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The Human Rights Policy of the Barcelona Process

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This dissertation is written by the undersigned, Ertugrul Uzun, and is not submitted to any institution for any purpose before.

ABSTRACT

After five years of the Barcelona Declaration (November 1995 dissertation aims to find out "what has been done" and "what can be done future" in the human rights dimension of the implementation of the Decla The Barcelona Process could not offer any concrete project for human rights Mediterranean region although the Declaration consists strong commitments participants. This lack of achievement emerges from the reluctan Mediterranean countries in human rights discussion and the European U concentration on economic issues with the assumption of that ecc liberalisation may bring democracy to the region. In order to ensure the obse of human rights in Mediterranean countries, the European Union shou current instruments without discussing the cultural features of those countrie

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INTRODUCTION

Human rights never had been discussed as last decade. Collapse of the bipolar world order and following internal and interstate conflicts has changed the security concept of western developed countries. Human rights issues were put at the top of the security agendas and the last decade has witnessed proliferation of domestic and international human rights organisations. Such organisations not only functioned against violator states but they also worked together with western states that have important relations with those countries.

In that context, this paper aims to focus on a particular geography and period: the Mediterranean region and the Barcelona Process. As an exclusively European Union's initiative, the Barcelona Process started with the announcement of the Barcelona Declaration in November 1995, by 27 participants that is composed of 15 European Union Member States and 12 so-called Mediterranean countries. It was an ambitious project aimed to transform the *Mare Nostrum* into an area of 'peace, stability and prosperity'.

They declared that this objective *"requires a strengthening of democracy and respect for human rights, sustainable and balanced economic and social development, measures to combat poverty and promotion of greater understanding between cultures, which are essential aspects of partnership"*.

Fiver years after the Declaration, in this dissertation we seek to find out what has been done in the human rights dimension of the Barcelona Process –the follow-up implementation of the Barcelona Process and what can be done in order to ensure the observance of human rights in the region. However, in the examination of the debate of human rights in the Mediterranean countries in this dissertation that is limited with size and time, we have faced some obstacles. First obstacle is the groupings of countries in the Mediterranean. Southern side of the Partnership is composed of nine Arab-Muslim countries, three candidate countries and Israel. These groups represent different perceptions and implementation of human rights. An attempt to evaluate all countries

would lead us to overlook some issues or wrong generalisations. Thus, we chose to limit our scope with basically Arab countries. Our second obstacle was the question of inclusion of ideological –or theoretical- dimension. Without mentioning issues such as cultural difference, the concept of human rights and cultural relativism, it is almost impossible to understand the real essence of the developments. We tried to give some ideas but did not intend to elaborate or reach some concrete conclusions that can be possible in a particular study dedicated to those issues. Moreover we had to skip or mention only with a few paragraphs some important subjects. For instance, relations of Arab countries and the European Union starting from colonial period, the US dimension of Mediterranean diplomacy, the Middle East Peace Process, dominant actors of the European Union's Mediterranean Policy and the political developments in the Mediterranean can be remembered at the first moment.

First chapter is composed of three parts. First part deals with the background of the Barcelona Declaration, including Europe's relations with Mediterranean countries. Second and third parts show the main characteristics of the Process and its functioning.

Second chapter will try to portray the cultural and political situation of Mediterranean –Arab states in particular- and the human rights perceptions and implementation of those states referring to their difference with the European ideology of human rights.

Third chapter contains the survey of the Partnership based instruments –the Declaration and the Association Agreements- in their relevance to the human rights issues. Is also evaluates the European Union's human rights policy in its external relations with Mediterranean countries.

CHAPTER ONE

The BARCELONA PROCESS

1.1. An Historical Overview to the Barcelona Declaration

There is no mistaking that Mediterranean region has been presenting a mosaic of cultures, religions, languages, political ideas for several ages. The shores of the Mediterranean combine three continents with each other -sometimes producing hostility and wars, and at the same time resulting into interaction and interdependency. Roughly, it is possible to divide Mediterranean into two parts: the North and the South. In this division 'the North' refers to littoral states of the European Union and its prospective members and 'the South' embraces the geographical area from Morocco to Syria. [1] Although this definition may change according to the purposes of a research, Mediterranean analysts tend to exclude some littoral states like the Balkan states while including Portugal, Jordan and Mauritania though having no shores on the Mediterranean.

Europe, as a continent, and the European Union (EU), as an international body form the current characteristics of the northern side: economically developed and rich, politically democratic. In opposite, the southern side is poor, mostly governed by authoritarian regimes, fragmented and hosting inter-state and internal conflicts, such as the Arab-Israeli, and the Algerian crisis (Aliboni 1996: 52; El-Yazami 2000). Besides these differences there is a deep cultural gap between the North and the South. Arab countries are still remaining as a part of the Arab and Islamic world, while the EU is composed of all Christian countries and representing Western values (Aliboni 1991). In future, except the prospective inclusion of Turkey, there is no sign that the EU will involve into any political

[1] In Calleya's division *Southern Europe (Cyprus, Greece, France, Italy, Malta, Portugal, Spain, Turkey)* corresponds to the North and *the Maghrib (Algeria, Libya, Morocco, Tunisia)* and *the Levant(Egypt, Israel, Lebanon, Jordan, Syria, Palestinian Authority)* to the South (Calleya 1997: 102).

integration with Muslim countries. This cultural difference has led some scholars to negative prediction, such as Huntington's "Clash of Civilizations", but at the same time, geographical proximity of the two shores gives them some common concerns, like security, migration and environment, sometimes as a result of mentioned differences.

Neither the Barcelona Declaration (BD), as the main context of this paper, is the only European initiative leaded by the EU, nor Europe is the only actor in the region. If during the Cold War security concerns emerged from the East-West confrontation, after the fall of the Berlin Wall social and economic frictions having prospective impacts on European societies and on the energy sources in the region led many actors to produce policies on Mediterranean. NATO, OSCE, USA on the one side, and the EU itself, European countries (usually southern European countries) and the Mediterranean countries on the other, embodied a complicated and competing initiatives structure to guarantee their interests. A presentation of the whole 'Mediterranean Diplomacy'[2] is beyond of the aims of this dissertation, but in order to understand the implementation of the Barcelona Process (BP) one needs to see the historical background of the progressing initiative briefly. Without belabouring the subject, first, some selected initiatives, which may be seen as related with the BP leaded by other actors else than the EU and then, the progress of the EU's Mediterranean policy will be summarized. It is true that the Mediterranean region deserves to be examined starting from the prehistoric period, but we will focus on the events happened after the beginning of the unification of Europe.

1.1.1. Mediterranean Diplomacy without the European Union

During the Cold War period the central front of the European continent attracted most of the attention of NATO and the strategic importance of the Mediterranean and the problems of the region itself was eclipsed. In this period the Mediterranean region was perceived as an extension of the East-West confrontation and served as a security chessboard to the strategic policies of NATO and the Warsaw pact (Xenakis 1999).

[2] It refers to Bin's definition: "(...) the ensemble of proposal and initiatives aimed at establishing various forms of dialogue and cooperation in the Meditrranean (..)" (Bin 1997).

In the Helsinki Final Act, adopted in 1975 at the Conference for Security and Co-operation in Europe - CSCE, now OCSE) a special section was dedicated to Mediterranean but the Conference for Security and Cooperation in Mediterranean, CSCM, could be convened in 1993 (Bin 1997). In the meantime three meetings were held in the sense of 'Mediterranean dimension' of the Helsinki Process (Valletta 1979, Venice 1984, Palma di Mallorca 1990), though they were nothing else than an occasion to bring experts together, and second, there was a lack of interest on Mediterranean problems by the participants. (Bin 1997) When the Middle East crises emerged and affected the price of oil, the strategic importance of the Mediterranean is once more being upgraded (Coulombus & Veremis 1999: 14).

The reason of the failure of the initiatives taken before the fall of Berlin Wall must be looked for in the conditions of international context at that time: the East-West confrontation. "The two superpowers' common interest in keeping the status-quo in the Mediterranean and their reservations with regard to any initiative which could change the political and military equilibrium on a regional level are among the factors that have definitely contributed towards the failure of the Mediterranean policy" in that period (Bin 1997).

On the one side the end of the Cold War meant the elimination of these obstacles but on the other side it involved the collapse of the external stability as well (Bin 1997). The retreat of the superpower USSR led to internal conflicts in the region, especially in North Africa, which were accompanied by economic crises, contributed to the radicalisation of social conflicts as nationalism or religious extremism (Jünemann 1996).

Indeed, the impact of the Cold War policies of superpowers and of the following abrupt withering of confrontation differ from the Balkan –or ex-Warsaw Pact states. Current conflicts in the Mediterranean date back before the Cold War. Problems such as Arab-Israeli, Western Sahara, Greek-Turkish, anti-Westernism and religious extremism have historical characteristics. They take their roots either from Islam-Christian confrontation, or colonialism, but not from the Cold War. The Cold War's contribution is the arms proliferation which increases the risk of armed conflicts (Anderson & Fenech 1994: 10-12).

After the establishment of UMA (Union of the Arab Maghrib - Algeria, Libya, Morocco, Tunisia, Mauritania) in 1989, four European countries (France, Spain, Italy, Portugal. Later the group included Malta) and UMA launched a summit in Rome, 1990, aimed at discussing common problems such as cooperation, the development of regional financial organizations, self-sufficiency in food, migration, cultural dialogue and the environment (Lister 1997: 93). This initiative, also known as the '5+5 Group', was abandoned with the Gulf War, the Algerian crisis and the international isolation of Libya (Bin 1997; Joffé 1998).

Another influence of the end of the Cold War was seen in the international security agenda. The old major concern of military power threats changed to economic, environmental, social and domestic political issues. Migration, violation of human rights and democratic principles were accepted as security problems (Attiná 2000; Anderson & Fenech 1994: 13). As a result of this development all CSCE countries committed themselves to the values of democracy, rule of law, human rights and market economy (Xenakis 1998). In accordance with that progress in the agenda of international concern, in 1992, the 1st Conference on Security and Cooperation in the Mediterranean (CSCM) was held under the auspices of the Inter-Parliamentary Union (IPU) at inter-parliamentary level. The representatives of Mediterranean littoral countries were invited to attend the meeting while US, Russia, Great Britain and Palestine were associate participants. The participant states adopted a series of measures of cooperation in the fields of security, economy and respect of human rights. Although the existence of international will on cooperation in three 'baskets', this initiative was locked with the Arab-Israeli conflict (Bin 1997).

It can be said that the agreement that was signed between Israel and Palestine Liberation Organization in 1993 facilitated the attempts for any Mediterranean based initiative. Egypt, excluded from 5+5 Group, headed a new initiative named the Mediterranean Forum with the participation of Algeria, Egypt, France, Greece, Italy, Morocco, Portugal, Spain, Tunisia and Turkey. The first meeting was held in 1994 when the participants adopted a document, introducing a novelty in the Mediterranean diplomacy with its multilateral and regional level and three baskets (Bin 1997; Lister 1997: 87).

Although it seems to be frozen after Binyamin Netanyahu's undermining the Oslo Process and the US' attitude towards Israel that implied a tacit support, 'The Middle East and North Africa Economic Summit', 1994, is a significant development showing the competition of interests of the EU and the US in the region (Joffé 1998). Promoted by the US and organized by two private associations from the US, the Summit brought the representatives and 1200 businessman together with aim of promoting economic growth and business activity in the regions. Europe had a secondary role in the Summit (Bin 1997).

1.1.2. European Union's Mediterranean Policy: 1957-1992

In its modern form, Europe's interest with Mediterranean starts with the colonial period, particularly with the French colonization of the Maghrib countries, Tunisia, Algeria and Morocco[3] and their current relations are still largely based on the ties established during that period. After the Treaty of Rome in 1957, including specific provisions for the Maghrib, since the 60s Europe's relation with Tunisia and Morocco developed into a series of bilateral cooperation and association agreements, together with financial protocols providing development aid (Joffé 2000; Lister 1997: 42).

