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*Plenary sitting*

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**B8-0051/2019**

9.1.2019

## **MOTION FOR A RESOLUTION**

pursuant to Rule 108(6) of the Rules of Procedure

seeking an opinion from the Court of Justice on the compatibility with the Treaties of the proposed agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part  
(2019/2508(RSP))

**Patrick Le Hyaric, Heidi Hautala, Paloma López Bermejo, Florent Marcellesi, Jytte Guteland, Cecilia Wikström, Keith Taylor, Jakop Dalunde, Bodil Valero, Pascal Durand, Evelyn Regner, Soraya Post, Marita Ulvskog, Christine Revault d'Allonnes Bonnefoy, Barbara Lochbihler, Jean Lambert, Benedek Jávor, Ana Gomes, Klaus Buchner, Terry Reintke, Bart Staes, Indrek Tarand, Tilly Metz, Yannick Jadot, Eva Joly, Josep-Maria Terricabras, Ernest Urtasun, Thomas Waitz, Michèle Rivasi, Linnéa Engström, Philippe Lamberts, Margrete Auken, Fredrick Federley, Sergio Gaetano Cofferati, Norbert Neuser, Olle Ludvigsson, Aleksander Gabelic, Joachim Schuster, Anna Hedh, Eugen Freund, Karoline Graswander-Hainz, Jude Kirton-Darling, Clare Moody, Theresa Griffin, Marina Albiol Guzmán, Xabier Benito Ziluaga, Malin Björk, Matt Carthy, Kostas Chrysogonos, Javier Couso Permuy, Stefan Eck, Luke Ming Flanagan, Eleonora Forenza, Tania González Peñas, Anja Hazekamp, Dennis de Jong, Rina Ronja Kari, Stelios Kouloglou, Merja Kyllönen, Sabine Lösing, Jiří Maštálka, Marisa Matias, Anne-Marie**

**Mineur, Liadh Ní Riada, Dimitrios Papadimoulis, Sofia Sakorafa, Lola Sánchez Caldentey, Martin Schirdewan, Helmut Scholz, Barbara Spinelli, Neoklis Sylikiotis, Estefanía Torres Martínez, Miguel Urbán Crespo, Ángela Vallina, Marie-Christine Vergiat, Marie-Pierre Vieu, Gabriele Zimmer, Isabelle Thomas, Edouard Martin, Guillaume Balas, Sylvia-Yvonne Kaufmann, Karima Delli, Michael Cramer, Miroslavs Mitrofanovs, Judith Sargentini, Julia Reda, Monika Vana, José Bové, Jill Evans, Jordi Solé, Ana Miranda, Alyn Smith, Molly Scott Cato, Maria Heubuch, Sven Giegold, Tamás Meszerics, Ivo Vajgl**

**European Parliament resolution seeking an opinion from the Court of Justice on the compatibility with the Treaties of the proposed agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part (2019/2508(RSP))**

*The European Parliament,*

- having regard to the proposed agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part,
- having regard to the proposal for a Council decision on the conclusion, on behalf of the Union, of the agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part,
- having regard to the Charter of the United Nations, and in particular to its Article 73 in Chapter XI regarding Non-Self-Governing Territories,
- having regard to the Vienna Convention on the Law of Treaties between States, and in particular to its Articles 34 and 36,
- having regard to Resolution 34/37 of the General Assembly of the United Nations,
- having regard to Article 218 of the Treaty on the Functioning of the European Union,
- having regard to the General Court judgment of 10 December 2015 (Case T-512/12)<sup>1</sup>,
- having regard to the CJEU judgment of 21 December 2016 (Case C-104/16P)<sup>2</sup>,
- having regard to the CJEU judgment of 27 February 2018 (Case C-266/16)<sup>3</sup>,

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<sup>1</sup> Judgment of the General Court of 10 December 2015, *Front Polisario v Council*, T-512/12, ECLI:EU:T:2015:953.

<sup>2</sup> Judgment of the Court of Justice of 21 December 2016, *Council v Front Polisario*, C-104/16P, ECLI:EU:C:2016:973.

<sup>3</sup> Judgment of the Court of Justice of 27 February 2018, *Western Sahara Campaign UK v Commissioners for Her Majesty's Revenue and Customs and Secretary of State for Environment, Food and Rural Affairs*, C-266/16, ECLI:EU:C:2018:118.

- having regard to the General Court order of 19 July 2018 (Case T-180/14)<sup>1</sup>,
  - having regard to the General Court order of 30 November 2018 (Case T-275/18)<sup>2</sup>,
  - having regard to Rule 108(6) of its Rules of Procedure,
- A. whereas, under Article 21 of the Treaty on European Union, the EU and its Member States have the obligation to respect the principles of the United Nations Charter and international law; whereas Articles 1(2) and 55 of the UN Charter include respect for the principle of self-determination of peoples;
- B. whereas the CJEU General Court determined in its judgment of 21 December 2016 that the EU-Morocco Liberalisation Agreement did not provide a legal basis for Western Sahara to be included, and therefore could not apply to this territory, since Western Sahara is not part of Morocco; whereas, accordingly, the Court stated in paragraph 106 that the people of Western Sahara ought to be viewed as a third party to the EU's relations with Morocco, and for any such bilateral arrangement to affect the third territory of Western Sahara, the consent of the people of that territory should be obtained; whereas the Commission considers that the Court did not define precisely how such consent should be expressed;
- C. whereas the Commission and the European External Action Service (EEAS) conducted consultations in Rabat and Brussels with a view to securing the consent of the people of Western Sahara; whereas it cannot be established with certainty that the steps taken by the Commission meet the Court's requirement of consent by the people of Western Sahara;
1. Takes the view that there is legal uncertainty as to whether the proposed agreement is compatible with the Treaties and, in particular, with the CJEU judgment of 21 December 2016 (Case C-104/16P);
  2. Decides to seek an opinion from the Court of Justice on the compatibility of the proposed agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part with the Treaties and, in particular, with the CJEU judgment of 21 December 2016 (Case C-104/16P);
  3. Instructs its President to take the necessary measures to obtain such an opinion from the Court of Justice and to forward this resolution, for information, to the Council and the Commission.

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<sup>1</sup> Order of the General Court of 19 July 2018, *Front Polisario v Council*, T-180/14, ECLI:EU:T:2018:496.

<sup>2</sup> Order of the General Court of 30 November 2018, *Front Polisario v Council*, T-275/18, ECLI:EU:T:2018:869.