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CFSP Forum

Note from the Editor

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There is no overarching theme to this issue of *CFSP Forum*. Instead, contributors discuss a variety of topical issues: the impact of the terrorist attacks in Madrid on Spanish foreign policy; the status of 'pillars' in the draft constitutional treaty; and the EU's record in exporting human rights and democracy norms to the southern Mediterranean (a particularly relevant issue in light of the recent US proposal for a greater Middle East initiative).

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Spanish Foreign Policy After 3/11

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On March 11, Madrid awoke with a feeling of insecurity caused by the terrorist bombings on the commuter railway system, which killed almost 200 people. After several hours of total uncertainty about the real identity of the perpetrators of the massacre, Spain, together with the rest of the EU member states, easily understood that the terrorist attacks would be Europe's '9/11'.[1]

We present here the effects of the 3/11 terrorist attacks on Spain's foreign policy and on the European Union. Firstly, we describe the policies against terrorism adopted by Spain. Secondly, we briefly refer to the electoral debate between the two main parties on the future of Spanish foreign policy. Thirdly, we examine the EU's reaction to the Madrid attacks and present, at the same time, the first steps of the new socialist government regarding foreign policy.

The fight against terrorism: Spain's leitmotiv in domestic, European and international politics

Terrorism has always been present on the Spanish domestic agenda, ever since the last years of the Francoist dictatorship. Although the Madrid bombings interrupted the electoral campaign preceding the general elections held on Sunday, 14 March, terrorism was already an

issue on the Spanish political agenda. Indeed, the government's management of the 3/11 events seriously damaged its credibility due to the widespread feeling that it was not being transparent about which organisation was responsible for the attacks and was instead attributing them to the Basque terrorist movement ETA. This lack of transparency may have caused the conservative government to lose the elections.

The conservative government during its two terms of office (1996-2004)[2] had prioritised the fight against terrorism in domestic politics as well as in the European and international arenas. First, in domestic politics, the conservative Popular Party (PP) made a simplistic division between those who were with the ruling party and against terrorism, and those who were against it and in favour of terrorism. Throughout the electoral campaign, the fight against terrorism and nationalist demands (above all Catalan and Basque) became one of the top issues on the agenda, since the PP has tended to put terrorism on a level with nationalism. A secret meeting between Josep Lluís Carod-Rovira,[3] a Catalan politician, and ETA representatives in December 2003 had clashed with the PP's 'no-negotiation policy' on ETA and increased tensions between the central conservative government and the Catalan socialist-led coalition.

Second, regarding European politics, the Spanish government, whether led by the Socialist Party or the PP, has fought for the inclusion of terrorism on the EU's agenda. In other words, the establishment of a European Area of Freedom, Security and Justice is seen by Spaniards as one of the most useful answers to ETA terrorism. This is why, once terrorism rushed onto the European and international agenda after the collapse of New York's Twin Towers, Spain easily promoted all sorts of coordination measures such as the development of an extradition policy and the adoption of a European arrest warrant. In addition, the inclusion of terrorism in the second pillar has been a Spanish demand since 9/11.

Third, as far as Spain's international politics is concerned, the most significant change since the González government has undoubtedly been Aznar's attempt to establish a privileged relationship with the United States. Indeed, the pro-active role displayed by Aznar's government in supporting US policy on Iraq became clear when Aznar himself promoted the so-called 'Letter of the Eight',[4] signed by eight European

leaders, which was published in several European newspapers on 30 January 2003. In addition, the Azores summit, where Bush, Blair and Aznar met just before the attack on Iraq, highlighted Aznar's transatlantic choice to the detriment of European coordination.

Two opposite views of Spain's foreign policy

In 2004, for the first time, Spanish foreign policy has been a controversial issue in the general election campaign, due to Spain's involvement in the Iraqi conflict and public opposition to it, as shown in the impressive demonstrations on 15 February 2003, when well over two million people turned out to protest in Madrid and Barcelona. Although all the pre-electoral polls pointed to the ruling party as the winner, some of these polls foresaw just a relative majority, meaning a loss of the absolute majority enjoyed during its last term of office.[5]