In1962 Greece and then Turkey in 1963, signed association agreements with the Community. The bilateral trade agreements between the Community and Israel and Spain in 1969 were followed by similar agreements with other Mediterranean countries, Portugal, Yugoslavia, Egypt, Lebanon, Jordan, Syria, Malta and Cyprus. These agreements did not provide the same conditions for every country. Some of them had privileges, such as Morocco, Tunisia (Pomfret 1986: 18; Tovias 1996: 11; Marks 1996: 8). Behind the bilateral and differential characteristics of the agreements, which consider each country separately, Europe was adopting such a differentiated approach because it feared that a unified Arab World could become a threat to its own interests. (Junemann 1996) The troublesome nature of the agreements led the Community to launch a Mediterranean policy in 1972 with the aim of replacing *'the frequently conflicting array of preferences with a unified approach'*. The Global Mediterranean Policy (GMP) reflected the Community's

[3] Morocco and Tunisia in 1956, Algeria in 1962 became independent states.

desire to treat the region as a unity though it mainly possessed its economic means (Pomfret 1986: 16). Europe experienced deep problems in agriculture, so under the influence of UK, Germany, and Holland, the desired reciprocity in trade foreseen by the GMP was abandoned and Europe kept on its bilateral and aid-based policy towards Mediterranean countries (Pomfret 1986: 21; Lister 1997: 84). The agreements signed during that time, as a result of the Common Agricultural Policy (CAP), allowed the Mediterranean countries to export to the EC only industrial products while agricultural and textile goods were subjected to differential quotas (Joffé 2000; Marks 1996: 9; Tovias 1996: 11). According to the CAP, "by devices that influence the price of key products and regulate access to the Community's market, preference is given to the produce of member countries. Non-members cannot compete simply by offering goods at lower price" (Marsh 1976: 75). If we consider that Mediterranean countries are profoundly non-industrialized countries and agriculture accounts for a large share both of employment and of GNP, the importance of the effects of the CAP on Euro-Mediterranean relations will be understood easily. In 1981 Greece, and in 1986 Portugal and Spain joined in the Community. This Mediterranean directed enlargement gave a new dimension to the relations between the Community and non-member Mediterranean countries. New Mediterranean members got the right to free access to the European market and to benefit from the CAP regulations while non-member Mediterranean countries were loosing their power to compete due to their proximity to those countries in agricultural products (Lister 1997: 85; Joffé 1993: 44). As we will see later, the CAP regulations still remain as a major debate between the two shores of Mediterranean.

The Euro-Arab Dialogue was launched in 1974 to create a climate favourable to regional cooperation between the Arab League and the Community. Although it received a new push in 1989 after the 'frozen' years in 80's, after the invasion of Kuwait by Iraq, it was completely abandoned. The basic disagreement concerned the agenda of the meetings. The Arab countries wanted to discuss the Palestinian problem while the Community's priority was economic relations (Bin 1997; Lister 1997: 87).

Uncertainties about security after the Cold War led Europe to seek new alternative defence policies. Although nuclear, chemical and conventional weaponry still existed in the region, there was not a classical military kind. The nature of the some

problems such as drug-traffic, terrorism and migration made the idea to combat with armies useless. Among the European policy-makers the assumption that economic development in the region, would reduce the social and international friction prevailed (Waites & Stavridis 1999: 35; Lister 1997: 71). Considering this new context and demands of the region, in 1990 the European Council announced its Renewed (or Renovated) Mediterranean Policy. Although it has strong political aims -unlike the previous experience-, this new policy was weakened by its bilateral structure (Bin 1997; Lister 1997: 87). With the breakdown of the Soviet Bloc, Central and Eastern Europe countries absorbed most of the resources of the Community. Germany, contributing over one-third of the EU budget, gave higher importance to these countries (Waites & Stavridis 1999: 32). France, Spain and Italy insisted to counterbalance this one-sided approach (Jünemann 1996). As a result of this policy the aid effort of the EC increased but it accounted for only about 3 percent of all the Overseas Development Assistance of the Community. Tovias (1996: 14) describes this policy "as a minor victory obtained by southern European countries over their northern European neighbours that more aid was to be distributed from Brussels" towards Mediterranean.

1.1.3. Europe's Interest in the Mediterranean Area: Trade or Threat?

Bering in mind that the BD is a European initiative, (Jünemann 1996; Salame 1999) any historical overview should mainly take into account of the interests of the EU.

Jean Pierre Derrisbourg summarizes the reasons of the last initiative as the will for a fair balance between the central European countries and the Baltic countries, and the Mediterranean countries; the regionalisation within the globalisation of the world economy; the European public opinion fears in the 1990's concerning local or regional upheavals like in Algeria, Palestine or Egypt which may result terrorism, insecurity, criminality in Europe; security risk to European tourists and businessmen visiting the Mediterranean; uncontrollable flow of migration and of drugs, and the recent proliferation of chemical, bacteriological or nuclear weapons in the Middle East. (Derrisbourg)Although he claims that there was less risk of interrupting the oil supplies,

we should add the energy needs of the EU and the environmental concerns to those reasons.

Concerning its energy supply, Europe is the predominant consumer of the region's primary oil export. Although the US is becoming independent from the Mediterranean oil, the EU's and America's interests overlap on natural gas, which is the alternative energy source for the future, given its relatively low level of atmospheric pollution. Europe supplies a quarter of its needs of natural gas from North Africa. Algeria is the primary supplier with two pipeline systems. With the new pipeline projects (Libya-Italy; from Libya to Egypt and via Israel with a link to Qatari gas-fields, to Turkey; from Caucasus via Iran (Turkey) to Europe), may be in ten years, Europe will be more tied to the region (Joffé 1998).

Apart from the issue of energy supply, it is also possible to consider that the lure of trade played an important role in the EU's Mediterranean policy. It is true that Mediterranean countries represented a market of over 300 million consumers and 47% of their imports were from EU and 38% of their exports were to the EU in 1993, but as Gillespie says, "northern concern about the Mediterranean area grew, fuelled by warnings from France, Spain and Italy and reinforced by an increase in domestic problems related to instability and crisis in the south" in that period. [4]

Mediterranean Partner Country	Total Imports (million EUR)	Percentage of imports from the EU	Total exports million EUR)	Percentage of exports to the EU
Algeria	8 314	57.1	9 033	63.6
Cyprus	3 280	54.7	949	38.1
Egypt	14 698	36.3	2 851	30.9
Israel	24 503	58.1	20 771	30.9
Jordan	3 416	32.7	1 1316	6.6
Lebanon	6 306	53.4	639	25.3
Malta	2 378	69.3	1 636	52.8

[4] GILLESPIE, Richard "Northern European Perceptions of the Barcelona Process".

Morocco	7 526	55.7	4 138	59.3
Syria	867	33.4	643	50.9
Tunisia	7 462	75.0	5 216	80.2
Turkey	40 842	52.5	24 138	50.0
West Bank/Gaza Strip*	1 908	7.2	335	0.2

Table 1. Trade relations of Mediterranean Partner Countries with the EU (1998)

* Data of 1997

Source: Relevant columns of the original table. Euro-Mediterranean Statistic 2/1999, Eurostat, Luxemburg, in Pamphlet: The Barcelona process, five years on: 1995–2000, European Communities, Luxemburg, 2000.

The intensive trade between the EU and Mediterranean countries shows the dependency of Mediterranean countries on the EU. As Pomfret has argued in 1980, despite their various economic interests and political reasons for closer ties with the Community, Mediterranean countries share the desire for better access to the Community's markets (Pomfret 1986: 32). Those countries are generally poor[5]. Although Syria, Egypt, Libya, Tunisia and Algeria are all oil producers, only Libya and Algeria have been able to rely on oil revenues to finance development. In the field of agriculture amongst all the MPCs, only Turkey is able to maintain a constant surplus of production over domestic demand (Joffé 1993: 43).

From the beginning of their independence, by virtue of the geographical proximity, Mediterranean States are dependent on the EU as the superpower of the region, and not the other way around (Lister 1997: 75; Joffé 1993: 44). We can rightly claim that the main concern, which shaped the EU's policy since the early 1990's, cannot be explained only by the economic agenda but rather it mainly represented a way for Union to solve its urgent security problems emerging from Mediterranean countries (Waites & Stavridis 1997: 34, 35). For Europe Mediterranean market has a limited

[5] We must exclude Cyprus, Malta and Israel.

significance: EU exports to the southern Mediterranean amount only to 11% of total exports and imports from the region are below 8 percent (Kienle 1998: 2).

Although it is an exceptional case in the comparison with other Islamic countries, Algeria crisis had an important role in the European populations' perceptions of Islamic movements and fundamentalism. Emergence of violence after the official prohibition of the Islamic Salvation Front (FIS) as a legal party in February 1992 was the concrete reason of Islamic fear in Europe. Violence, both at internal and external level, targeted on foreigners, especially on French citizens. Tens of foreigners were killed in Algeria, moreover, France experienced bomb attacks in July 1995 in Paris and Lyons while number of the Algerian victims is estimated with ten thousands (Spencer 1996: 130-133; Crenshaw 1994: 200-203).

Of course the Algerian crisis was not the beginning of European concerns of 'hostile' Islam in our modern world. Orientalist view had already occupied western opinions on Islamic and Arab world when the Iranian revolution introduced itself as Islamic fundamentalist threat to the world politics. Western Media used this material as much as it could "on nightly television news programs, with highly charged and often pejorative epithets like 'terrorist', 'barbaric', 'fundamentalist', 'xenophobic', 'anti-Western' were applied to the people and political movements of the region" (Dwyer 1991: 4).

According to Joffé (2000), 'the unspoken primary purpose [of the BD], of course, was to render labour migration from south unnecessary by stimulating economic development.' European countries received over 4 million immigrants from the Mediterranean Islamic societies by the 1980s. With its economic impacts, migration flows led Europe to fears of their transformation to Islamic terrorism (Waites & Stavridis 1997: 31; Anderson & Fenech 1994: 19; Salame 1999).

As a summary, Europe perceives the destabilization in the Mediterranean as a threat to its own interest. For Europe, instable Mediterranean, especially North Africa, means losing control over energy supply, rise of anti-Western Islamic fundamentalism (as in Algeria), increase in international terrorism, drug-traffic, organized crime and as a result of all these, migration, which may destabilize social and political balances of South Europe

and Europe as a whole (Jünemann 1996; Marks 1996: 4; Couloumbis & Veremis 1999: 11,12; Azzam 1996b: 100).

1.2. The Barcelona Declaration and the Barcelona Process

The Barcelona Declaration and its follow-up meetings and implementation can be considered as the result of the failed projects mentioned above. The European Council gave the first sign of the new policy in 1992 in Lisbon. The idea was to establish a Euro-Maghrib Partnership which would result into a free trade area between Europe and the Maghrib countries, but this idea could not be carried on because of the civil war in Algeria and the international sanctions on Libya (Barbé 1996: 26).

The European Council held, in June 1994 in Corfu, requested the Commission for an evaluation of '*the global policy of European Union in the Mediterranean region and possible initiatives to strengthen this policy in the short-and medium-term, bearing in mind the possibility of convening a conference attended by the European Union and its Mediterranean partners*', '*to be the ground for decisions at the European Council in Essen*' (EU 1994b). The Commission's proposal on Euro-Mediterranean Partnership in October 1994 formed the basis of the new Mediterranean Policy. In its Communication (COM(94) 427, EU 1994a) the Commission showed the need to balance the interest of the EU to Central and Eastern Europe and Mediterranean with these sentences:

> *"Since 1989, the Community has, as a result of rapid geopolitical changes, focused its attention on the policies needed to support economic development, both in Central and Eastern Europe, and in the Mediterranean region. It has assisted the CEECs in their efforts to integrate progressively their economies into those of Western Europe and into the world-market economy.*
>
> *The Community's policies towards Central and Eastern Europe on the one hand, and towards its southern partners on the other, spring from different geographic, historical, political, economic and cultural circumstances. It is Community policy to base its*

relations with each region on its specific needs and capacities. This communication demonstrates that the pre-accession strategy the Community is pursuing with countries in Central and Eastern Europe in no way interferes with its commitment to developing closer ties with its Mediterranean neighbours."

In this document, the Community agreed that in order to consolidate peace and stability in the Mediterranean region which 'constitutes an area of strategic importance for the Community', there were some challenges to be faced: "*to support political, respect for human rights and freedom of expression as a means to contain extremism" and "to promote economic reform, leading to sustained growth and improved living standards, a consequent diminution of violence and an easing of migratory pressure*".

While the Commission was accepting this new policy multi-dimensional, encompassing political and economic objectives, at the same time it proposed a long-term strategy:

"The Euro-Mediterranean partnership, which must be thought of as an evolving framework, is a long-term objective which the elements presented in the present communication will bring closer to reality. It is urgent to make a start now.

The Union's policy should be directed towards support for establishing a zone of stability and security and creating the conditions for lasting and sustained rapid economic development in the Mediterranean countries. With a clear commitment to economic reform, the countries concerned could achieve higher levels of employment and reduce the prosperity gap with the Community. This could best be facilitated by the progressive creation of a Euro-Mediterranean economic area, comprising as its main features progressive establishment of free trade and closer economic integration, accompanied by adequate support from the Union for the economic and social adjustments which

this process will entail, as well as closer cooperation in the political and security fields."

Participants were also defined in the communication as the countries *"bordering the Mediterranean Sea, plus Jordan, having concluded agreements with the Union"*.

A new policy seeking to achieve political stability in the whole Mediterranean by economic growth (Kienle 1998: 8) was announced in the Essen meeting of the Council in December 1994 (EU 1994c). Thus, the conference was held in 27-28 November 1995 during the Spanish presidency with the participation of 12 Mediterranean countries (Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Palestinian Authority, Syria, Tunisia, Turkey) and the 15 EU member states. At the end of the conference all participants signed a declaration composed of three chapters and a work-programme as a guideline of the implementation of the BD.

The Euro-Mediterranean Partnership (EMP) has three main objectives in the "three baskets" of the Declaration, respectively. We will examine these objectives and chapters, and the progress of the Process briefly.

