EUROPEAN PARLIAMENT

MEMBER OF THE EUROPEAN PARLIAMENT

Brussels, 5 December 2011

Dear High Representative,

Dear Ministers,

Before the Bonn conference on Afghanistan that will take place on 5 December 2011, the undersigned European Parliamentarians urge the EU and its Member States to clearly and publicly spell out the terms and red lines of their engagement with regard to the transition process in Afghanistan. We express our concerns and worries about the negotiations under way between the government of Afghanistan and the Taliban or their affiliates. We recall that there cannot be peace without justice and that human rights are universal, indivisible, inter-related and inalienable.

We urge the EU and its Member States to reaffirm during the Bonn Conference that the following red lines are non-negotiable:

- **The full protection of all human rights, in particular women's rights, as guaranteed by the Afghan constitution and Afghanistan's international legal commitments**

The challenges of transition and reconciliation can only be addressed on the basis of the international legal commitments ratified by Afghanistan, especially International Human Rights and Humanitarian Conventions and the ICC Rome Statute. The political necessities of inclusive negotiation cannot serve as an excuse for turning a blind eye on the risks for continuous marginalisation of certain groups in the Afghan society, including women and pro-democratic voices. In this sense, the EU and its Member States should ensure that women are not excluded from the negotiation table at Bonn and afterwards (positive discrimination for women in parliament, executive powers to the Ministry of Women's affairs), and that their voices are properly and meaningfully heard. They should also conduct the negotiations to ensure that concrete commitments are taken to respect and support the Afghan Constitution as well as international provisions. The EU and Member States should

strongly condemn any attempt by any negotiator to question any of the international legal commitment made by Afghanistan or any human right guaranteed by the Afghan Constitution.

- **The primacy of democratic processes and institutions: Elections, Parliament, Afghanistan Independent Human Rights Commission (AIHRC)**

The primacy of democratic processes and institutions is a *sine qua non* for the success of transition. The EU and its Member States should reassert their support to these institutions and should not buy in arguments of cultural relativism as a basis for a special interpretation of commitments made by Afghanistan. The EU and its Member States should stand firm on the idea of primacy of democratic institutions to avoid the risk that a totally 'Afghan-led' process resting upon 'Afghan-style' institutions such as the Loya Jirga or the High Peace Council gets instrumentalised by the Taliban and their affiliates to impose non-democratic terms on the negotiations, excluding the majority of the Afghan population.

It is therefore fundamental that the EU and its Member States obtain all the negotiators' reaffirmed commitments to the regular organisation of free and fair elections open to all citizens, safeguarding the set 27% non-negotiable quota seats for women in parliamentarian elections and encompassing the guarantee of vetting and accountability mechanisms. Negotiators should reaffirm that the Parliament resulting from these elections will remain the main legitimate expression of the voice of all Afghans, and should therefore be considered the appropriate institution for scrutiny, budget and legal powers. Negotiators should also express concrete support to the Afghanistan Independent Human Rights Commission (AIHRC) as a key institution to ensure that truth-seeking as well as other transitional justice mechanisms are in place.

- **No peace without justice: the building and strengthening of the formal justice system as the only form of justice capable of protecting and promoting universal human rights**

The Bonn Conference and the overall transition process should not serve as a rehabilitation process for individuals with criminal records, or members of groups presently actively involved in human rights violations and/or which continue to play an active role in the insurgency. EU efforts to reinforce the justice system need to be stepped-up, in combination

with efforts of the international community, including NATO, to properly train and monitor the police and security forces. No security transfer to Afghan national forces should be allowed without these guarantees, which would otherwise mean more human rights violations and instability as portrayed today. Capacity reinforcement for the formal justice system with a view to judging perpetrators of human rights violations should be a priority, in complement to support for international criminal justice. The EU and its Member States should take the initiative of formulating a new UN mandate for the protection of civilians during the post-2014 period. A red line necessarily underlined is that negotiations should not grant legitimacy to human rights violators.

Beyond these red lines, we strongly urge the EU and its member States not to restrict their assistance to Afghan democratic institutions to quick-fixes, as an attempt to legitimize the early departure of international troops by 2014. Time-pressured efforts will most likely prove counter-productive as long as impunity prevails in the country and that some armed groups intend to dominate the population.

The EU and Member States' long term engagement is needed well beyond the Bonn Conference. All efforts to foster economic development should be connected with a proper analysis of the complexities of the Afghan economic and social fabric after 30 years of war and be coherent with the overall objective of democratisation. The massive promotion of private investments is a risky exercise in a country like Afghanistan where weak institutions, corruption and insecurity prevail. Neither sustainable exploitation of natural resources nor the fair distribution of revenues as an engine for democratisation can be guaranteed without strict legal guarantees, monitoring mechanisms and community empowerment development programmes. We therefore encourage the EU to review its strategy to support Afghanistan's economic development in this sense, and reconsider plans to promote private investment in the country, especially in the mining sector, in the current absence of proper guarantees like human rights impact assessments.

The Bonn conference on 5 December may be the starting point of a process full of 'fear and uncertainty' for all Afghan people, especially for Afghan women. The EU and its Member States have a key role to play in the crucial months and years to come by supporting pro-democratic voices in Afghanistan through its reassertion of the primacy of democracy, justice and human rights, and through the support to concrete measures in these regards.

Yours sincerely,

EUROPEAN PARLIAMENT

MEMBER OF THE EUROPEAN PARLIAMENT

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