



Royaume du Maroc

Institution du Médiateur du Royaume

Association des Ombudsmans de la Méditerranée

جمعية الأوبوسمان المتوسطيين

Asociación de Ombudsmán del Mediterráneo

Association of Mediterranean Ombudsmen



Eight AOM Training Session of Collaborators of the Ombudsmen Members of the Association

October 18th- 19th, Casablanca

On “The Deontology of Security Forces and the Rights of Migrants During Their Migratory Journey: the Role of Ombudsmen Institutions”

Executive Summary Report

According to the Athens Resolution adopted during the Third Meeting of the Association of Mediterranean Ombudsmen (AOM) in December 2009, and to the Association’s working plan in the field of training, this Eight AOM training session was organized in collaboration between the AOM and the Institution of the Mediator of the Kingdom of Morocco.

On this occasion, we bring up the process of creation of the Association which was first established owing to the initiative launched by the Mediator of the Kingdom (ex: Diwan Al Madhalim) in collaboration with the French Mediator (currently the Defender of the Rights) and the Defender of the People of Spain, in the aftermath of which the First Meeting for Ombudsmen and Mediators was organized in Rabat in November 2007, and crowned with the creation of a Mediterranean network for Ombudsmen, and the issuance of the Rabat Declaration which defines the main principles that gather the institutions of both sides of the Mediterranean and the most appropriate framework for common action, cooperation and collaboration among such institutions.

The efforts continued in a second stage in December 2008 in Marseille where they examined several issues relating to mediation institutions in connection with the Mediterranean environment, irrespective of the borders or the different conflicts. Therefore, we realized the necessity to create a tool for cooperation, collaboration and coordination among all the components of the Mediterranean network, which was called the Association of Mediterranean Ombudsmen, the headquarters of which is located in Tangiers, Morocco.

Hosted by the Center for Training and Exchange on Mediation in Rabat, this 8th training session chose as a theme “The Deontology of Security Forces and the Rights of Migrants during Their Migratory Journey: the Role of Ombudsmen Institutions », and was held over two days.

Some 26 collaborators have participated and 08 experts have animated the works of the session. Institutions members of the association have took part in this training, namely Georgia, Macedonia, Kosovo, Turkey, Albania, Egypt, Slovenia, Tunisia, Malta, Algeria, Greece, Spain, Italy, France, and Morocco, in addition to an observer from the Venice Commission (Council of Europe).

The expertise of UN agencies, such as the UNHCR (Morocco), as well as NGO’s such as GADEM (Anti-racism, defense and accompaniment of foreigners and migrants) was also resorted to during the training.

During the opening session, Mr. Abdelaziz Benzakour, Mediator of the Kingdom of Morocco and Honorary President of the AOM delivered a keynote where he outlined the importance of the choice of the theme of the current session, which reflects the attention paid by the Mediterranean Ombudsmen institutions to the issue of migration.

He added that the Association has organized meetings on this theme and has organized during the last year a training session in cooperation with the Association of the Francophone Ombudsmen and Mediators (AOMF) about the topic of migrant children.

Concerning the Moroccan migration strategy, Mr. Benzakour noted that Morocco has undertaken, as a first step which was launched in 2014, to regularize the administrative situations of more than 23000 of migrants coming from Sub-Saharan countries, and launched a second operation of regularization of the situation of undocumented migrants, and accordingly, the number of requests received until September 2017 amounted to 23800.

Later on, the Coordinator of the session Ms. Fatima Kerrich, Head of Communication, Training and Cooperation Division at the Mediator of the Kingdom, presented the outline of the training agenda.

Prior to the discussion of the first module, the representative of the Venise Commission, Mrs. Caroline Martin, highlighted that the Commission is extremely involved in strengthening national institutions, especially Ombudsmen which represent the heart of democracies and constitute a very good tool to analyse human rights situations. Moreover, she added that the Council of Europe is fully involved in human rights issues, namely migration affairs.