1.2.1. First Chapter: Political and security partnership

The creation of an area of peace and stability based on the principles of human rights and democracy.

The 27 partners who signed the Barcelona declaration committed themselves to respect a number of principles concerning human rights, democracy, state legitimacy, self-determination and disarmament. In particular:

"to act in accordance with the United Nations Charter and the Universal Declaration of Human Rights;

to develop the rule of law and democracy in their political systems;

to take concrete measures for the effective application of fundamental freedoms;

to respect diversity and pluralism, and to fight intolerance, particularly racism and xenophobia, and discrimination based on race, religion and sex." (BD)

At the same time the Declaration refers to principles which mean to support the existing regimes against unwelcome opponents:

"recognizing the rights of each of them to choose and freely develop its own political, socio-cultural, economic and judicial system;

to respect their sovereign equality and all rights inherent in their sovereignty, and fulfil in good faith the obligations they have assumed under international law;

to strengthen their cooperation in preventing and combating terrorism,"

These two different kinds of references show the dilemma for which European countries has been trying to found a solution from the emergence of Islamic protest in the region. Aliboni (1996: 61) explains this dilemma as follows: At one hand, *"a policy of neglect [of Islamic movements] induces instability and turn present risks into actual threats."* At the other hand, *"a policy of strong and blind anti-Islamist support to southern Mediterranean governments"* bears the risk to *"reinforce local support of Islamism and radicalise the latter without solving the problem"*.The latter will make the EU in the public opinion the accomplices of government in their struggle against their Islamist challenge (Marks 1996: 20; Salame 1999).

The main framework of the discussion of the democracy and human rights is the association agreements that include "human rights clause" giving the parties power to suspend the agreement in the case of violation of human rights and democratic principles. Human rights clauses will be elaborated in the third chapter.

It deserves to be mentioned that the Barcelona Conference was the first meeting, which brought the Israeli representatives together with the Syrian and Lebanese representatives for a long time. This was considered as a big achievement especially by the EU side (Marks 1996: 6; Pamphlet 2000), though some scholars argue differently. According to Salame (1999) *"they [Syria and Lebanon] came to Barcelona, precisely because they thought that the economic and financial benefits prevailed over their reluctance to participate in a process of which Israel is also a part."*

Participants agreed to establish security-building measures, including the long-term possibility of establishing a Euro-Mediterranean pact. However, the idea of 'pact' was changed to a 'charter' because of Southern Participants' lack of will to sign a text which will bind themselves legally. In accordance to this end, the guidelines of the Euro-Mediterranean Charter for Peace and Stability' were drawn up at the 1999 Stuttgart Conference, and the text is still being elaborated by senior officials. It will be a politically and morally binding agreement for all partners 'for the purpose of preventing tensions and crises and for maintaining peace and stability by means of cooperative security' (Pamphlet 2000; Attiná 2000) The main elements of the Guidelines for the Charter are:

- politically not legally binding,
- rule of consensus for decision-making,
- focus on political and security issues but cover also economic, social, cultural and human affairs in so far as they affect political and security issues,
- promotion of human rights, democracy, tolerance and mutual understanding,
- cooperation on organized crime, terrorism, non-proliferation of weapons of mass destruction,
- conflict prevention, crisis management, post-conflict reconstruction. (EU 2001)

Despite the intensive insistence of the European side, the Fourth Euro-Mediterranean Ministerial Meeting held in Marseilles in November 2000 could not result the desired adoption of the Charter (EU 2000f).

As partnership-building measures these activities are agreed to be carried on: Training and information seminars for diplomats, network of foreign policy institutes, cooperation among civil protection services on natural and man-made disasters, register of bilateral agreements, exchange of information on international conventions on human rights, disarmament, humanitarian rights (EU 2001).

1.2.2. Second Chapter: Economic and financial partnership

The creation of an area of shared prosperity through the progressive establishment of free trade between the EU and its Mediterranean partners and amongst the partners themselves, accompanied by substantial EU financial support for economic transition and for helping the partners to confront the social and economic challenges created by this transition.

"Poverty reduction" is being presented as the main objective by the EU (COM(2001) 252). Thus, the economic basket, which is based on free trade and structural adjustment principles, is the real core of the initiative.[6]

The EU assistance is provided mainly through the MEDA financial programme together with similar amounts in loans from the European Investment Bank (EIB) and framed by the Euro-Mediterranean association agreements (see below). Their core provisions refer to the establishment of free trade between the respective partner and the EU, thereby serving as a stepping-stone towards a multilateral free trade area(Pamphlet 2000; Joffé 2000).

Nevertheless, those new association agreements do not involve a revolution in trade relations between the EU and the Mediterranean countries. They maintain quotas for agricultural exports for Mediterranean to the EU in order to protect the CAP. Unlimited

[6] Chris Patten (2001) expresses the importance of this chapter as follows: "Economic and financial matters are of course at the heart of the Partnership." Chris Patten is the Member of the European Commission responsible for External Relations. See also, Kienle 1998: 17 note 6; Joffe 2000.

access is provided for primary products –oil, natural gas and phosphates (Joffé 2000). The issue of agriculture, indeed, is the major stumbling block between Arab countries and the EU during the process, as well as negotiations.

About the free trade are the question is whether it can bring the desired 'prosperity' for southern Mediterranean. The answer is not clear. Because of the weakness of local industries it may result in the destruction of indigenous industrial production (Marks 1996 17,18; Selim 1999: 154; Salame 1999).

1.2.3. Third Chapter:Social, cultural and human affairs

The improvement of mutual understanding among the peoples of the region and the development of a free and flourishing civil society by means of exchange, development of human resources, and the support of civil societies and social development.

This partnership aims at fostering mutual understanding among the peoples of the region. Increased cooperation with civil society is seen as the cornerstone for such efforts. Cooperation in this field can cover a diverse range of issues. On the regional level, three programmes are currently implemented.

- Euromed Heritage for the preservation and development of Euro-Mediterranean cultural heritage.
- Euromed Audiovisual supporting Euro-Mediterranean audiovisual cooperation projects in the fields of radio, television and cinema.
- Euromed Youth in the field of youth exchange aiming at facilitating the integration of young people into social and professional life and stimulating the democratization of the civil society of the Mediterranean partners in that it improves mutual comprehension and cohesion between young people across the Mediterranean basin. (Pamphlet 2000)

The future of the Partnership seem to be dependent on basically the Middle East Process and realistic approach to economic issues. Concerning the former, Arab countries

insist on the active role of the EU in the Arab-Israeli conflict while Israel does not approve any initiative else than US mediation and again, Arab countries are reluctant to involve in any regional organization with Israel. The economic aspect is seen by Arab countries as weak and unrealistic and they are worried about their industries and agricultural products. Selim (1999: 156) says:

> *"Although the two countries [Morocco and Tunisia] have signed partnership agreements with the EU, they are now having second thoughts about the viability of this process."*

1.3. The Structure and the Functioning of the Partnership

The BD has created a process functioning in two levels: Bilateral and multilateral. At bilateral level the relations between the EU and the individual Mediterranean Partner countries (MPC), are carried out through association agreements. At multilateral level the most important subjects are the Euro-Mediterranean Conferences, Euro-Mediterranean Committee and the MEDA Programme.

1.3.1. Euro-Mediterranean Conferences

The BC participants agreed to meet periodically at ministerial level *'in order to monitor the application of this Declaration and define actions enabling the objectives of the partnership to be achieved.'* (BD) Since the BD four Euro-Mediterranean Conference have been held:

- Malta Euro-Med Conference, April 1997
- Palermo (ad hoc) Euro Med Conference, June 1998
- Stuttgart Euro Med Conference, April 1999
- Marseille Euro Med Conference, November 2000

At the Marseille Meeting it was announced *"a ministerial meeting will be held under the Belgian Presidency during the second half of 2001 and the Fifth Euro-*

Mediterranean Conference of Foreign Ministers will take place during the first half of 2002 during the Spanish Presidency."

The desire that meetings will take place alternating between the 'South' and 'North' shores of the Mediterranean could not be carried out because of the reluctance of certain Arab governments to host the representatives of the Israeli government onto Arab soil (Chammari & Stainer 2000: 71).

Mauritania (a special guest), UMA (Arab Maghreb Union, observer), Arab League (Euro-Arab Dialogue, observer) and Libya (observer since Stuttgart Conference) are attending to the conferences. At the Stuttgart Summit, which Libya attended as a special guest of the President, Libya's eligibility to participate in the Barcelona Process was confirmed. The preconditions for this were the lifting of sanctions by United Nations Security Council, and Libya's acceptance of the Barcelona *acquis*.

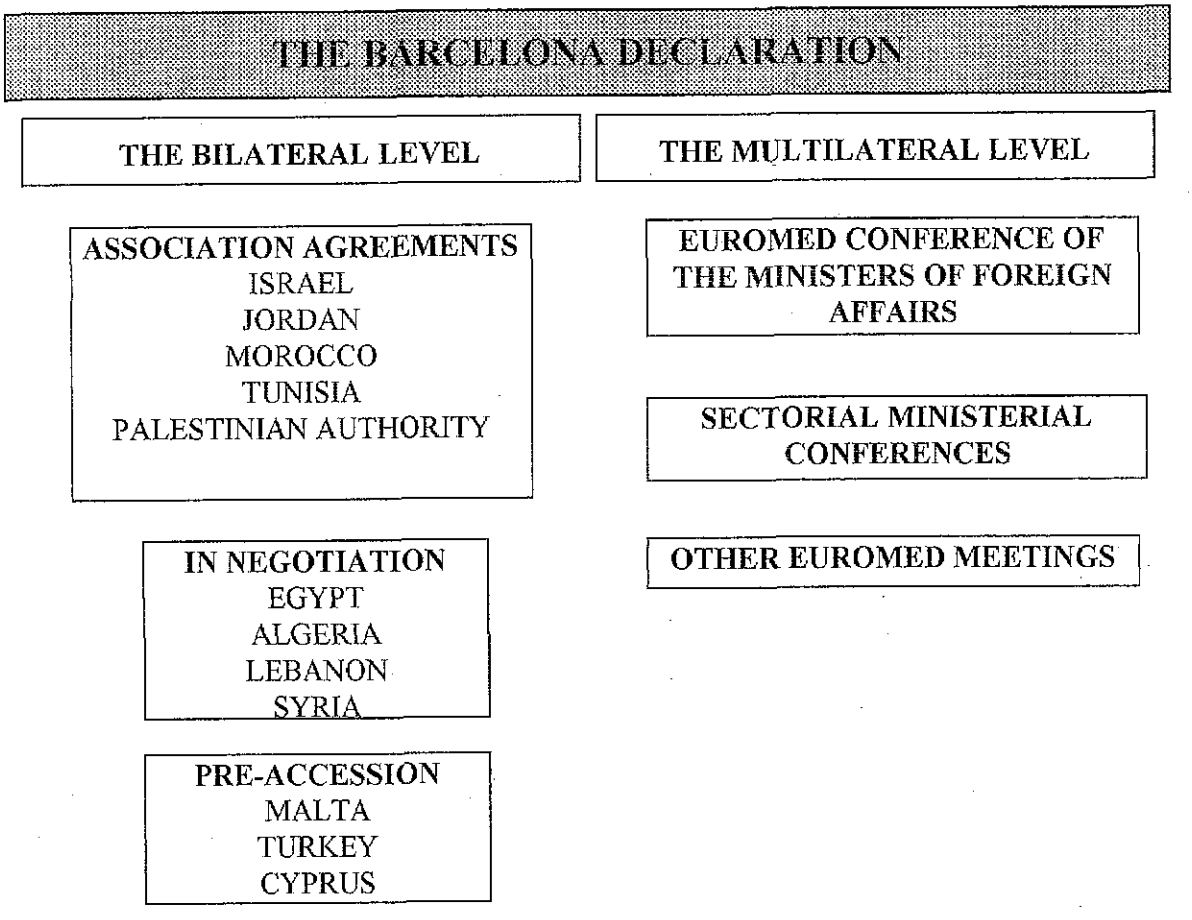

Table 2: The structure of the Euro-Mediterranean Partnership

Source: Chammari & Stainer, Guide to Human Rights in the Barcelona Process, p. 72.

1.3.2. The Euro-Mediterranean Committee for the Barcelona Process

The BD sets up *'a "Euro-Mediterranean Committee for the Barcelona process" at senior-official level, consisting of the European Union Troika and one representative of each Mediterranean partner.'* This committee holds *'regular meetings to prepare the meeting of the Ministers for Foreign Affairs, take stock of and evaluate the follow-up to the Barcelona Process and all its components and update the work programme.'*

The Committee holds ordinary meetings every three months. The committee is "the central forum for providing impetus, monitoring an follow up and evaluation and initiatives in the Barcelona Process as a whole"(EU 1999a).

1.3.3. The MEDA Programme

The MEDA programme is the main financial instrument of the implementation of the BP. With the MEDA programme it was aimed to facilitate one of the Partnership's key objectives: the gradual establishment of a free trade area (FTA) between the European Union and its Mediterranean Partner countries by 2010.