Even before the terrorist attacks, analysis of the election manifestoes showed that the two main parties, the *Partido Popular* (PP) and the *Partido Socialista Obrero Español* (PSOE), had two completely opposing foreign policy projects. José María Aznar's foreign policy priorities between 1996 and 2004 had focused on a privileged relationship with the United States, a distancing from the Franco-German axis and a more intergovernmental discourse on the future of the EU. The 2004 PP manifesto, presented by Mariano Rajoy since Aznar refused to run again, clashed with Socialist priorities. The Socialist Party's campaign for the March 14 elections largely consisted of a demand to revert to the three functioning principles of foreign policy between 1986 and 1996, when Felipe González headed the Socialist government: domestic consensus on the formulation of European policy, the reestablishment of good relations with France and Germany, and a reorientation of Spain's transatlantic relations.[6]

The presence of Spanish troops in Iraq became a polemical issue because of the Socialist proposal to withdraw the troops unless the UN assumed political and military control in Iraq. In contrast, the PP was considering assuming command of Poland's troops in the region from June 2004.

The situation after 3/11

Once it was confirmed that Al-Qaeda was behind 3/11, the international community and the EU moved towards Spain's stance. Thus, not only did Spain react to the international terrorist attacks but the EU also accelerated

implementation of the measures introduced after 9/11.

Regarding the EU's response, we can affirm that the EU reacted to the Madrid bombings with something more than just the usual *communiqué*. Indeed, the EU rushed to take new measures or to step up others. First, in the extraordinary meeting of the Justice and Home Affairs Council held on 19 March and later, in the European Council of 25-26 March, EU member states focused on the fight against terrorism, continuing the task begun two years before. In the Declaration on Combating Terrorism,[7] the member states agreed to assume the obligations of the Solidarity Clause of the draft constitutional treaty (art. 42), implement the relevant measures of the European Security Strategy, revise the EU Plan of Action to Combat Terrorism, build on existing cooperation, and appoint Mr. Gijs de Vries as Counter-Terrorism Coordinator, among other measures. Faced with a common threat, EU leaders reacted to ensure that, as Jacques Chirac declared, 'L'Éurope protégera ses citoyens'.[8]

Coming back to the Spanish post-election situation, the unexpected victory of José Luís Rodríguez Zapatero opened up a set of questions about the future of Spain's position within the EU and the new priorities of Spain's foreign policy. The most evident example was the PSOE's electoral commitment to maintain the Spanish troops in Iraq only if the country was placed under full United Nations control before 30 June and if Iraqi institutions were soon restored. This pledge opposed Aznar's strategy of gaining international prestige through its alliance with the US.

What is more, once the new socialist government was sworn in, its first decision turned out to be the progressive withdrawal of Spanish troops from Iraq, even before the announced date. According to Zapatero,[9] since it was not foreseeable that a UN resolution would be passed to enable the UN to take charge of the political and military situation in Iraq, Spanish troops would progressively abandon the region. All the Spanish political parties except the PP supported Zapatero's decision at the first plenary session of the Spanish parliament.

International reactions to Spain's decision to withdraw its troops did not take long to appear. On the one hand, states opposing the attack on Iraq, such as France and Germany, congratulated the PSOE's change of direction. On the other hand, Britain and the US accepted Zapatero's domestic commitment despite their lack of understanding of why he made it. However, it is worth noting that some newspapers criticised the Spanish decision with categorical statements such as those of the Polish newspaper *Rzeczpospolita*: 'If Spain withdraws from Iraq, it will become a victory of terrorists, and it will mean that the terrorists are the real governors of Spain'.[10] Both the United States and the Franco-German axis declared their willingness to start working for a UN resolution as Zapatero had demanded.

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To sum up, the terrorist attacks in Madrid proved to be a turning point in terms of both the arrival of the international terrorism in Europe and the unexpected results of the Spanish general elections held three days after the train bombings. In the face of these events, we pose an uncomfortable question and offer a certain conclusion.