At the other end of the scale, Mr. Mohammed Benyayha, Advisor to the Mediator of the Kingdom, examined the international instruments related to the international legacy, and the respect of the migrants' rights, which guarantee them a number of rights, and chiefly the right to legal protection, freedom of movement, right to transit, departure and to seek asylum if one's life is put in jeopardy. These instruments include the Universal Declaration for Human Rights, the International Covenant for Civil and Political Rights, and the International Convention on the Protection of all the Migrant Workers and Members of their Families.

As for the international organizations that are concerned with migration issues, the expert noted that these bodies include different organisations, especially the United Nations, the UNHCR, and the IOM.

Immediately after, the first module on « **the Deontology of security and protection of human rights: definition and role of the**

Ombudsmen institutions » was introduced by Ms. Widade Makri, from the French Defender of Rights.

She briefly provided a definition of the Deontology of security and attempted to spot the correlation between the role of Ombudsmen institutions and monitoring of the compliance of the security forces with the ethical codes, so as to guarantee the observance and protection of human rights.

As for the main motives behind the complaints addressed to Defender in the field of security ethics, she explained that these motivations concerned themes such as: violence 32,9%; non compliance with procedures 14,6% ; refusal of complaint 13%; lack of impartiality during an investigation or intervention 8,8%.

Concerning the security bodies against whom the complaints were submitted, the expert pointed out that the national police came in the first place with 54,9% of the total cases, followed by the penitentiary administration with 22,7%, while 13,6% cases are against the national gendarmerie.

After that, she presented cases where the Defender of Rights intervened and how his action has contributed to the protection of migrants rights, through controlling deontology of security.

For example, she referred to the intervention of the French Defender with regard to the migrants' sufferings, especially through bringing up some of the ethical failings of the French security forces observed in Calais Camp or « jungle» (excessive use of force, use of tear/pepper gas...etc) in the years preceding its dismantlement.

For the second module entitled « **The means of influence of the Ombudsmen to protect migrants' rights during the return procedures, including return flights** », Ms. Eugenia Relano Pastor from the Spanish People's Defender, has outlined that the Spanish National Preventive Mechanism (NPM) has taken the mission of controlling the return flights since 2009, and has issued recommendations on repatriation and transfers, which guarantees adequate conditions for deporting the migrants while using the coercive or restraint measures.

She added that the Spanish NPM carries out visits to those places of involuntary detention and deprivation of liberty that are fall under the authority of various Spanish Public Administrations.

As for the inspections undertaken in border control, she noted that they cover centers with police facilities in airports, sea ports, transports of security forces for the transfer of detainees, foreign national repatriation operations, as well as Frontex operations.

In the same way, the expert pointed out that observations and recommendations have been submitted concerning the Frontex flight operations, namely the obligation of medical examination of the migrants prior to boarding (fit to fly condition), the obligation for security forces to bear an identification number, the necessity to provide interpreters and lawyers for the migrants, and the video recording of all restraint measures.

As for the third module, dealing with « **Interventions of the Ombudsmen for the protection of migrants rights in the access of the territory** », it was co-presented by Ms. Elena Adamoli and Antonella Dionisi from the Italian Guarantor for Rights of Persons Deprived of Personal Liberty, where they tackled the areas of intervention of the Italian NPM on the protection of migrants accessing the national territory.

Concerning the legal framework regulating the Italian NPM, they first showed that the Italian NPM is governed by the UN OPCAT, the EU Return Directive 115/2008 and the Italian Law N 10/2014.

As for its activities, the experts noted that it includes carrying out activities such as paying regular visits to the detention centers, submitting proposals and observations concerning existing or draft legislation, and making recommendations to the relevant authorities.

They stated that the NPM represents an independent external eye, which cooperates with NPM's, Ombudsmen and NGO's, and sets, in its perspectives, to broaden networking with returnees' countries of destination in view of developing post-return monitoring.

Similarly, the Italian Guarantor is actively engaged in the monitoring of « Hotspot centers» besides other bodies, namely EU

Agencies (FRONTEX, EASO, EUROPOL) (support to identification, fingerprinting, photo-taking, relocation and returns), International Bodies (UNHCR, IOM) and NGO's (information and identification of vulnerable migrants and victims of trafficking), in addition to the police and other law enforcement agencies (public order and security, identification, registration, fingerprinting and returns).