The EU's commitments under the MEDA I (1996-1999) was amount of □3,435 million and for the MEDA II (2000-2006) the EU allocated □5,350 million[7]. Although the considerable amount of MEDA I, payments have only reached 26% of the amount committed. (EU 2000a)

The object of the MEDA Programme is to support the efforts of the non-member partners and "will undertake to reform their economic and social structures and mitigate any social or environmental consequences which may result from economic development".[8] (Chammari & Stainer 2000: 79)

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[7] MEDA II Regulation, The European Council Regulation (EC) No 2698/2000 of 27 November 2000.

[8] Article 1 of the MEDA Regulation. (Chammari & Stainer 2000: 79)

On the one hand, the MEDA Programme provides support for bilateral projects relating to economic transition and improving the socio-economic equilibrium (support for structural adjustment and private sector development) and the reinforcement of civil society. On the other hand, it provides funding for regional projects inspired by the work programme of the Barcelona Declaration. About 86% of MEDA I resources were channeled to bilateral cooperation and about 12% to regional cooperation. (EU 2000a)

The bilateral projects only involve nine of the Mediterranean partners excluding Cyprus, Israel and Malta.Regional projects can encompass all the partners.

The MEDA Programme is managed by the European Commission.

1.3.4. The Euro-Mediterranean Association Agreements

At the bilateral level, the implementation of the Euro-Mediterranean Partnership should be carried out through the Euro-Mediterranean Association Agreements which should be concluded with each of the Mediterranean partners with the exception of Cyprus, Malta and Turkey[9], which form the subject of 'pre-accession' measures. The agreements gradually replaced the cooperation agreements concluded in the 1970s and are intended to incorporate a much wider approach than the commercial approach that prevailed in the former cooperation agreements (Chammari & Stainer 2000: 88).

The objectives of the agreements that have already been concluded or are in the process of being concluded are, *"to initiate a political dialogue around subjects considered to present a common interest, to initiate an economic dialogue encompassing macro-economic policy, to gradually set up of a zone of free trade over a transitionary period of twelve years, which must be fully realized at the end of this period, to set up 'measures of accompaniment' by means of the MEDA Programme, to initiate dialogue, notably on workers and the workplace, equal treatment, social integration, the role of women, and the readmission of undocumented aliens"* (Chammari & Stainer 2000: 88).

[9] The European Community concluded first generation association agreements in 1972 with Cyprus and Malta and, in 1963 with Turkey. As a result of Turkey's association agreement, a customs union with the EU entered into force on 1 January 1996. These countries have the EU Candidate Status. (EU 2000b)

The follow-up structurs of the Agreements are formed by the Association Council and the Association Committee. The former is composed of Foreign Ministers, representatives of the Commission and Ministers appointed by the signatory Mediterranean Partner. The Association Committee is made up of the Senior Officials from the Council of the European Union and the Commission, and the government of the relevant country. The Committee is charged with the implementation of the Agreement. Decisions taken by the Association Council and the Association Committee bind the parties.

Mediterranean Partner	Conclusion of Negotiations	Signature of Agreement	Entry into Force
Tunisia	June 1995	July 1995	March 1998
Israel	September 1995	November 1995	June 2000
Morocco	November 1995	February 1996	March 2000
PLO for the benefit of the Palestinian Authority	December 1996	February 1997	July 1997
Jordan	April 1997	November 1997	Possibly in 2001
Egypt	Negotiations concluded in June 1999	-	-
Lebanon	Negotiations in progress	-	-
Algeria	Negotiations in progress	-	-
Syria	Negotiations in progress	-	-

Table 3. Progress of negotiations on Euro-Mediterranean Association Agreements

Source: Information Notes on the Euro-Mediterranean Partnership, p.8.

1.3.5. The Role of the EU Institutions in the Barcelona Process

By the EU institutions our reference is to the European Council, the Council of the European Union, the European Commission and the European Parliament. In varying degrees they have been participating the Barcelona Process and contributing to the Mediterranean Policy of the EU.

1.3.5.1. The European Council

The European Council is composed of Heads of governments of the EU and the President of the European Commission. It has political power in the decision-making process of the Union. The European Council meets, generally, twice a year under the organisation of the Member State holding the Presidency. Its decisions –or "conclusions of the Presidency"- constitutes the general political direction of the EU for the next six months.

The Euro-Mediterranean Partnership was established with the decisions of the European Council from Lisbon 1992 summit to Cannes 1995. In addition to this, it was, again, the European Council, which gave the Council, a mandate of elaborating a common strategy for the Mediterranean that resulted the "Common Strategy of the European Union on Mediterranean" (2000/458/CFSP) adopted in June 2000 (EU 2000c).

1.3.5.2. The Council of The European Union

The Council of the European Union is the main decision-making institution. It is made up of ministers from the 15 Member States. The Council which represents the interests of the Member States in relation to the Union, enacts Union legislation, concludes international agreements with non-member states and international organisations, and has control over the budget. Moreover, it takes decisions relating to the definition and implementation of common foreign and security policy. As it can be easily seen, the Council plays a central role in the Barcelona Process.

1.3.5.3. The European Commission

The European Commission is composed of 20 Commissioners who are appointed by the Member States but works independently. Having executive functions in the finance and policy implementation, being initiator and proposer of policies, guardian of the legal framework by watching whether community law is being applied correctly by the Member States, and negotiating commercial treaties and bilateral or multilateral cooperation agreements with non-member states, the European Commission is the heart of the EU and of course of the BP. As we have seen above, the Commission's Communication (COM(94) 427) constituted the basis of the current form of the BP. Preparation and drafting of the BD has been completed by the Commission (Barbé 1996: 34).

The BD gives to the Commission the task to undertake 'appropriate prepatory and follow-up work the meetings resulting from the Barcelona work programme and from the conclusions of the Euro-Mediterranean Committee for the Barcelona Process'. In addition to this the troika of the Commission takes part in the Euro-Mediterranean Committee. The Commission is the negotiator with the MPCs on behalf of the Union. It participation continues after the agreement comes into effect in the connection to the work of the Association Council and the Association Committee. As the administrator of the budget of the Union, the Commission manages the MEDA Program.

1.3.5.4. The European Parliament

The European Parliament has watchdog function and also plays a part in the legislative process with the Council. Elections for the European Parliament are held by direct universal suffrage every five years for 626 seats.

International cooperation and association agreement and all enlargements of the Union are subject to Parliament's assent. In this sense, the Euro-Mediterranean Association Agreements can only come into effect by the assent of the Parliament.

As a very recent development, the European Parliament in its resolution on Mediterranean policy in March 2000 (EU 2000d), has drawn attention to some particular points related with the BP. It criticised the BP for being 'slow to bear fruit' by showing

reasons for this as 'cumbersome administrative procedures and mechanisms for giving affect to the programme' and 'difficulties in the Middle East Peace Process, the Balkans crisis and crisis in the European institutions'. It continued as that 'the building of a Euro-Mediterranean area cannot be based exclusively on the creation of a free-trade area'. This was the resolution that led the Commission to prepare a communication (COM(00) 497) entitled "Reinvigorating the Barcelona Process" in order to prepare the forth Euro-Mediterranean Conference in Marseille, 2000, consequent upon the Parliaments call to relaunch the Euro-Mediterranean Partnership.

General outlook of the participation of the EU institutions to the BP is that the European Council keeps the power of policy-making on the establishment and implementation of the Partnership without leaving much influence for the European Parliament. Although the Commission's considerable role in the Process, the European Council's decisions define the real direction. Because of the political nature of the European Council, national concerns prevail in foreign policy (Thuesen 200: 14).

CHAPTER TWO

EUROPE, the MEDITERRANEAN and HUMAN RIGHTS

For last two-three decades, human rights observance -in terms of United Nations Universal Declaration of Human Rights and the idea and texts elaborated on this ground- has been the subject of debates between 'West' and Third Countries in general, Mediterranean countries in particular.

At that point we have to separate Mediterranean cases in itself. First, the problem of implementation is not the only problem, but there is also an ideological dimension. At that level claims of cultural relativism or in other terms the Islamic interpretation of human rights is used by Arabic countries or the Islamic movements in the region. Also there is the Israeli state formed by religious beliefs and still under strong influence of religious groups. A second distinction must be made between territorial and trans-boundary issues. In the Mediterranean region human rights discussions are not only over domestic implementations but also over inter-state conflicts, like Palestinian problem which is not only between Palestine and Israel but also includes Lebanon and Syria, Cyprus problem and Western Sahara problem.

In this chapter we will limit our area with Arabic countries, since they encompass the majority of the Mediterranean side of the Euro-Mediterranean Partnership and this new initiative does not bears a novelty in inter-state politics of human rights for candidate countries, Malta, Cyprus and Turkey[10] which are the subject of strong political criteria in their accession processes. However, this limitation cannot imply that this geographical area is a monolithic bloc. Despite common features of Arabic countries (Arab nation, language, common history dates back to fourteen hundred years etc.), political and ideological progress and social structure in each country vary.

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[10] Although it has been able to develop a successful parliamentary system , especially since the early 1980s, our analysis will be partly applied to Turkey because of the existence of strong Islamic opposition, international debate on ethnicity and some political and cultural similaritieswith Arab countries, such as large conservative population and the influence of military on politics.

We will also try to see "how West and Arabs (or Islam) see each other" in order to find ground of dialogue and conclude the chapter with presentation of actual human rights situation in the region.

2.1. Cultural and Political Features of the Mediterranean Countries

2.1.1. Fragmentation, Repression and Protest

As an Arab and Muslim, Professor Ibrahim (1999: 249) draws a general view of Arab countries:

> *"We do not only have visible problems which we are all aware of, such as limited resources, burgeoning populations, rising expectations and protracted internal and external conflicts. But we also have invisible dilemmas, of which you may only sense of their outcomes. Among these dilemmas is the search for a healthy equilibrium between the polarities of the 'sacred' and the 'secular', 'modernity' and 'authenticity', and more recently, between the 'global' and the 'primordial'."*

Arabic states bear hybrid characteristics. They are 'secular' in terms of the formal definitions of the state determined by the dominant international order modelled largely on the Western state tradition. At the same time, as a consequence of social pressure, they use Islamic discourse. Whether it is embodied in monarchical or republican forms, Arabic states are authoritarian regimes which are ruled by elites or groups (Tripp 1996: 55,56).

Political instability at the state level and high potential for inter-state conflicts at the regional level are the basic characteristics of the Southern Mediterranean politics. At first glance the Arab-Israeli conflict seems as a major cause, especially for Levant, but it is not the only factor for political instability (Joffé 1993: 34).

The current ideological problem of Arabic politics is the erosion of the legitimacy of existing states or a common and unique culture coinciding with the territorial limits of the state and an acceptance by populations of their ruling elites, preventing a nation state ideology from being adopted (Joffé 1993: 42; Chartouni-Dubarry 2000: 55-58). Fragmentation in terms of ethnicity and religious sects is an important phenomenon in each in the region (Tibi 1998: 125). From the beginning of their independence, those countries have been ruled by elites or groups which do not reflect the social objectives of the populations (Joffé 1993: 38). After the independence legitimisation of the state has been tried to be ensured by Arab nationalism. However, because of the mentioned features of populations, repression became means of legitimisation. This repressive natures of the states and the Arab defeat in 1967 discredited Arab nationalism as a political dogma (Joffé 1993: 40).

As we mentioned before Arabic countries are economically poor. Yet, oil and natural gas revenues and strategic incomes provided great amounts of money to these states but Arabic states have used these sources to invest into expensive military programmes which became later an instrument of repression and de-politicisation (Chartouni-Dubarry 2000: 56). As another consequence of 1967 defeat, the military lost its legitimacy because it could not achieve the sacred objectives they set themselves. This helped Islamists' suggestion for an alternative legitimacy. Moreover, western values, such as secularism and democracy, which are represented by elites, intelligentsia and army, were never deeply rooted in popular culture (Martin-Munoz 1997: 31; Tibi 1998: 117). Nowadays, Arabic regimes are looking for new ways of legitimisation such as religious discourse which will make them able to control their Islamic opponents at the same time (Chartouni-Dubarry 2000: 57; Tripp 1996: 58, 59).

Tripp (1996: 66) shows two ways of using Islam by ruling regimes: First, using Islamic themes and symbols to provide the support of Muslim societies and second, creating local Islamic interpretations to give a distinctive character to the identity of the state in order to correspond to the nation that the state represents a distinct ethical community.

In the process of erosion of state legitimacy in the Arab world, we should take into account also the involvement of external powers. Apart from the artificial borders drawn by colonial powers after the collapse of Ottoman Empire and the support of external powers to authoritarian regimes with aim of stability during the Cold War, changing trade relations in the era of globalisation and foreign policies of Western countries exacerbated the situation (Deegan 1997: 16). The principle of "conditionality" that makes the official development assistance available only when the recipient countries attain certain standards of human rights observance and of democratisation in their territories weakened and still is weakening the governments because in those societies this policy is often perceived to interfere in the political process (Joffé 1993: 46; Aliboni 1996: 61).