We can ask ourselves about the capacity of terrorism to influence the results of an election. Even though the lack of knowledge of European politics of Spanish citizens is still widespread, we can affirm that for the first time international and European issues influenced decisions on how to vote in a general election. Aznar's Atlanticist alliance contrasted with the more Europeanist view of the incoming socialist government. In this sense, we should pay attention to the appointments of the EU's former Special Representative for the Middle East Peace Process, Miguel Angel Moratinos as Spain's new Foreign Affairs Minister, as well as the European Commission representative in Brazil and former Head of Cabinet of the Secretary General and High Representative of the Council, Alberto Navarro, as Secretary of State for the European Union. A final certainty drives our conclusions: Spain's future foreign policy under the new socialist government will undeniably have significant effects on the international and European agenda.◊

[1] Timothy Garton Ash, 'Is this Europe's 9/11?', *The Guardian*, 13 March 2004.
[2] A more extensive analysis of Spain's European and international policies during the eight years of Aznar's government can be found on the web site of the Observatory of European Foreign Policy. See 'Special Issue: Spain in Europe 1996-2004', Monographic Publication, *Observatory of European Foreign Policy*, 10 March 2000,

http://www.uab.es/iuee.

3 Josep Lluís Carod-Rovira is secretary-general of the nationalist party, ERC, one of the three ruling parties in the Catalan Government since November 2003.

4 'Europe and America Must Stand United', Joint Letter signed by José María Aznar (Spain), José Manuel Durao Barroso (Portugal), Silvio Berlusconi (Italy), Tony Blair (United Kingdom), Václav Havel (Czech Republic), Peter Medgyessy (Hungary), Leszik Miller (Poland) and Anders Fogh Rasmussen (Denmark), 30 January 2003.

5 'El PP obtendrá una clara victoria el 14-M pero no tiene asegurada la mayoría absoluta', *El País*, 7 March 2004.

6 Esther Barbé, 'Thinking Locally, Acting in Europe' *Special Issue: Spain in Europe 1996-2004*, EE 01/2004, Observatory of European Foreign Policy. Available from: http://www.uab.es/iuee

7 European Council, Brussels, 'Declaration on Combating Terrorism', 25 March 2004.

8 'L'Éurope protégera ses citoyens', *Le Monde*, 18 March 2004.

9 'Declaración del Presidente del Gobierno, Don José Luis Rodríguez Zapatero, en relación con las tropas españolas en Irak', Palacio de la Moncloa, 18 April 2004. Available from: http://www.la-moncloa.es.

10 Statement quoted in Xavier Batalla, 'Algo más que una promesa', *Análisis del Real Instituto Elcano,* 29 April 2004. Available from: http://www.realinstitutoelcano.org.

On Fuzzy Pillars: Criteria for the Continued Existence of Pillars in the Draft Constitution

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I. The problem

It has been asserted that, if the draft constitution is adopted in its present form, the separate pillars into which the European Union has been divided since the Treaty of Maastricht will cease to exist. This note argues that the assertion is too sweeping: many important features which characterize and distinguish the pillars will continue. A set of criteria for judging this is proposed, and some conclusions drawn on the nature of pillars.

The assertion has been made by some of the most eminent authorities on the Convention: Peter Norman, Olivier Duhamel, and the President of the Convention, Valéry Giscard d'Estaing himself. Peter Norman justifies his claim by referring to Article 6 of the draft constitution, which endows the Union with legal personality – 'It signals the end of the pillars and enables the Union to sign Treaties' (Norman, *The Accidental Constitution*, Brussels, EuroComment, 2003, p. 354). Olivier Duhamel also refers to Article 6, and goes on to say 'Disparaît aussi la structure dite en piliers, oû tout est différent dans les modes de décisions, les institutions impliquées, les textes adoptés...' (Duhamel, *Pour l'Europe*, Paris, Seuil, 2003, p. 162). Giscard d'Estaing refers, not to Article 6, but to the new nomenclature and articulation of the laws of the Union – 'Cette unification des instruments d'action de l'Union européenne entraînait un avantage considérable: la disparition des fameux "piliers" introduits par les traités de Maastricht et d'Amsterdam...' (Giscard d'Estaing, *La Constitution pour l'Europe*, Paris, Albin Michel, 2003, p. 46).

The acquisition of legal personality by the Union, as opposed to the European Community, is not in itself sufficient to justify the claim that the pillars disappear. The absence of such a personality was not demanded by the supporters of the pillar structure at Maastricht as a guarantee of the pillars' separate existence; the power to conclude international agreements, albeit hedged about with restrictions, was granted to the Union in the area of Pillar 2 by the Treaty of

Amsterdam (Article 24, Consolidated Treaties) without it being claimed that the separate existence of that Pillar, or of Pillar 1, was thereby challenged; and one can imagine circumstances in which the Union can exercise its legal personality while leaving the pillar structure unchanged.

