriving products originating in that territory of customs exemptions on imports to the European market. Then in response to a request for a preliminary ruling, the Court, in an opinion on 27 February 2018,<sup>36</sup> applied the same solution to the Fisheries Partnership Agreement, which entered into force in 2007 and enables fleets of member States to fish in territorial waters and Morocco's special economic zone, in exchange for financial compensation. It therefore ruled that this agreement was not applicable to fishing zones adjacent to Western Sahara.

81. Through these two judgments, the Court reaffirmed European doctrine, namely that Western Sahara is a "non-self-governing territory", and drew the resulting commercial consequences from this. Since then, there have been questions about the real scope of these decisions.

82. Through a judgment of 21 March 2018, the Council of the European Union authorised the European Commission to open negotiations with a view to amending the Fisheries Partnership Agreement and concluding a protocol with the Kingdom of Morocco,<sup>37</sup> the Commission having to introduce stipulations enabling it to guarantee that the populations affected by the agreement would benefit from socio-economic advantages and from the exploitation of natural resources in their territories. In addition, the terms of reference given to the Commission clearly indicate that the scope of the amended fisheries agreement and the new protocol will be extended to Western Sahara.

83. Set out in this way, the terms of reference seem to a certain extent to be compatible with the position of Morocco, which had been rather disappointed with the two judgments of the Court. With regard to the agreement on liberalisation measures in agriculture and fisheries, the Council of the Union decided on 16 July 2018 to authorise the Commission to sign the amending agreement between the European Union and Morocco, which it negotiated so that the text specifies that it will now apply to Western Sahara.

## 7. A high-quality dialogue with the Parliament that can be further developed

84. Previous reports had mentioned the Moroccan parliamentary delegation's very high level of participation in the Assembly's activities and its readiness to organise programmes in Rabat that were directly linked to our work. The same could be said for the 2015-2018 period. The delegation maintained a particularly high attendance at our committee meetings and part-sessions.

85. In addition, during the 2015-2018 period, there was a high level of co-operation between the Assembly and the Moroccan Parliament. Seminars, regional conferences, training sessions and forums were organised for the Moroccan Parliament and its staff, in co-operation with them, or with their participation.<sup>38</sup> The

33. S/2018/277, paragraph 36.

34. S/RES/2414 (2018).

35. C-104/16 P.

36. C-266/16.

37. COM(2018)151final and COM(2018)151final ANNEX.

Assembly committees, in particular the Committee on Migration, Refugees and Displaced Persons and the Committee on Equality and Non-Discrimination, were heavily involved in these events, along with Moroccan MPs.

86. In order to further develop dialogue, taking into account the exemplary nature of political dialogue since 2011, I suggest that:

- the relevant Assembly committees organise hearings with representatives of highly reputable bodies in the field of democratisation such as the CNDH, whose Chairperson was before the European Parliament a few months ago, the Royal Ombudsman, the Economic, Social and Environmental Council and the now independent head prosecutor;
- Moroccan members of parliament be involved in a news watch, enabling them to present significant subjects discussed in Rabat to Assembly committees (for example changes in the Electoral Code, the reform of the CNDH and the implementation of a mechanism to combat torture, devolution, education system reform, the regularisation of undocumented migrants, the fight against radicalisation...).

87. The partnership for democracy should not be one-sided and I am convinced that it would be extremely worthwhile to present some of Morocco's experiences to the members of the Assembly.

88. In the course of my mission, I was informed of the desire for the partnership to be further developed, on the grounds that it has been seven years since Morocco was granted this status, the country has made considerable progress and the Moroccan delegation's level of participation is unequalled. This desire has not yet been backed up by specific requests, but I am convinced that ultimately, the Assembly will have to give some thought to this status which has proven its worth, but which now brings together States in disparate stages of reform and whose parliamentary delegations are involved to varying degrees in the Assembly's activities.

## 8. Intergovernmental co-operation

89. Currently, intergovernmental co-operation is included in the "Neighbourhood Partnership with Morocco 2018-2021" approved by the Committee of Ministers on 21 March 2018.<sup>39</sup> The document follows on from the Partnership for 2015-2017, which itself follows on from the 2012-2014 priorities for Morocco approved by the Secretary General of the Council and Morocco's Minister of Foreign Affairs.