Besides this, international interventions which are seen by their proponents as required measures to impose certain norms of international behaviour do not have the same meaning in the minds of populations in the Mediterranean. Whatever the provocation might have been, the real reason for the intervention is to satisfy some national or regional interest of the proponents of interventions. For instance, Multinational Coalition created after Iraq's invasion of Kuwait was condemned by those societies, moreover, it was also turned against governments either they support or condemn the intervention (Joffé 1993: 46).

2.1.2. Political Islam

Lack of legitimacy, resentment at economic deprivation, the failure to counter Western influence, the instability to achieve Arab unity and the rising consciousness of the urban class caused a new and complex movement all around the region that have been taking place in the international politics agenda more than two decades: political Islam (Joffé 1993: 40; Jawad 1997: 150).

Political Islam emerged, indeed, during the late nineteenth century. In its very general definition, political Islam 'aims to unify the Muslim world via its commonly held Islamic belief' (Jawad 1997: 140). Political Islam has been shaping the nature of relations between Europe and Mediterranean countries and it seems to be continued. In Muslim

countries it is the increasing demand to replace secular legal systems, which –although incorporating aspects of the Islamic law- are based on secular foreign law, to Islamic law implementation (Azzam 1996b: 89,90).

Iranian experience of Islamic revolution and Islamic movements in the Mediterranean region stem from different ideologies that are, respectively, Iranian Shi'a that is the heterodox sect of Islam and Islamic orthodoxy, Sunni school which is the basic Islamic ideology in North African and Middle Eastern Arabic countries. Sunni Islamic movements are clearly response to the bankruptcy of the nation-state to take root Arab-Islamic region (Tibi 1998: 117; Azzam 1996b: 95).

Although given its general definition, Islamic view is quite complex. Some of the movements claims universality all around the region or in Islamic world while others choose to act only inside the borders which they emerged. Some of them justify the use of power as defined with terms 'terrorism' and 'violence' like HAMAS in Palestine and some groups in Algeria and Egypt, while others try to achieve their ends by political means. Above all, their common characteristic is that of opposition to secular and nationalist states and the aim to ensure the proper social observance of Islamic doctrine (Joffé 1993: 42; Azzam 1996b: 90). The current Political Islam is an expression of an Islamist revolt against the prevailing international order of nation-states and its local configurations (Tibi 1998: 140).

Some researchers claims that Arab societies are "naturally" moving towards democracy in accordance with the idea of historical determinism while others –like most Orientalists- argue that authoritarianism is the fate of these countries because of their social features that was formed by Islam which is inconsistent with Western values. In general, Western politicians share the latter. Chartouni-Dubarry (2000: 55) does not agree on both two ideas and states, "it is due to the convergence and complex interaction – which vary country-by-country- of a number of historical, economic and socio-political factors linked to the evolution of the state, its institutions and its relations to civil society". Not only Western vision but also some Arab scholars maintain that authoritarianism has roots in Islamic culture. Islamic discourse in that area sees the application of democratic principles and human rights ideology to Arabic culture as 'imported policies'.

State systems along line the lines of the modern nation-state are perceived to be the result of imposed and unwanted incorporation in western-based globalisation (Tibi 1998: 118).

In that context, civil society and the idea of individualism are very weak. Zghal, 'one of Tunisia's senior and most widely respected sociologist' says:

> *"(...) recent political history [of Arab world] has infantilised the individual, has given the individual no possibility to behave politically as someone who makes choices, who participates – that is, who behaves politically as an adult. Under traditional authority, although the individual had little or no political responsibility, at least those who held power shouldered the responsibility for it. But when these traditional authorities are destroyed, the individual is placed in the position of a child under a state authority that has only a minimal sense of its own responsibilities. All this makes very difficult the transition to a society where there is a full sense of the individual."* (Dwyer 1991: 97)

2.2. Europe and Islam

Relations between Europe and North Africa can be characterised by distrust and growing hostility. The Europeans are seen by many Arabs as manipulative, neo-colonialist and hypocritical. The Arabs are seen by many Europeans as fanatical, treacherous, capricious and cruel (Jünemann 1996).

In the relations of Arabic countries and Europe there are two sides: 'The West' and 'Islam'. According to Europeans anything involving these countries happens solely because they are Muslims (Martina-Munoz 1997: 32). In this separation images are created by societies: ongoing argument is in the minds of people between themselves and the 'others' (Djait 1985: 20). A dangerous consequence of this attribution, explaining

terrorism, internal conflicts, emergence of political Islam and existence of authoritarian regimes through Islam, is overlooking specific political or socio-economic reasons behind the developments (Martina-Munoz 1997: 32).

When Islam became a symbol for social-political protest, external powers are targeted by Muslim societies. The memories of the Crusades resurrected in minds, the glorious past of Islamic civilization and the current domination of West have engendered a sense of grievance and injustice, colonial experience of Arabic states has begun to be seen as the continuation of the Crusades, establishment of Israel by the support of West has been perceived as hostility to Arabs/Islam (Jawad 1997: 151; Watt 1989: 96-102).

Arab societies are, as a whole, suspicious of any form of Western intervention. Insistence of Western countries on some particular values like democracy and human rights is perceived as seeking new ways to impose their hegemony, moreover, West is the enemy seeking to divide the region rather than encouraging cooperation and integration (Chartouni-Dubarry 2000: 59; Azzam 1996b: 98).

2.3. Human Rights Perceptions of Europe and the Mediterranean

Sidahmed (2000: 127) summarises views of Islamists on human rights as:

i. Islam knew human rights in theory and practice some fourteen centuries before the West;

ii. The universality of the Universal Declaration of Human Rights is questionable as it is just a product of western culture and philosophy;

iii. The West, which claims to be the champion of human rights, has double standards.

These criticisms manifest themselves in religious leaders' words as follows:

"Human rights may be something new for the West, but we in Islam have had it since the beginning.

(...) the United States talks about human rights a lot but look at the violations it supports, such as in South Africa. England, too, argues against sanctions for South Africa. And Israel is allowed to slaughter and to kill –the US will not even condemn Israel in the UN for bombing the PLO headquarters in Tunis." [11]

"(...) the Universal Declaration of Human Rights –we have some reservations regarding its wording. In general we support it as a stage of development for the human being but we feel it is not universal. It corporates the perspective of one specific culture and is deeply influenced by Western and secular concepts." [12]

In the context of Universal Declaration of Human Rights (1948) two articles are the subject of Islamist objections: Article 16, which states "men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution", is seen by Islamists (not only religious groups but also by governments) as contrary to the Islamic jurisprudence and traditions. Islamic jurisprudence stipulates that a Muslim woman can marry only a Muslim man while a Muslim man can marry a Christian or Jewish woman, but not pagan (Sidahmed 2000: 128).

The widest objection to the universal human rights concept from Arab-Islamic countries is the cultural relativist approach that does not accept any 'trans-boundary legal or moral standards exist against which human rights practices may be judged acceptable or unacceptable'. Human rights standards may vary from culture to culture and there is no legitimate ground to impose Western concept of human rights upon other cultures. This

[11] From an interview with Muhammed Mekki Naciri, a member of Morocco's Council of Religious Scholars (Dwyer 1991: 38).
[12] From an interview with Rachid Ghannouchi, the leader of a religious movement in Tunisia, the Islamic Tendency Movement (Dwyer 1991: 40).

idea is usually used by governments to justify their failures to comply with international human rights law (Teson 1996: 118, 119; Vincent 1986: 37).

We do not intend to belabour the discussion of 'cultural relativism' or 'universality of human rights'; this discussion has no practical outcome in the question of observance of human rights by some particular countries, especially if they are parties of some international instruments. But we should not overlook the fact that the human rights claimed by the EU and based on the Universal Declaration of Human Rights are a product of a particular culture. The contemporary form of human rights ideology stems from Stoicism; then it transforms to the Natural Law first in its deterministic interpretation later on in the meaning given by Christianity. Through Renaissance and Reformation, it reaches to modern age as the idea which has underpinned French and American Revolutions (Vincent 1986: 19-36). Its most important assumption is that of a universal human nature common to all peoples. Whether Islam and human rights ideology have common values or not, the point is that, the latter has been produced by Western-Judeo-Christian philosophy (Panikkar 1996: 166-186).

It is true that international human rights instruments make no concession to different cultures; but at the same time we have to accept that interpretation of the texts may vary (Teson 1996: 125; Vincent 1986: 44-47). Even on some subjects which can be seen precise itself, there are debates in their content and extents. The essence of human rights is the same, and remains universal, but the application requires a great deal of interpretation (Filletti 1999: 528). Considering this, arguments in Mediterranean based human rights issues should be made with the effort to understand needs, priorities and sensitivities of societies, instead of imposing some sort of values.

However, some scholars are very strict on the universality of human rights. For instance Symonides (2000: 157) claims that cultural differences cannot be an excuse for any non-observance of fundamental principles. According to him, "traditional practices which contradict human rights of women and children have to be changed". Tibi's (1998: 213) conclusions on cultural relativism and its validity in human rights debates in the context of Islam is at the same direction:

"The acceptance or even sanctioning of practices constituting violations of human rights, for instance torture, as the suppression of freedom of expression, or the genital mutilation of women, as being simply expressions of a different culture cannot be tolerated by an enlightened world."

Not only in the Muslim-Arab world but also in most of Third World, the predominant idea is that West applies a double standard on the issue of human rights. *"Among the Islamists, there is a growing disillusionment with the West regarding what is perceived as its lack of effort in putting pressure on regimes in relation to the issue of human rights or its attempts to safeguard Muslim lives"* (Azzam 1996b: 101).

The Islamist movements do not campaign against governmental support of signing international human rights instruments, rather because of those movements' opposite position to their authoritarian regimes; they usually expect protection under Western-based international mechanisms (Sidahmed 2000: 127). For instance, in the case of Egypt, the Muslim Brotherhood[13], the most famous political Islamic movement in the region, itself has called the government for respect of basic liberties. Their concern, in general, was on freedom of expression, freedom of association, protection against torture and access to due process of law (Azzam 1996a: 112). An important characteristic of Islamic demand for human rights is that of the tendency on liberties in the political rather than the social sphere (Azzam 1996b: 91).

As we mentioned, in Europe's eyes all developments in Arabic states are directly linked to religion, Islam. As a consequence of this perception, human rights in the region is also seen by Europe as a religious-centred issue. This can be easily seen in Chris Patten's (2000) speech in Egypt in April 2000. He emphasizes the influence of religious difference of the two shores in the fact of division. Then he follows by pointing common values:

"We both respect human dignity and rights, but we have come at these concepts from different perspectives which sometimes lead to misunderstanding. I am deeply convinced that there are

[13] For further information about the Muslim Brotherhood movement see, Jawad 1997: 146-149.

universal values on which Islam and Christianity can agree. (...) We need to confront our differences, but also explore the underlying values we share, and how they should be expressed in modern society."

Interpretation of these sentences can only be understood by time: will Europe be satisfied by only expression and observance of common universal values or insist on the universality of Western human rights concept?

Indeed, the EU's external human rights policy is underpinned by two basic principles: universality and indivisibility (Brandtner & Rosas 1998). This was expressed by the Commission (COM(2001) 252) as follows:

"The basis for European Union (EU) is clear. The European Union seeks to uphold the universality and indivisibility of human rights –civil, political, economic, social and cultural- as reaffirmed by the 1993 World Conference on Human Rights in Vienna. The EU also upholds the principle that the human rights of women and the girl-child are an inalienable, integral and indivisible part of universal human rights, as reaffirmed by the 1995 Beijing Declaration and Platform of Action. The protection of such rights, together with the promotion of pluralistic democracy and effective guarantees for the rule of law and the fight against poverty, are among the European Union's essential objectives."

It is a very delicate issue that on the one hand Europe does not want to give up the idea of universality, and on the other, Arabic perceptions are based on the rejection of any Western idea. Former French Prime Minister, Michel Rocard evaluates this confrontation as follows:

"(...) human rights clauses must be part of the dialogue, even if it is true that officially and in legal terms, they allow one of the parties to the agreement to unilaterally suspend the implementation of the membership agreement in the case of human rights violations. By acting in that way, I am worried that, in practice, and as we have seen in Africa, Europe might try to come across as holier than thou, and that would be counter-productive." [14]

2.4. Human Rights Situation in the Mediterranean Region

We do not intend to present all human rights violations or developments in the region; rather we will try to give a general idea about the situation.

In developing countries in general, and Arab countries in particular, discussion on political and civil rights prevails.

It must not be avoided that unlike Arabic world, in the West, the state was founded four centuries ago. Over the next two centuries it achieved basic economic transformation and established a stable political and cultural system. In Arabic countries human rights issues are being discussed in pre-industrialized societies, with a very backward and fragile economic structure. The societies are confused with regard to the cultural basis of modern statehood. So, it is not acceptable to expect these states to apply Western values immediately. [15]

Eight international human rights organisations prepared a pamphlet entitled "Barcelona + 5: What Results for Human Rights – White Book" to be presented to the 4th Euro-Mediterranean Conference in Marsielle, 2000, concerning human rights situation in the context of the Partnership, but especially in the southern Mediterranean countries, with recommendations for more efficient implementation of human rights dimension of the BP.