Norman's conclusion, therefore, is not in itself adequate to conclude that the pillars have disappeared. Duhamel and Giscard have taken care to make a more sophisticated presentation. Duhamel refers to a range of differentiating factors in the pillar structure - decision-making, institutions, texts adopted - while Giscard, omitting any reference to Article 6, justifies his assertion that the pillars disappear by the unification of the previously disparate legal instruments available to the Union across the board.

Giscard's claim is undeniable, but is it enough? The best way of approaching this question is to follow the path indicated by Duhamel, and examine a range of differentiating factors. A set of criteria will be proposed whereby the existence of separate pillars may be judged, and comparisons made between the existing arrangements, as set out in the Consolidated Treaties, and the arrangements proposed in the draft Constitution. As the continued existence of the pillars in the current arrangements is uncontested, the new arrangements must indicate a clear change by comparison if the thesis of the disappearance of the pillars is to be upheld.

It should be noted that the erosion of the differences between Pillars 1 and 2 does not imply the communitisation of the CFSP. It is perfectly possible to have a unitary structure which is not a community one. It could also be intergovernmental or *sui generis*; all that counts is that there should be only one way of doing things.

II. PROPOSED CRITERIA

Criteria	P/U	TEU (Consolidated)	P/U	Constitution
1. Formal position in texts	P	Title V	P	U I.15.1 P I.39-40 Part III, Title V, Ch. 2
2. Decision-making process:				
2.1 initiative	P	22.1	P	U I.39.7 P III.194.2, 200.1, 224.1, 227.3, 227.7
2.2 decision-taking body	U	13	U	I.23.2, 39.3, III.196
2.3 instruments	P	13, 14, 15	U	U I.39.7, III.194.1 P III.195.3
2.4 mode of decision	P	23	P	III.201
3. Implementation	P	13, 20	P	U I.27.3 P I.27.1, 39.4
4. Representation	P	18	U	I.21.2, III.197.2, 230
5. Bureaucratic population	P		U	U III.197.3 and declaration P III.208
6. Treaty-making power	P	24	U	I.6
7. Judicial control	P	28.1	P	U III.209 P III.282
8. Finance	U	28	U	III.215

Notes:

1. 'P' and 'U' mean that the arrangements in the following column indicate a 'pillar' or a 'unitary' structure respectively.

2. The draft constitution frequently contains provisions giving contradictory indications. These are shown in the last column against 'P' and 'U' respectively. The assignment of the value in the previous column is thus a matter of personal judgment, based on the relative weight of the provisions. The choices made here are explained in the following comments.

3. To meet the needs of a foreign policy audience, the study has been confined to Pillars 1 and 2. The same exercise could be carried out with any pair of pillars: 1 and 3, or indeed 2 and 3.

4. To avoid complications, the ESDP has been largely neglected. See Concluding Remarks.

Comments on the criteria:

1. *Formal position in the texts.* Title V of the TEU was reserved to the CFSP. So are Article I.39 ('Specific provisions for implementing common foreign and security policy') and Part III, Chapter II, of the draft constitution.

2.1 *Initiative.* The Commission's right of initiative in CFSP is removed, except in support of the Foreign Minister.
2.2 *Decision-taking body.* The single institutional framework introduced at Maastricht is preserved.
2.3 *Instruments.* The new range of legal instruments (replacing regulations, directives, etc.) applies to all activities of the Union, although only 'European decisions' may be used in the CFSP. The common strategies, common positions, and joint actions disappear. However, the substance of the common strategy is retained in III.194, and III.195 provides, only with regard to the CFSP, for three sub-categories of European decisions relating to (i) actions of the Union, (ii) positions of the Union, and (iii) implementation of actions and positions.
2.4 *Mode of decision.* The substance of the mode of decision-taking is taken over unchanged from the Consolidated Treaties.

3. *Implementation.* Whether or not it is considered that there is unitary implementation depends on the view taken of the allegiance of the Foreign Minister to the Council and the Commission respectively. The question is unlikely to be settled in the absence of practical experience.

4. *Representation.* Pillars 1 and 2 are merged. Any remaining inconsistency is attributable to the coexistence of the Chair of the European Council and the Foreign Minister, but this is not relevant to the continued existence of separate pillars. The President of the Commission may present a problem in practice, but no foreign policy role is specifically foreseen for him in the draft constitution.