According to them, these Hotspots centers provide some services such as medical care, food, accommodation and Migrants kit.

However, noted the two experts, some failings were registered during the visits of the Guarantor to the migrants centers, such as the arbitrary undertaking of pre-identification procedure, which has a consequence the hindrance of migrants from accessing asylum. Moreover, they pointed out that the provision of information about asylum and *hotspot* procedures, and immigration law is not sufficient and adequate.

The fourth module dealt with « **Focus on the rights of vulnerable groups during the return procedures, including return flights** ». It was presented by Mr. Alfred Kokobashi, from the Albanian People's Advocate, who initiated his expose with a brief definition of return flights, and explored such concept in the light of international human rights standards.

On the other hand, he noted that the concept (like 'dignified return') does not necessarily guarantee the good and fair treatment of migrants who are returned to their home countries.

Similarly, he tackled the key standards developed by international organizations and the international monitoring bodies, like the European Committee for Prevention of Torture (CPT) and measures such as 'independent monitoring', and how these standards have been applied in practice during return flights, and in deporting rejected asylum seekers to their home countries.

On another aspect, the expert discussed the 'post-return monitoring', as a measure that guarantees the collection of information about the quality and feasibility of the programs aiming at enhancing the integration of returnees in their home countries, while stressing the importance of modern technology in increasing

the transparency, dignity and human rights compliance of return operations.

As for the last module, entitled « **Cooperation between Ombudsmen, international organizations and NGO's: ways and means, best practices** » it was co-facilitated by Ms. Sara Soujar from GADEM Association and Mr. Masaki Miyoshi from the UNHCR Office in Morocco.

The first expert gave an overview of the activities, objectives and sphere of intervention of the association.

In this regard, she stated that the Association is active in the domain of detection of discrimination against foreigners living in Morocco and the assessment of public policies relevant to the situation of migrants.

With regard to its interventions, the speaker explained that GADEM coordinates with international organisations to monitor the respect of human rights on borders, diagnostic of the situation of human rights, drafting of an annual report about the situation of migrants, paying visits to the place of detention in Mohammed V Airport in order to check whether the detention procedure has been observed or not.

As for Mr. Miyoshi, he revealed some key figures, namely the number of forcibly displaced persons worldwide in 2017 which amounted to 65,6 million people, the size of refugees 22,5 millions, and the number of people resettled in 2016 which reached 189 300 persons.

As far as the cooperation with Ombudsmen is concerned, the UNHCR Expert referred to the project which will be launched in the Balkans Region in 2018 over a period of 18 months, which aims at strengthening the coordination in the Region for the protection of the rights of migrants and refugees.

The project, which takes place in Albania, FYROM and Greece, and supported by France and Spain, involves the provision of financial support, technical expertise and information, as well as the improvement in the handling of individual cases.

It also includes paying visits to border crossing points, reception/detention centers, enhancing case transfers between Ombudsmen institutions for cross-border situations, and strengthening the capacity of Ombudsmen on the rights of people in need of international protection, countering xenophobia, hate speech and discrimination, as well as providing access to complaints procedures.

Concerning cooperation with the Moroccan National Human Rights Council (CNDH), the expert noted that UNHCR's started in 2007 the implementation of partnership with the CNDH for the protection of refugees and asylum seekers and intervention to address individual cases.

He added that the CNDH's functions include protection to migrants through providing them with a complaints mechanism, investigation, visits to detention centers, as well as preventive mediation of human rights violations etc.

Towards the end of the session, the participants issued a number of recommendations relevant to the theme of the training, namely:

- Drafting of a Code of Conduct for Ombudsmen institutions concerning migration issues;
- Implication of Ombudsmen in operations of regularization of the migrants legal status;
- Creation of an international mechanism concerned with the defense of migrants rights, and establishing domestic representations at the level of national Ombudsmen institutions;
- Drafting guides for treatment of migrants
- Implementation of Tirana Declaration on Migration
- Need for further coordination between, source, transit and destination countries in order to come up with a unified legal platform which meets the expectations of all parties
- Respect for human dignity upon return flights and expulsion operations

After delivering a brief closing speech, Mr. Benzakour handed out certificates to both experts and participants and declared the session closed.