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[14] From an interview with Michel Rocard in LaLettre 42 2000.

[15] International Aspect of the Arab Human Rights Movement, 1998, organized by the Human Rights Program – Harvard Law School.

According to this pamphlet human rights organisations observed seven persistent areas for violations:

- Perpetrators of human rights violations profit from endemic impunity;
- Physical, as well as symbolic violence against woman persists;
- Freedom of expression is muzzled;
- Torture and other forms of cruel, inhuman or degrading treatment or punishment are systematically practiced;
- Severe restrictions on freedom of association;
- Human rights defenders are confronted with attacks on their freedom of action;
- Criminal justice and prison systems are in urgent need of reform.

In general terms, human rights issues in Arabic countries stem from implementations of authoritarian regimes and Islamic interpretation –or perception- of human rights which influences governmental legislation and legitimisation of human behaviours which may be seen opposite to universal human rights concept. As a consequence of the former, widely being violated particular human rights are freedom of expression, freedom of association, systematic torture, fair trial and prisoners' rights. On other hand, impact of Islamic ideology (by political movements and religious groups) results violation of women's rights (and also gender equality) and of freedom of religion and conscience. It is a irony that Islamic aspect of human rights debates in the region consists two opposite kinds of implementation: In Tunisia, Algeria and Egypt, for instance, Islamists are the victims of human rights violations of authoritarian regimes: arbitrary detentions, disappeared persons, torture. Almost in all countries freedom association and expression is severely restricted, especially for Islamist groups. At the same time, in the name of Islam, governmental regulations and acts are the means of violations.

With the contribution of the nature of cultural structure, women's rights are at stake: Honour crimes in Jordan, widespread practise of female circumcision in Egypt, prohibition of civil marriage in Lebanon are few examples. Beside these, although all the

countries of the region –except Syria- ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), they made reservations that nullify the essence of this Convention.[16] Family legislation in most of the countries claims to derive their basic contents from Islamic law. A conservative interpretation of Islamic percepts continues to orient in a fundamental patriarchal sense. Women rights are considered a taboo and family issues that woman are afraid of speaking out their problems in order to avoid the scandal that might touch the reputation of their family (Rouhana 1999: 18).

[16] White Book 2000; Stuttgart Civil Forum 1999.

CHAPTER THREE

HUMAN RIGHTS in the BARCELONA PROCESS

The Barcelona Process embodies the debate on human rights in two texts: the Barcelona Declaration at the multilateral level and the Association Agreements at the bilateral level. Comparing provisions related with human rights included in these two texts is tragic: the Declaration which does not have legally binding characteristic contains commendable numerous commitments to respect and promote human rights in the region, while the Agreements which are supposed to be the efficient instruments of the implementation of the BD consists a few provisions to serve for this end.

The five years following the Declaration have witnessed a considerable dynamism in the area of human rights activism, but this period also showed that the human rights violations could not be prevented; even the situation in some countries is worsening.[17]

As we did in the previous chapter, we will exclude candidate countries Cyprus, Malta and Turkey. These countries are considered in the enlargement strategy of the EU. In 1993 the European Council of Copenhagen, defined a certain number of 'political criteria' to complement the *acquis communautaire*[18]. According to the European Council "Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities." Further, outside the political criteria "Membership presupposes the candidate's ability to take on the obligations of membership," which potentially adds to the human rights obligations relevant for the accession (Forsman 2001). The Treaty of

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[17] The European Parliament and the NGOs share the same opinion. See EU 1999b; EU 2000d; Stuttgart Civil Forum 1999, White Book 2000, La Lettre 42 2000.

[18] The totality of law developed within the EU institutional framework, including regulations, directives and European Court of Justice practice.

Amsterdam states that, only those European States which respect "the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law" can ask to join the Union (Chammari & Stainer 2000: 103; EU 2001b).

After presenting the appearance of the evaluation of human rights issues in the mentioned texts, we will try to show and analyse the EU's position in this context with some recommendations, taking the criticism of the human rights aspect of the BP by NGO's and scholars into consideration.

3.1. Human Rights in the Barcelona Declaration

In the preamble of the Declaration the partners declare themselves:

> *"resolved to establish to that end a multilateral and lasting framework of relations based on a spirit of partnership, with due regard for the characteristics, values and distinguishing features peculiar to each of the participants".*
>
> *"convinced that the general objective of turning the Mediterranean basin into an area of dialogue, exchange and cooperation guaranteeing peace, stability and prosperity requires a strengthening of democracy and respect for human rights, sustainable and balanced economic and social development, measures to combat poverty and promotion of greater understanding between cultures, which are all essential aspects of partnership".*

Roughly 3/5 of the first basket, the political and security partnership is, either directly or indirectly, related to Human Rights. In particular, the participants:

> *"express their conviction that the peace, stability and security of the Mediterranean region are a common asset which they pledge to promote and strengthen by all means at their disposal. To this end they agree to conduct a strengthened political dialogue at*

regular intervals, based on observance of essential principles of international law, and reaffirm a number of common objectives in matters of internal and external stability.

In this spirit they undertake in the following declaration of principles to:

act in accordance with the United Nations Charter and the Universal Declaration of Human Rights, as well as other obligations under international law, in particular those arising out of regional and international instruments to which they are party;

develop the rule of law and democracy in their political systems, while recognizing in this framework the right of each of them to choose and freely develop its own political, socio-cultural, economic and judicial system[19]*;*

respect human rights and fundamental freedoms and guarantee the effective legitimate exercise of such rights and freedoms, including freedom of expression, freedom of association for peaceful purposes and freedom of thought, conscience and religion, both individually and together with other members of the same group, without any discrimination on grounds of race, nationality, language, religion or sex;

give favourable consideration, through dialogue between the parties, to exchanges of information on matters relating to human rights, fundamental freedoms, racism and xenophobia[20]*;*

respect and ensure respect for diversity and pluralism in their societies, promote tolerance between different groups in society

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[19] In the European Draft of the Declaration expression was concluded as follows: "as long as it is in keeping with commonly accepted international norms". During the meeting between the European side and Mediterranean countries held to draft the Declaration, this was deleted (Barbé 1996: 35).

[20] "Racism" and 'xenophobia' added to the European Draft at the same meeting mentioned (Barbé 1996: 35).

and combat manifestations of intolerance, racism and xenophobia. The participants stress the importance of proper education in the matter of human rights and fundamental freedoms;

respect their sovereign equality and all rights inherent in their sovereignty, and fulfil in good faith the obligations they have assumed under international law;

respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States, as reflected in agreements between relevant parties; [...]

settle their disputes by peaceful means, call upon all participants to renounce recourse to the threat or use of force against the territorial integrity of another participant, including the acquisition of territory by force, and reaffirm the right to fully exercise sovereignty by legitimate means in accordance with the UN Charter and international law;

strengthen their cooperation in preventing and combating terrorism, in particular by ratifying and applying the international instruments they have signed, by acceding to such instruments and by taking any other appropriate measure".

Although the second basket is the frame of the prospective free trade zone, first part of the section relates, albeit indirectly, to economic and social rights:

"emphasize, the importance they attach to sustainable and balanced economic and social development with a view to achieving their objective of creating an area of shared prosperity.

The partners acknowledge the difficulties that the question of debt can create for the economic development of the countries of the Mediterranean region. They agree, in view of the importance of their relations, to continue the dialogue in order to achieve progress in the competent fora.

Noting that the partners have to take up common challenges, albeit to varying degrees, the participants set themselves the following long-term objectives:acceleration of the pace of sustainable socio-economic development; improvement of the living conditions of their populations, increase in the employment level and reduction in the development gap in the Euro-Mediterranean region".

In section B of the economic and financial basket, given over to dealing with 'Economic Cooperation and dialogue', the participants emphasise "*the key role of women in development and undertake to promote their active participation in economic and social life and in the creation of employment*".

An important part of the final section, social, cultural and human affairs, also relates, directly or indirectly, to basic rights.

In particular, the participants:

"underline the importance of the health sector for sustainable development and express their intention of promoting the effective participation of the community in operations to improve health and well-being;

they recognize the importance of social development which, in their view, must go hand in hand with any economic development. They attach particular importance to respect for fundamental social rights, including the right to development;

they recognize the essential contribution civil society can make in the process of development of the Euro-Mediterranean Partnership and as an essential factor for greater understanding and closeness between peoples;

they accordingly agree to strengthen and/or introduce the necessary instruments of decentralized cooperation to encourage exchanges between those active in development within the framework of national laws: leaders of political and civil society, the cultural and religious world, universities, the research community, the media, organizations, the trade unions and public and private enterprises;

on this basis, they recognize the importance of encouraging contacts and exchanges between young people in the context of programmes for decentralised cooperation;

they will encourage actions of support for democratic institutions and for the strengthening of the rule of law and civil society; [...]

they acknowledge the importance of the role played by migration in their relationships. They agree to strengthen their cooperation to reduce migratory pressures, among other things through vocational training programmes and programmes of assistance for job creation. They undertake to guarantee protection of all the rights recognized under existing legislation of migrants legally resident in their respective territories; [...]

they agree to strengthen cooperation by means of various measures to prevent terrorism and fight it more effectively together, [...]

they underline the importance of waging a determined campaign against racism, xenophobia and intolerance and agree to cooperate to that end."

3.2. Human Rights Clauses of the Association Agreements (Article 2) and its Implementation

Explicit human rights clauses in the association agreements between the EU and third states represent the latest step in a process in which human rights have gradually been incorporated into the legal texts. The current amount of such agreements consisting human rights clauses binding the EU to non-member states is over 50 (Thuesen 2000: 11; Chammari & Stainer 2000: 92).

A Council decision of May 1995 which states that from now on, all the cooperation, association and free trade agreements concluded by the EU with non-member countries must contain a "clause to respect for human rights", spells out the basic modalities of this clause, with the aim of ensuring consistency in the text used and its application (Brandtner & Rosas 1998; Chammari & Stainer 2000: 92).

Considering the EMP, in accordance with the EU's current human rights policy in external relations association agreements between the MPCs have a 'human rights clause' which sets out respect for human rights and democratic principal as an 'essential element' of the agreement (Thuesen 2000: 11; Chammari & Stainer 2000: 93).

According to the Article 60(1) of the Vienna Convention, 1969, a material breach in a bilateral treaty, the other party'may invoke that breach as a ground for terminating the treaty or suspending its operation in whole or in part' (Shaw 1991: 597). So in our case, violation of the human rights clause by one party, either the EU or a MPC, will give the power to other party to take action against the other, by suspending or putting an end to its own obligations (Thuesen 2000: 11; Chammari & Stainer 2000: 94). However, these provisions does not change the basic nature of the agreements. It constitutes *"a mutual reaffirmation of commonly shared values and principles, a precondition for economic and other cooperation under the agreements and expressly allows for and regulates suspension in case of non-compliance with these values"* (Brandtner & Rosas 1998).

Human rights clauses in the Association agreements are formed in two formulations with a slight difference:

First formulation:

"Relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect for human rights and democratic principles which guide their domestic and international policies and constitute an essential element of the Agreement."

Second formulation:

"Respect for the democratic principles and fundamental human rights established by the Universal Declaration of Human Rights shall inspire the Parties' domestic and external policies and shall constitute an essential element of this agreement."

In these formulations concept of 'human rights' is interpreted as referring to Universal Declaration of Human Rights, but not as binding with the Declaration's every word. In this approach *"human rights clauses refer to 'democratic principles and basic human rights, as proclaimed in the Universal Declaration', rather than to the provisions of the Declaration as such"* (Brandtner & Rosas).

In addition, each of the agreements makes provision for an article concerning the non-execution of the agreement. This special non-execution clause has been attached in order to be applied in the case of emergency without applying the Vienna Convention procedure, which is considered to be cumbersome. In the cases of special emergency it institutes a political dialogue via the Association Council while keeping the option of the suspension of the agreement:

"If either Party considers that the other Party has failed to fulfil an obligation under this Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Association Council with all the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

In the selection of measures, priority must be given to those which least disturb the functioning of this Agreement. These measures shall be notified immediately to the Association Council and shall be the subject of consultations within the Association Council if the other Party so requests."

The Commission (COM(95) 216) gives the summary of measures that may be taken in response to human rights violation under the agreements consisting human rights clause as:

- *alteration of the contents of cooperation programmes or the channels used*
- *reduction of cultural, scientific and technical cooperation programmes*
- *postponement of a Joint Committee meeting*
- *suspension of high-level contacts*
- *postponement of new projects*
- *refusal to follow up partner's initiatives*
- *trade embargoes*
- *suspension of arms sales, suspension of military cooperation*
- *suspension of cooperation*

These measures will be applied to the cases, excluding special urgency. According to Commission (COM(95) 216) the principle of proportionality between the breach cited and the degree of reaction must be considered. In the case of special urgency "it is for the parties to gauge what measures they should take." Up to that time the EU has not clarified the principle of proportionality. In order to improve the implementation of Article 2, criteria to be used in application of the clause should be drawn up (Alston & Weiler 2000: 26).