5. *Bureaucratic population.* The creation of the European External Action Service will bring about the merger of current separate bureaucratic populations. However, COPS and Coreper will continue their separate existences.

6. *Treaty-making power.* The acquisition of legal personality by the Union strengthens the treaty-making powers enjoyed by the latter since Amsterdam to the extent that the existing provisions for the reserve of national sovereignty are not taken up.

7. *Judicial control.* The Court of Justice continues to have no jurisdiction over the CFSP, except that its implicit right to rule on cases where the CFSP affects other Union competences is now explicitly confirmed, and in cases where individuals and firms are affected by sanctions.

8. *Finance.* The current budgetary arrangements are maintained.

III. ANALYSIS

To determine whether, for any one criterion, the pillar structure has disappeared, take the readings in columns 2 and 4. Readings P»P and U»U show that there has been no change, and therefore that the pillar structure remains. In the case of P»P this is by definition; in the case of U»U the existing unitary situation is consistent with a pillar structure overall, a state of affairs which cannot be altered if there has been no change. U»P is politically unlikely to exist in present circumstances; P»U is the sole indicator, for the criterion in question, of a shift from a pillar to a unitary structure.

To make this more easily comprehensible, here

are some examples:

P»P: special formal position in texts appears in both TEU and draft constitution
U»U: single institutional framework appears in TEU and is compatible with pillar structure; its appearance in the draft constitution does not in itself change this
U»P: non-existent; presupposes a strengthening of the pillar structure
P»U: the Union will now make use of a single set of legal instruments, replacing the existing Pillar 2 instruments.

It thus appears that, out of 11 criteria examined, 4 indicate a shift towards the disappearance of the pillars, 5 the preservation of the existing pillar system, and 2 the continuance of the existing unitary system. The four which indicate a shift towards the disappearance of the pillars are 2.3 (legal instruments), 4 (representation), 5 (bureaucratic populations), and 6 (treaty-making power). As we have seen, there are doubts about the legal instruments, where the old CFSP instruments remain embedded in the new 'European decisions', and also about whether the acquisition of legal personality will in real life provide a unitary treaty-making structure. The new Foreign Minister, especially in his representative function, and the European External Action Service will have to bear the brunt of the move towards the disappearance of the pillars in the face of the five criteria according to which the pillar structure is maintained.

IV. CONCLUDING COMMENTS

1. The existence of separate pillars is not a clear-cut, black-and-white question. There is no single test which allows one to say, a pillar exists, or it does not. Rather, a pillar is composed of a number of different threads, by which it may be compared with another pillar. Only when the threads are substantially identical can one conclude that the pillars have given way to a unitary structure. Probably complete identity is not necessary, but a substantial correspondence must be achieved. This is a matter of judgment, not of rules. In the case of Pillars 1 and 2, six unitary indicators against five pillar indicators do not intuitively constitute a convincing majority. Those two pillars will continue to exist even if the draft constitution is adopted as it stands.

2. Pillars are essentially fuzzy. The misapprehension that they are monolithic came about from the circumstances of their establishment. Member states reluctant to share their sovereignty in the fields of foreign policy and justice and home affairs needed to be reassured, in the negotiations preceding Maastricht, that EU activity in those areas would be guaranteed for all time from contamination by the community method. The 'temple' with its 'pillars' was a useful slogan encapsulating a political reality. It does not, however, stand up to scientific scrutiny.

3. Since Maastricht and before, the trend has been towards a unitary structure. The table shows a number of indicators of a shift from P to U, which has taken place at various points in time. There are no examples of a move in the reverse direction, from U to P. The presumption must be that the procedures, practices and structures of Pillars 1 and 2 tend to homogenise. This appears to bear out the incremental approach to the institutional development of the EU.

4. It can be argued against the methodology proposed in this note that, if applied internally to the whole range of sectors covered by Pillar 1, it would throw up a significant number of policy areas which would qualify as pillars. EMU is the obvious example, but a case could also be made, each in its own way, for transport, the environment, competition, and trade policy. In Pillar 2, there is a strong case for treating the ESDP as a separate pillar. This should not disconcert us; purged of its political overtones, the pillar concept could be a useful aid to understanding the rich institutional life of the Union.◊

Constraints to the EU as a 'Norm Exporter' in the Mediterranean

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The EU's principled approach to relations with Mediterranean countries

In November 1995 the EU and 12 Mediterranean partner countries[1] adopted the Barcelona Declaration and established the Euro-Mediterranean Partnership (EMP), with the ambitious goal of turning 'the Mediterranean basin into an area of dialogue, exchange and co-operation granting peace, stability and prosperity'. The 27 partners launched three partnerships, on political and security affairs; economic and financial affairs; and social, cultural and human affairs.

