



Mr Bernard Kouchner
Minister for Foreign and European Affairs
Ministry for Foreign Affairs of France
37 Quai d'Orsay
75007 Paris
France

Brussels, 3 December 2008

Re: *The EU must take immediate action to end the imposition of unlawful restrictive measures on the civilian population of the Gaza Strip*

Dear Minister,

The Euro-Mediterranean Human Rights Network (EMHRN), APRODEV and CIDSE strongly condemn the internationally unlawful restrictive measures imposed on the civilian population of the Gaza Strip and aid providers by Israel since June 2006 and Israel's tightening of those measures since 5 November 2008. We are writing to you as Israel's intensification of these restrictive measures has given rise to an acute humanitarian crisis. These developments demand extraordinary and urgent action from the international community including the EU.

In accordance with a) the objectives of the Common Foreign and Security Policy (CFSP), namely to promote the rule of law and respect for human rights and fundamental freedoms, including compliance with international humanitarian law (IHL) in third countries; b) the obligations of the EU Member States as High Contracting Parties to the Fourth Geneva Convention, which require them to "respect and ensure respect" for this Convention "in all circumstances"; and c) the EU's and Israel's commitments to respect human rights as set out in the EU-Israel Association Agreement and the European Neighborhood Policy, **we call on the EU and its Member States to employ the means at their disposal – including within the framework of their bilateral contractual relations – to bring an end to the imposition of the restrictive measures** on the civilian population of the Gaza Strip inasmuch as those measures constitute acts of collective punishment.

Despite the withdrawal of the Israeli settlers from the Gaza Strip in 2005, Israel has continued to exercise effective control over the Gaza Strip, retaining its status as an occupying power as well as its legal duty to ensure the welfare of the Palestinian population. In this regard, the EU should not overlook its responsibility to **ensure that the enhancement of the EU-Israel relationship currently under negotiation contributes to the objective of promoting Israel's compliance with its obligations as an occupying power under IHL. Progress in these negotiations should be conditioned on Israel's putting an immediate end to its illegal restrictive measures.**

The EU must ensure that it is not in any way complicit in breaches of IHL. The **Community and the Member States** provide substantial financial support to the Palestinian population of the Gaza Strip, and contribute more than half of UNRWA's total budget in 2008. They also finance the industrial fuel needed to operate Gaza's power plant. Their minimum legal responsibility **is to ensure that their assistance is not implemented in a manner that gives effect to Israel's internationally wrongful restrictive measures or other acts of collective punishment targeting the Palestinian civilian population.**

In keeping with the above, the EU should take urgent action to ensure that Israel:

- Permits and facilitates humanitarian aid shipments, removes all punitive obstacles to trade and ensures that the civilian population of the Gaza Strip is adequately supplied in accordance with Articles 59 and 33 of the *Fourth Geneva Convention of 1949*;
- Permits sufficient fuel supplies into the Gaza Strip to meet the needs of the civilian population and enable all essential services to function effectively;
- Allows all patients that are in need of medical treatment abroad to promptly obtain such treatment;
- Allows all humanitarian aid workers unimpeded access to the Gaza Strip.

Furthermore, the EU should demand from Israel that:

- All students are able to leave the Gaza Strip to pursue their studies;
- All human rights defenders are able to leave and return to the Gaza Strip to carry out their work, in accordance with the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.¹

In this context, the EU should work to restore compliance with the Agreement on Movement and Access (AMA) negotiated by the parties in November 2005. The Karni and Rafah crossings to the Gaza Strip must be opened as an immediate first step and the EU should resume its monitoring mission at the Rafah crossing point as soon as possible.

We wish to call the EU and Member States' attention to a statement made on 18 November 2008 by the UN High Commissioner for Human Rights (HCHR), Ms. Navi Pillay, calling for an *"immediate end to the Israeli blockade of Gaza"*. She added that *"by function of this blockade, 1.5 million Palestinian men, women and children have been forcibly deprived of their most basic human rights for months. This is in direct contravention of international human rights and humanitarian law. It must end now."* The HCHR further called on the *"Israeli authorities to facilitate the urgent passage of essential humanitarian goods, including food, medical supplies, and fuel; to immediately allow the restoration of electricity, water and other essential services; and to lift movement restrictions preventing the passage of civilians for medical, educational and religious purposes. (...) Only a full lifting of the blockade followed by a strong humanitarian response will be adequate to relieve the massive humanitarian suffering evident in Gaza today."*²

We wish to emphasise that these measures should be a first step towards achieving a lawful end to Israel's occupation of the Palestinian territory it has occupied since 1967 that is consistent with the Palestinian people's exercise of their fundamental right to self determination.

As associations and networks of non-governmental organisations whose work, partners and constituencies are directly affected by the failures to respect and ensure respect for IHL obligations

¹ Hamdi Shaqqura (PCHR) and Mahmoud Aburahma (Al-Mezan Center for Human Rights) were once again not granted permits to leave Gaza to attend the bi-annual meeting of the EMHRN working group on Palestine/Israel and Palestinians (PIP), which took place on 8 and 9 November 2008 in Brussels, Belgium. Israel banned them from travel dozens of times during the past two years and as a result they could not take part in significant human rights events including events organized by the EU and the last five PIP WG meetings.

² UN OHCHR Press release, *Pillay calls for an immediate end to the Israeli blockade of Gaza*, 18 November 2008.

discussed in this letter, we respectfully request that you inform us as to how you envisage pursuing the EU's goal of promoting compliance with IHL in this situation.

Sincerely yours,



R.W.F. van Drimmelen
General Secretary



Bernd Nilles
CIDSE Secretary General



Kamel Jendoubi
President of the EMHRN

Letter sent to:

Ms Rama Yade, Minister of State for Foreign Affairs and Human Rights,
Presidency of the Council of the EU

Mr Javier Solana, Secretary-General of the Council of the EU,
High Representative for the CFSP

Ms Benita Ferrero-Waldner, Commissioner for External Relations,
European Commission, DG RELEX

Mr Louis Michel, Commissioner for Development and Humanitarian Aid,
European Commission, DG DEV

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EMHRN: Ms Nathalie Stanus, Project Coordinator Palestine/Israel and Palestinians, Tel: +32 2 540.86.46, nst@euromedrights.net

Aprodev is the association of 17 development and humanitarian aid agencies in Europe which work closely together with the World Council of Churches.

CIDSE is an alliance of 16 catholic development organizations from Europe and North America (www.cidse.org). The CIDSE Secretariat is based in Brussels.

The Euro-Mediterranean Human Rights Network (EMHRN) gathers more than 80 human rights organisations, institutions and individuals based in 30 countries around the Mediterranean. It works to promote and protect human rights within the framework of the Barcelona Process. In 2007, The Euro-Mediterranean Human Rights Network celebrated its tenth anniversary.