Mediterranean Partner Country	HR Clause First Formulation	HR Clause Second Formulation	Non-Execution Clause	Common Declaration
Tunisia	Π	O	Article 90	O
Israel	Π	O	Article 79	O
Morocco	O	Π	Article 90	Π
Palestinian Authority	Π	O	Article 68	Π
Jordan	O	Π	Article 101	Π

Table 4. Human Rights Clauses' Situation in the Concluded Association Agreements

Finally, with the exception of Tunisia and Israel, the agreements are accompanied by a *common declaration* relating to the interpretation of the non-execution clause. The definition of material breach is made in consistency with the Article 60 (3) of the Vienna Convention:

> *"1. The Parties agree, for the purpose of the correct interpretation and practical application of this Agreement, that the term 'cases of special urgency' in article [...] means a case of the material breach of the Agreement by one of the Parties. A material breach of the Agreement consists in:*
>
> - *repudiation of the Agreement not sanctioned by the general rules of international law,*
> - *violation of the essential elements of the Agreement agreed to in Article 2.*
>
> *2. The Parties agree that the 'appropriate measures' referred to in Article [...] of the Agreement are measures taken in accordance with international law. If a Party takes measure in a*

case of special urgency as provided for under Article [...], the other Party may avail itself of the procedure relating to settlement of disputes."

Although it is generally perceived as that the human rights observance of the Mediterranean side of the Partnership is worse than the EU, Association Agreements give the power mentioned not only to the EU but also to the MPC. It also means that the EU has obligations as well as power. Nevertheless, the situation is perceived by the observers –even by the partners- as that the EU has a dominance role in the Partnership, particularly in promotion of and respect for human rights and democratisation.[21] We must not avoid the fact that the human rights dimension of the Association Agreements –whether it is criticised with it its non-efficiency- is the result of the EU's human rights policy which has developed in recent years. Being aware of this situation the human rights defenders in the region have directed their claims to the EU, by asking for coercion and using political and economic measures in order to prevent and reduce the human rights violations in the MPCs which are signing association agreements undertaking to act in accordance with the universal human rights concept.

To sign an agreement with a State, which infringes seriously basic human rights represents a contradiction. It is a paradox that in spite of the well-known bad reputations of most of the Mediterranean states, the EU has been signing such agreements which may be seen as making a mockery or a sign of future negligent implementation of the human rights clauses (Thuesen 2000: 8). The EU's reply to this question is that negotiations cannot be tied to human rights issues, because the agreements will eventually provide the means to take action (Chammari & Stainer 2000: 96).

As it is a contradiction to sign agreements containing human rights clauses as essential elements with the governments violating human rights, again, it will be a contradiction to suspend the same agreements because of these violations which were

[21] As an example of this perception, Thuesen's expression about the association agreements deserves to be mentioned. Thuesen says, "human rights clauses were introduced as essential elements in the agreements to give the EU power under international law..." It is an irony that two sentences later mutuality of the provision is stressed (Thuesen 2000: 4).

known by the EU during the negotiations and ratification period. At the same time, it is a very important fact that nature of the agreements is in favour of the MPCs in the sense of economic growth and -with its possible stimulation- stability.

At that point, especially the MEDA programme, which provides financial aid to MPCs, bears a big importance. The MEDA Regulation "is based on respect for democratic principles and the rule of law and also for human rights and fundamental freedoms, which constitute an essential element thereof, the violation of which element will justify the adoption of appropriate measures".[22] The Regulation has a non-execution clause in parallel with the Association Agreements' non-execution clause. It is a unilateral text that does not bind the MPCs. Possible implementation of the human rights clauses of the Association Agreements is valid for the Regulation.

In that context, using human rights clauses as a tool of punishing a whole population and associate with traditional sanctions will be opposite to the spirit of the initiative. Instead of suspension of the flow of funds, it may be preferred to channel through NGOs. This will mean help to legitimisation of civil society actors but not punishing a population.[23]

The EU had only used the human rights clauses against Lome Convention states. Some of the observes perceive this attitude as the EU applies double-standards on human rights because Lome Convention states are among the least developed countries and the EU has only financial aid relations rather than trade (Thuesen 2000:13).

Although NGOs are insisting on the efficient implementation of Article 2, experience shows that such clauses are used as a basis for certain positive measures aimed at promoting human rights and democracy in an internal state of crisis in one of the partner countries, without it being necessary to apply all the normal procedures provided for in the respective regulations (Brandtner & Rosas 1998).

As a very recent development, the Commission (COM(2001) 252) has defined the aim of the inclusion of human rights clauses as:

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[22] The MEDA Regulation, Article 3.

[23] Human Rights Discussion Forum, Final report, 1999; Thuesen 2000: 14.

"(...) the EU's insistence on including essential elements is not intended to signify a negative or punitive approach. They are meant to promote dialogue and positive measures, such as joint support for democracy and human rights, the accession, ratification and implementation of international human rights instruments where this is lacking, as well as the prevention of crises through the establishment of a consistent and long-term relationship."

In the same text it was also emphasised that, before resorting to negative measures (suspension of the agreements on the grounds of essential elements or suspension clauses) "all avenues for progress" must be explored.

3.2.1. Political Dialogue and the Role of the Association Councils

The Association Agreements contain provisions on political dialogue referring to dialogue at both ministerial –principally within the Association Council- and senior official level. The EU sees the political dialogue as the most effective way of achieving the observance of human rights in third countries. Positive and constructive partnership with governments must be

"based on dialogue, support and encouragement. This should aim to improve mutual understanding and respect, and promote sustainable reform.

"(...) Discussion should consider how ratification of the fundamental human rights instruments and of other rights-based international agreements and their affective implementation could be pursued, together with consideration of how UN recommendations should be followed up."

In the context of political dialogue, nevertheless, the only progress that was recorded is the exchange of information regarding the international instruments ratified by each of the partners in the area of human rights (Chammari & Stainer 2000: 19).

In particular, the Commission has evaluated the place of human rights and democratisation in the political dialogue with MPCs as follows:

> *"Issues such as human rights, democracy and good governance and the rule of law should be regularly raised by the EU side and should acquire greater prominence in the partnership.*
>
> *"(...) In parallel these issues should also be discussed regularly with partners (in the Association Councils and Committees, Troikas etc.) so that a direct policy dialogue can be engaged on measures which governments need to take to ensure satisfactory evolution of the situation. This could lead the establishment of joint working groups on human rights at officials level; these groups would aim to agree on a number concrete benchmarks and objective criteria to be reviewed within the various Association Councils"* (EU 2000e).

Because of its more political nature the Association Council is seen as the best place for evaluation of issues related to human rights. However, human rights issues have not taken important part in the agenda of the Association Councils (Chammari & Stainer 2000: 77). This lack of attention in the Councils was explicitly expressed the Euro-Mediterranean Conference in Marseilles, 2000, with *"a desire to extend the dialogue to other topics, such as regional trends as regards security, disarmament, the process of consolidating the rule of law, and respect for human rights and democratic principles"*.

It was also recommended by the Stuttgart Civil Forum 1999, to organise meetings "between the European Parliament, the Commission and the missions of the EU in 27 countries of the Partnership and the NGO's defending human rights before the Association Council meetings so that the latter can express their views on the progress of

the partnership". But there is not any formal regulation in the framework of the Partnership for the NGOs to bring their information on human rights violations.

3.2.2. The Role of the European Parliament

As we mentioned above the BP is under tight control of the European Council. Thus, the Parliament has no much influence on the Process. Human rights issues are not seen as priority in the foreign policy of the governments. Nature of the European Council reflects natural interests of the Member States, which tend to prefer conclude economy related agreements avoiding human rights. (Thuesen 2000: 14) This can easily seen in the Association Agreements, which consists only a four-line paragraph for human rights but elaborates trade and financial issues in the numerous provisions, *'which are amplified by detailed annexes several times longer than the agreements itself'* (Kienle 1998: 3).

The European Parliament has been giving great importance to human rights issues in the European Union member states and in the non-member states. The Union's human rights policy in foreign policy has developed with considerable efforts of the Parliament (Steiner & Woods 1999: 23, 24; Chammari & Stainer 2000). The Parliament's crucial role in the human rights dimension of external relations of the Union has been accepted by the Commission (COM(2001) 252). In order to ensure coherency and consistency[24] with the Parliament, the Commission has announced they will regularly exchange views and Parliament's priorities will be reflected in the Commission's approach wherever appropriate. In addition,

> *"the Commission will involve the Parliament in discussions of programming priorities for external assistance relating to human rights and democratisation. The Commission will provide the Parliament with regular updates on activities undertaken and an evaluation of how far its objectives have been achieved."*

[24] For the criticism for incoherency and inconsistency of the EU institutions in human rights see Alston & Weiler 2000.

The Commission's this attempt to reflect Parliament's sensitivity to external policy of the Union must be welcomed due to Parliament's role of being a "resonance box" that can amplify signals from civil society (Thuesen 2000: 15).

Up to that time, the European Parliament, although it has not so much things to do practically, has been influencing the Process politically. In the case of the human rights dimension of the Euro-Mediterranean Partnership, the Parliament has made efforts to promote human rights in the Mediterranean region and to make human rights mechanisms in the Partnership more efficient and some of them deserve to be mentioned.

In its resolution (EU 2000d) dated 30th March 2000, the Parliament *'points out that the human rights aspects of the Barcelona Process are still woefully deficient and that the situation in many countries shows no sign of improvement'*. One year before that resolution it has expressed that the human rights situation in some of the MPCs was even worsening (EU 1999b). The Parliament (EU 2000d) announces that it condemns *'the lack of respect of the human rights clause in the Euro-Mediterranean Agreements and calls on the Commission to assume its responsibility as regards invoking respect of the clause and raising the issue of respect for human rights in both multilateral an bilateral talks'*. In addition to this, it calls on the Council and the Commission for publishment an annual report on human rights issues in the context of the BP and for the adoption visa policy, which will facilitate human exchanges between Europe and Mediterranean.If we consider that the recommendations of the Parliament and the Commission's proposals (EU 2000e) which follow the Parliaments calls, it is not wrong to say that the Parliament has a considerable contribution to Chris Patten's utterance (Patten 2001):

> *"(...) we should not wait for the Charter [for Peace and Stability] to be in force to make more efficient efforts to promote respect for human rights and democratic freedoms in the region. (...) the EU should use all appropriate fora to press for progress on ..."*

The Parliament also has used its power on the budget and created an initiative entitled "The MEDA Democracy Program" for the period 1996-1999 in order to promote

the rule of law, human rights and democracy and to strengthen civil society in the framework of the Partnership.

3.2.3. The Role of the European Court of Justice

The European Court of Justice (ECJ) is the Court of the EU. It is composed of judges, one from each member state, selected by the national governments. The Court has three main functions: supervision on the EU institutions in order to prevent any excess of authority; dispute resolution between the EU institutions and member states and to ensure national compliance with the EU law (Steiner & Woods 1999: 30,31; Dinan 1999: 132).

According to Article 173 of the Treaty Establishing the European Community (1957) (as amended by the Treaty on European Union):

> *"The Court of Justice shall review the legality of acts adopted jointly by the European Parliament and the Council, of acts of the Council, of the Commission and of the ECB, other than recommendations and opinions, and of acts of the European Parliament intended produce legal affects vis-à-vis third parties."*

And the Article 174 states that:

> *"If the action is well founded, the Court of Justice shall declare the act concerned to be void."*

Thus, the ECJ has the power to rule on the validity of decision by one of the institution of the Union to provide aid to any third country or on the legality of a decision to terminate, suspend, conclude or continue a treaty with third country, of course, including the Euro-Mediterranean Association Agreements.

Article 173 of the Treaty defines *locus standi*, the question of who may bring an action. Member States, the Council and the Commission are the privileged applicants that can challenge any binding act under Article 173. The Parliament's power to bring an

action before the Court is limited to "to protect its prerogative" power. So, the Parliament cannot claim annulment of an action unless its prerogative power has been infringed. As a body with task to supervise the Council and the Commission, especially its well-known sensitivity on human rights issues, absence of its power is a disadvantage in the context of the implementation of human rights clause of the Association Agreements.

Natural or legal persons are non-privileged applicants in comparison with member states and the institutions. The ECJ has been interpreting the provisions on individual applicants very strictly. The Court of First Instance's identification of the situations[25] that give the associations the power to claim leaves many associations or pressure groups without *locus standi*.[26]

Nevertheless, despite the possibility of direct appeals by any legal or natural individuals provided by Article 173, in practice, due to lack of any actual procedure for making complaints to the Commission about human rights violations in a third country, it is so difficult for NGO's to reach the ECJ (Alston & Weiler 2000: 35). At the same time, the case law shows that the ECJ is reluctant to tell the Council what to do (Thuesen 2000: 5).