The adoption of the Barcelona Declaration was accompanied by a certain enthusiasm about the EU's capacity to transfer EU norms to third countries. The EMP was intended to restructure EU relations with the Mediterranean countries within a multilateral cooperation framework largely relying upon EU norms, values and principles, strengthened and paralleled by bilateral cooperation. Through the EMP the EU wanted to address not only trade and financial issues but also a wide range of non-traditional political and security issues such as migration, terrorism, social development, and cultural issues (inter-religious dialogue, racism, xenophobia, etc.).

The basic assumption of the EMP is that development in Mediterranean countries cannot take place without taking into due account political instability and socio-economic disparities, deterioration of the environment, and threats to security deriving from illegal migration, terrorism, and organised crime. There is a sort of presumption that poverty reduction can only be achieved with functioning democratic institutions and accountable governments, and that only democratic, pluralist governments respecting minority rights will provide domestic stability. To strengthen this *principled* approach to EU relations with third countries, the European Commission recently stressed the importance of enhancing human rights protection and democratisation in the EU's relations with Mediterranean partners.[2]

In political discourse and official documents the EU tends to depict itself as a 'norm exporter': the principles of peace, liberty, democracy, rule of law, and respect for human rights are continuously recalled as the inspiring elements of EU foreign policy. Barcelona Process documents (the Barcelona Declaration, Presidency Conclusions to the Foreign Ministers Meetings, Valencia Action Plan) regularly state the EU's commitment to promote human rights, fundamental freedoms and democracy in the Mediterranean. The EU tries to export its model of political and economic development based upon economic liberalization and the rules of free market, democratic norms and practices, and human rights protection, but this model is not necessarily easily exported to Mediterranean countries.

Democratic principles and human rights protection have become part of the 'Barcelona *acquis*' and no Arab government officially contests these principles. It is very significant that the Mediterranean countries accepted the conduct of 'a political dialogue to examine the most appropriate means and methods of implementing the principles adopted by the Barcelona Declaration'. However, there is a big gap between the official declarations of governments and the way that democratic practices and human rights are implemented domestically by the Mediterranean partners.

The incentives offered to Mediterranean partners to comply with EU norms and standards play a crucial role. The enlargement process is producing a diffusion of democratic processes and human rights standards to candidate countries, because they have to meet the Copenhagen criteria of democratic development before they can start the accession process. This explains the different impact EU norms and principles have had so far in Turkey and Arab countries. The 'carrot' offered to Turkey, the promise of joining the EU, combined with the 'stick' of repeatedly sanctioning Turkey for not respecting the Copenhagen principles, are producing tangible reforms, while Arab countries are progressing much more slowly in implementing the EU model of political, economic and democratic development. For the Arab countries, and for the other countries of the New Neighbourhood Policy, EU membership is excluded: they can share 'all but institutions' with the EU. The EU does not seem to be interested in using a tough hand to sanction non-compliance with the Barcelona *acquis*.

Liberalisation without democratisation in some Mediterranean countries

Almost ten years have passed since the Barcelona Declaration was adopted and the achievements have been modest compared with the ambitious goals set out in the declaration. The EU has offered a wide framework for cooperation, but cooperation has not progressed in all fields. The adoption of the Charter of Peace and Stability in the Mediterranean has been frozen since the beginning of the second intifada, and the creation of a Euro-Mediterranean free trade area is proceeding at a low speed (the most recent documents refer to 2010 as a *target date* reflecting awareness that the 2010 deadline will probably not be met). But bilateral Euro-Mediterranean agreements have been negotiated with almost all Arab EMP partners, proving that economic and financial co-operation remains the primary incentive to co-operation.

What about the diffusion of democracy and human rights to the Mediterranean partners? To what extent are the Mediterranean Arab countries progressing towards democratisation as wished by the EU? The EU initiatives adopted to spread democratic practices and strengthen human rights protection have not produced effective change in the political systems of the southern Mediterranean countries. There is a big difference between the rhetoric and the reality of EU support for human rights and democratisation.