90. As in the previous cycle, the Partnership is composed of two parts, one which pertains to increased political dialogue, including the partnership for democracy with the Moroccan Parliament, and one that focuses on co-operation.

91. According to the Committee of Ministers, political dialogue developed significantly between 2015 and 2017 at "technical level with representatives of the Ministry of Foreign Affairs and specialised ministries, including through their participation in the Council of Europe's committees of experts". The objective for 2018-2021 is that "the intensity [reflects] the quality of the co-operation between Morocco and the Council of Europe". In this regard, the visit by the Deputy Secretary General of the Council of Europe to Rabat on 11 and 12 April 2018 and her discussions with several ministers testify to this willingness to develop "high-level" dialogue.

92. With regard to co-operation, the Committee of Ministers gives a positive analysis for 2015-17. The objective for 2018-21 consists of developing co-operation in areas where a sound basis has been established with the Moroccan partners, namely: the promotion of gender equality and combating violence against women; the promotion of children's rights, particularly the protection of children against sexual exploitation

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38. – Regional conference: A global, humanitarian and political response to the migration and refugee crises in Europe, Paris, 16 December 2016.

– Training seminar for staff from the Moroccan Parliament on the parliament's role in controlling public policies, Rome, 2-3 March 2017.

– Seminar on the neutral and independent observation of elections, Rabat, 28-29 March 2017.

– Regional conference for the creation of a Parliamentary Network on Diaspora Policies, Lisbon 7-8 September 2017.

– Regional meeting for the Mediterranean region of the Parliamentary Network on Diaspora Policies, Rabat, 8 February 2018.

– Annual Diaspora Forum: migration as an opportunity for development: the role of diasporas, Geneva, 18 May 2018.

– Regional conference on women in politics: how to progress towards equality?, Rabat, 5 July 2018.

– Regional meeting of the Parliamentary Network Women Free from Violence, Paris, 20 September 2018.

39. CM(2018)47.

and sexual abuse; the prevention of torture; the fight against human trafficking; the promotion of migrant rights and integration; personal data protection; the fight against drug abuse and illicit trafficking in drugs; the fight against counterfeiting of medical products; the promotion of the independence, efficiency and quality of justice, including constitutional justice; the promotion of the freedom of expression and the pluralism of the media; the fight against organised crime (corruption, money laundering, etc.); the fight against cybercrime; training political stakeholders, from civil society to democratic governance. Co-operation is to be extended, at the request of the Moroccan authorities, to new sectors included on the national reform agenda, namely: human rights training for legal professionals; local and regional governance; combating discrimination; preventing radicalisation.

93. The overall budget of the Neighbourhood Partnership is approximately €12 million for 2018-21, namely twice the figure for the previous period (€6.25 million for the Partnership 2015-17), of which €2.1 million is to be funded by the European Union. The breakdown shows a choice in favour of action relating to the rule of law, supported by up to approximately €7 million, in comparison with €3 million for action promoting human rights and €2 million for action relating to democracy.

## **9. Conclusions**

94. In 2018, a member of the Committee on Political Affairs and Democracy stated that the Morocco of 2011 was completely different to the country we see today. Having had the opportunity to draft two evaluation reports on the partnership for democracy, I share this opinion. In the areas of rule of law and institutions responsible for promoting human rights, there has been real progress. With regard to the partnership itself, I consider that, as in the past, it is producing highly satisfactory results.

95. I particularly welcome the fact that the reform process initiated by the King in 2011 has been carried out without challenging the country's stability. However, the fear of instability should not lead to certain freedoms being restricted, nor should it make it difficult or even impossible to exercise them. If Morocco is capable of establishing an exemplary migration policy, particularly with regard to the situation in Europe, it is just as capable of guaranteeing the effectiveness of all the rights and fundamental freedoms included in its Constitution.

96. It is often said that Morocco is a bridge between Africa and Europe. My wish is that its European foundations are the deepest and strongest possible.