The argument here is that the reforms adopted by some Mediterranean Arab countries are producing liberalisation (an opening process, which usually starts with the granting of individual rights and freedoms) but not democratisation (the creation and consolidation of democratic institutions). Elections are regularly held and human rights conventions are signed, but this is short of democratisation. There has been no widespread democratic change in the Mediterranean Arab countries. Since the early 1990s most Arab regimes have undergone important political changes: elections, multi-party systems, political and socio-economic pluralism. These political changes usually characterise the transition process which in most cases allows the passing from an authoritarian regime to a democratic one. But a long-term analysis of regime change in the Mediterranean Arab countries shows that the liberalisation process is not a linear process, and can be subject to interruptions or even reversals.

In some cases there is liberalisation but a decline

of freedom is also registered. During the transition process, political institutions required for democratic governments are created, but without democratic consolidation, those institutions might collapse and lead to another authoritarian regime: only consolidated democratic institutions lead to stability. The picture, then, is much more complicated than that presented in Brussels' jargon. Despite the continuous reference to democracy and human rights in EU and Arab political discourses, the Mediterranean Arab countries do not yet meet the minimum requirements of democracy, that is to say universal suffrage, free, competitive, recurrent and correct elections, more than one political party, and alternative sources of information.

The overall picture of the early 2000s remains rather problematic. Jordan has faced a de-liberalisation process: in June 2001, King Abdullah dissolved the parliament and governed for almost 2 years with decrees and temporary laws; moreover, the king reacted to public demonstrations after the eruption of the second intifada with a ban on demonstrations and restrictions to the freedom of assembly. Presidential elections in Egypt and Tunisia are non-competitive (depriving elections of their democratic essence). The Tunisian multi-party system dominated by a single party falls short of political pluralism. Syria and Libya remain presidential dictatorships. It is one thing to have a constitutional article defining Morocco a constitutional monarchy, but another to have a government accountable to the parliament. It is nothing but rhetoric that the Libyan leader Gheddafi declares that in his country the power belongs to the people, because since 1977 he does not fill official roles. All these contradictions of the liberalisation process have produced 'electoral authoritarian regimes' (as in Egypt), 'blocked transitions' (as in Jordan), 'liberalized autocracies', and 'hybrid regimes'.

In brief, in some countries a certain degree of socio-economic and political pluralism exists, but meaningful political participation and accountability remain absent. The 'third wave' of democracy that has opened up so much of the world over the past 30 years seems to have left the Mediterranean Arab countries untouched. Despite some ferment and some important instances of democratic opening, countries in the Middle East and North Africa have been resistant to democratisation and human rights have stagnated.[3]

Limits to effective EU action in the Mediterranean

Why has the EU had so little effect? The EU's difficulties in acting as a *norm exporter* are threefold. Firstly, the Barcelona Declaration is only politically, not legally, binding. This leaves the contracting parties free to adhere to cooperation projects when and if they are interested, and thus adherence to the Barcelona *acquis* is de facto voluntary.

Secondly, the EU prefers a certain rhetoric in favour of political and democratic reforms and respect of human rights rather than the direct punishment of violations of democratic norms and human rights. Since the 1990s all EU agreements with third countries include a 'human rights clause', but so far there is no evidence of CFSP or EC negative provisions adopted in reaction to the lack of good governance, democratic practices and values, and poor respect of human rights which is still prevalent in the southern Mediterranean countries.[4] The EU practices double standards: despite the political rhetoric, it avoids directly tackling the most controversial issues such as restrictions on the media, repression of dissent, unfair trials, etc., as if political change towards democratisation might be potentially destabilising.

Thirdly, a comparison of the EU institutions' behaviour shows a sort of institutional schizophrenia. Each institution has a different approach to relations with Arab countries and their (non)compliance to EU standards. The European Commission plays the role of *policy-entrepreneur*: it has a creative vision of external relations and seeks to elaborate innovative frameworks of co-operation which can combine different national standards and interests in regional cooperation; the Commission has favoured a bottom-up approach and has chosen representatives of civil society as privileged actors of cooperation. The European Parliament acts as a critical watchdog to denounce violations of human rights and restrictions to individual freedoms; the EP has recently urged the Council to adopt sanctions to react to human rights violations in Mediterranean partners.[5] The Council tends to opt for a pragmatic approach which is primarily led by political considerations; this implies accepting weaknesses in the implementation of democratic reforms or low human rights standards in Mediterranean partners. The Council is primarily responsible for EU double standards, since EU member states do not want to destabilise their partners' governments.[6] Unfortunately, the result of this inconsistent institutional attitude is a low profile EMP which is implementing only a minor part of the goals originally set in Barcelona. A more effective EU action in the Mediterranean should imply instead the possibility of using the 'stick' of sanctions and negative measures in case of serious violations of democracy and human rights.

The difficulties of the EU as an external actor promoting democratisation in the Mediterranean

Despite the EU's declared will to link its relations with southern Mediterranean countries to principles such as democracy, human rights, and good governance, so far the EU has not succeeded in filling the democracy gap which is still wide in the Mediterranean Arab countries. The above-mentioned institutional schizophrenia, together with a weak political will to fully implement the EU's democratisation policy, have produced a short-sighted Mediterranean policy which so far has produced very limited effects. The EU has not been able to foster democratisation, the democratic adjustments which gradually lead to stable democratic institutions.

The European Commission rightly seeks to strengthen the limited socio-political pluralism in the Mediterranean, as pluralism is a key element of democracy. The ultimate aim of the Commission's support to issue networks (Archimedes, UNIMED, FEMISE) is to produce 'contagion', to promote the learning of democratic practices and processes. Many projects implemented within the EMP framework rely upon a bottom-up approach aimed at strengthening civil society. There are no doubts that the role of local actors - civil society included – in the democratisation process is fundamental. However, civil society can be easily strangled by political elites. As stressed by the transition literature, the role of the local leadership - either local leaders who change their politics because they understand change is ineluctable, or opposition forces who guide the transition regime - is essential to launch the opening process which is at the basis of the liberalization process. Democracy has to be a political choice of the political elite. Yes, socio-economic actors must be involved in the process of democracy learning, but the political elites must be also involved in the creation of the fundamentals of democracy. As the Turkish case

proves, constitutional reforms require a synergy of all key political institutions. This does not imply that the Commission's approach to develop and strengthen civil society is wrong, but that it should instead be complemented by a comprehensive process of democracy-building: democratic practices must be practiced at all levels to produce real democratic change.

The EU's effectiveness is also weakened by the paucity of the funds destined to these objectives. The mainstreaming of democracy and human rights deserves much larger financial support. The EU should strengthen the financial instruments to implement the democratisation policy and should set up control instruments to verify respect for the Barcelona *acquis*. The Ministers of Foreign Affairs of the EMP countries consider cooperation in promoting human rights and democracy *crucial* to the success of the EMP, but at the same time they acknowledge that such cooperation must be eligible for enhanced EU financial support and that the EU has to take this into consideration when allocating MEDA funds.[7] Now facts should follow the rhetoric.◇

[1] Morocco, Algeria, Tunisia, Egypt, Israel, Gaza/West Bank, Jordan, Lebanon, Syria, Malta, Cyprus and Turkey. The Arab component is now stronger: Cyprus and Malta have become EU members; Turkey is an accession candidate; Israel had strong links with the EU already before and beyond the EMP; and Libya is an EMP observer.

[2] European Commission, *Communication on Reinvigorating EU actions on Human Rights and Democratisation with Mediterranean Partners,* COM (2003) 294 final, Brussels 21 May 2003.

[3] For some empirical data, see Adrian Karatnycky, 'Liberty's Advances in a Troubled World', *Journal of Democracy*, vol. 14, no. 1, 2003, pp. 100-113.

[4] CFSP negative provisions have only been adopted by the Union against Libya (http://ue.eu.int/pesc/default.asp).

[5] European Parliament, *Annual Report on Human Rights in the World in 2002,* Final Resolution, P5-TA(2003)0375.

[6] For instance, in August 2002 the EU presidency adopted a declaration to *politically* denounce the continuous violations of human rights in Syria. The *casus belli* was the imprisonment of members of the Syrian parliament who had freely expressed their views (!).

[7] Presidency Conclusions to the Euro-Mediterranean Conference of Ministers of Foreign Affairs, Naples 2-3 December 2003.