A regular "European Union Human Rights Report on Mediterranean Countries (or the Partnership Countries)" will help NGOs to argue that the EU should take action against the state which violates human rights before the ECJ. Another problem is that of vagueness of the "appropriate measures" in the human rights clauses. Precise definition of that which measures corresponds to which violation will be concrete criteria for the ECJ. In the absence of such criteria either the Court will avoid to judge or its decision may be criticised for being political.

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[25] "Three situations when an association would be granted *locus standi*:

a. the trade association has been expressly granted procedural rights;

b. it represents the individuals or undertakings which themselves have standing; or

c. the trade association itself is affected – for example if its right to negotiate is affected." (Steiner & Woods, p.459)

[26] For further information on individual application: Steiner & Woods 1999:454-490.

3.3. Financial Assistance for Human Rights

Financial assistance for NGOs and human rights projects is the most important aspect of human rights dimension of the BP. First, human rights movements in southern countries are not being funded by local sources. Second, funding policy represents the outlines of the human rights priorities of donors and directs the NGOs to towards this policy.

The MEDA Democracy Programme (MDP) was launched by the European Parliament as an instrument to promote the rule of law, human rights and democracy and to strengthen civil society within the framework of the Euro-Mediterranean Partnership, in 1996. It is a part of the European Initiative for Democracy and Human Rights (EIDHR – Chapter B7-70 of the EU budget as budget line B7-705 (EU 2000g).

Funding is granted to NGOs, universities, research centres and public bodies to enable them to carry out their work. The Commission (COM(2000) 726) determines the objectives of the MDP as, supporting:

- the transition to democracy
- consolidating the rule of law
- independent and free media
- freedom of assembly and freedom of association
- pluralist civil society
- protection of vulnerable groups (women, children, refugees, minorities)
- human rights building measures

For the EIDHR programme 2002, the Commission has proposed (COM(2001) 252) the following priority subjects:

- Support to strengthen democratisation, good governance and the rule of law
- Activities in support of the abolition of the death penalty

- Support for the fight against torture and impunity and for international tribunals
- Combating racism and xenophobia, and discrimination against minorities and indigenous peoples

During the period 1996-1999 the EU allocated over 300 millions of euros to promote human rights and democracy in non-member states. The MDP constitutes 14% of the allocations. If we consider that the EU commitments for aid to Mediterranean countries for 1995-1999 in the framework Euro-Mediterranean Partnership was 4 422 millions of euros, the MDP amounts to no more than about one percent of the total funds directed to support financial and technical measures in the region.

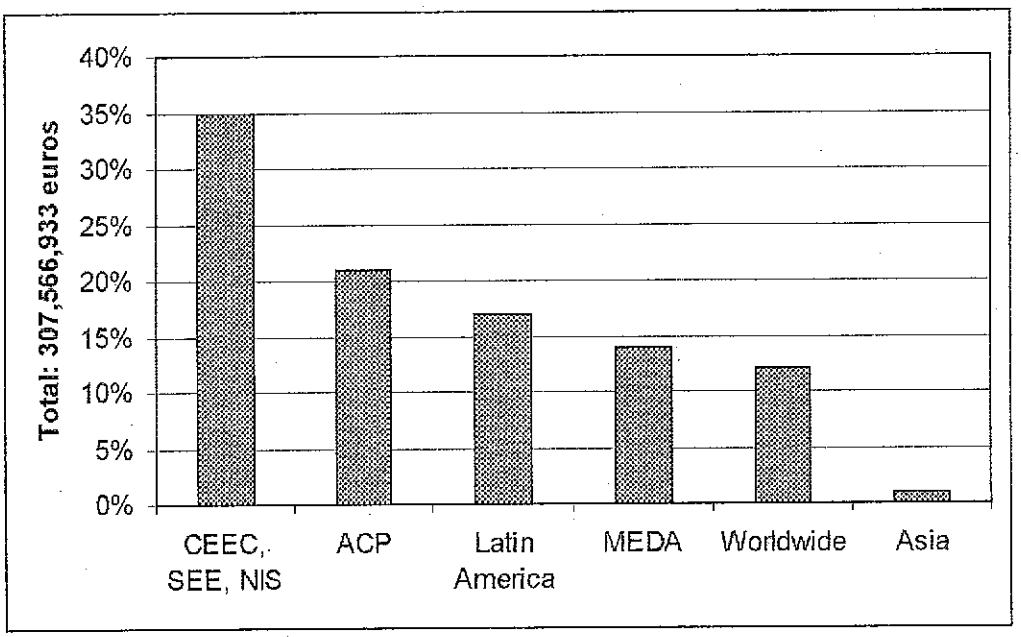

Table 5. Regional Distribution of Funds for Promotion of Human Rights and Democratic Principles by the EU

Source: Report From the Commission on the Implementation of Measures Intended to Promote Observance of Human Rights and Democratic Principles in External Relations for 1996-1999, Commission of the European Communities, COM(2000) 726

Between 1996 and 1998 approximately half of the funds were allocated to organisations based in Europe (33%) and Israel (14%). Evidently, this distribution is not consistent with the realities and demands of the region (The MEDA 2000: 3).

The EU's funding system of human rights movements represents a complicated and insufficiently publicised structure. Especially for the southern NGOs it is almost impossible to get information on programmes (The MEDA 2000: 3).

NGOs to whom EU funding is vital have faced some problems in the management of human rights programmes. First, it is the frequent and unexplained delays of payments. Second, the Commission's demand for receipts for even the smallest items of expenditure is heavier than any other major funder. It was suggested by the NGOs "the Commission should move the emphasis from audit to management, paying less attention to individual receipts being funded and whether they provide value for money" (The MEDA 2000: 4).

Another obstacle for the NGOs is the large scale of projects. The EU's tendency has been to give priority to large scale projects which are beyond the capacity of a large number of NGOs (The MEDA 2000: 3).

These criticisms led the EU to adjust its funding and management policy of EIDHR:

- In order to facilitate getting information on EIDHR projects, the Commission has been announcing "Calls for Proposals" in the Official Journal and on the Commission's website.
- The Commission has decided to extend 'micro projects' (< 50.000 □ over 12 months) to more delegations than the current ones managed by Commission delegations.

3.4. HR Monitoring Systems for Mediterranean

Implementation of Article 2 –in any sense (suspension, political dialogue etc.)- is linked to proper monitoring systems in the region. Human rights monitoring constitute the basis of setting the human rights standards. The expression of a representative of an NGO in the Human Rights Discussion Forum (1999) is as follows: *"Without systematic monitoring, we let CNN determine our human rights policy."*

The publication of a specific and detailed annual report is to be the only way to document the human rights violations in each partner country. To give the real meaning of being "partnership" to the Process, this annual report must not avoid the human rights issues in the EU, and especially include issues such as refugee protection, combat against racism and xenophobia. Nevertheless, the EU's monitoring systems are too weak, not only in the third countries but also inside the EU. First, there is no current annual report on the human rights records of Mediterranean countries. Second, although the EU has started to publish "European Union Annual Report on Human Rights" in 1999 embracing member states, it is far from to serve as a document on human rights abuses. It gives information only about the legal background, the history and the actions of the EU institutions being content with a few examples of human rights violations in the member states.[27]

The European Parliament shares the same opinion on the publication of annual report. In its Resolution (2000d) *"calls on the Council and the Commission to issue an annual report on human rights in the countries participating in the Barcelona Process."*

Despite the consensus on the necessity of such annual report, the Commission's objection is as follows:

> *"(...) the cause of human rights was not reinvented in the Euro-Mediterranean Partnership. The Barcelona Declaration is based on internationally endorsed principles already enshrined in international instruments. Those human rights instruments have their own monitoring bodies –such as the UN Human Rights Commission. It is certainly not up to the EU to replace them nor to take over their role."* (Gonzalez-Durantez 1999)

3.5. NGOs and Civil Society

[27] Human Rights Discussion Forum, Final report, 1999.

As we have seen, at every point of the promotion of human rights in the framework of the BP, it requires a strong support for civil society. By Stuttgart Civil Forum 1999, civil society has been defined as

> *"the collection of those authorities, associations, persons and the media who have the authority to guarantee or protect, outside of all state institutions, the proper execution, by peaceful means, of public liberties and to favor the emergence and independent affirmation of a collective pluralist identity based on the universal values of human rights and the promotion of a citizens culture".*

It is true that human rights organizations in the region have developed their activities with the BP. Human rights defenders have widened their scope of their activities, working together national action intervention in UN mechanisms and involving the partnership authorities (La Lettre 42 2000). A genuine Arab human rights movement came into existence (White Book 2000). Although the BD insists strongly on the promotion of the role of civil society, particularly NGOs, in the implementation and evaluation of the Process, all of the NGOs in the Southern Mediterranean has been facing several difficulties emerging from implementations of authoritarian regimes[28]:

- NGOs need prior licensingto be recognized categories of persons from forming associations; exclude certain associations from registering under the law; and restrict the range of activities of associations;
- Excessive control of associations' board members and unwarranted restrictions on the functioning and organizational aspect of associations.
- Excessive control of associations' relations with international organizations and their access to foreign funding[29]

[28] Report on Freedom of Association in the Euro-Mediterranean Region since November 1995 by ARTICLE 19, in White Book 2000.

[29] During the very last days of writing of this dissertation, Dr Saad Eddin Ibrahim, director of the Ibn Khaldun Center for Development Studies in Cairo, has been sentenced to seven years imprisonment by the Supreme State Security Court of Egypt because of accepting foreign funds without authorization and disseminating false information harmful to Egypt's interest.

- Suspension of freedoms under emergency or martial law

Moreover, delays in payments provided by the EU funding programmes, complexity of procedures of the programmes in the framework of the Euro-Mediterranean Partnership and lack of communication between local NGOs themselves and international NGOs are exacerbating their conditions.[30]

[30] International Aspect of the Arab Human Rights Movement, 1998, organized by the Human Rights Program – Harvard Law School.

CONCLUSION

Examination of the human rights dimension of the Barcelona Process does not embrace all the Mediterranean Partner Countries. Three candidate countries, Cyprus, Malta and Turkey are subjected to strong political criteria in human rights and democratization. The novelty of the European Union's relations consisting political agenda at the same time with the economic agenda is basically related with Arab countries.

Europe's relations with those countries take their roots from colonial period. For a long time Euro-Mediterranean relations did not go further than economic dimension. During the Cold War period the region's problems were eclipsed. NATO and Warsaw Pact have shared the same aim over the region: to keep the power balance and stability. This policy was in favor of the authoritarian regimes which were supported due to superpower's interests. With the collapse of the Soviet Bloc, Arab-Israeli problem and energy sources of the region led many actors to develop policies over the Mediterranean, including the European Union. As the biggest consumer of African oil, Europe had to seek a new policy in the emergence of new world (dis)order.

As the result of economic deterioration and, internal and interstate conflicts in the region, European countries received millions of migrants from southern Mediterranean countries. In that context Europe's main preoccupation with Arab countries was that of rise of religious extremism and its prospective effects to European societies. Terrorist attacks, which targeted foreigners in Algeria and Egypt, were the concrete reasons for the 'fear'. The European solution for this 'threat' is to ensure prosperity in the region and prevent migration flows from South to North. Thus, Europe's new policy manifested itself in the Barcelona Declaration, November 1995, and its follow-up implementation, the Barcelona Process.

The Barcelona Process welcomed by the Mediterranean states but not approved exactly in the sense of European extent: Mediterranean countries do not intend to

transform the nature of the initiative to a political organization. Arab countries do not appreciate any collective political project, unless the European Union accepts to play an important in Arab-Israeli dispute. Israel do not trust Europe and has precisely expressed that the Barcelona Process cannot be the competitor or alternative of the Peace Process. If we add Turkey's reluctance considering Kurdish and Cyprus problem in the political agenda, lack of willingness of the Mediterranean countries in order to bring the political issues into the negotiations and meetings can be easily seen.

Although the Barcelona Declaration gives big importance to human rights issues, at both multilateral and bilateral levels, progress of the process does not show a significant development in that sense. Lack of achievement in human rights issues does not only emerge from the reluctance of southern states but also from the European Union's. The European Union has been criticized because of giving more importance to economic issues and not coercing the southern governments by using available instrument such as human rights clauses in association agreements. However, according to the European Union's assumption that is economic prosperity with economic liberalism would bring democracy and respect for human rights to the region, economic dimension is the core of the initiative.

Considering the process, at multilateral level, ministers are only satisfied with mentioning human rights issues without offering any concrete project. The idea of establishing a 'pact' has been changed to a 'charter' which will not bind the partners legally, moreover, its drafting is still in progress.

At bilateral level, every association agreement principally contains a 'human rights clause', which gives the parties the power to suspend the agreement in the case of violation of human rights. But experience, and the European Union's official expressions, showed that negative usage of those clauses is not the aim of the European Union. Indeed, this must be welcomed due to past experience of the principle of 'conditionality', which exacerbated the relations with third countries.

At that point, as the most important and efficient way of ensuring human rights observance in the Mediterranean countries, political dialogue prevails. At the same time, the issue of dialogue is very delicate. At one side there is the unique cultural interpretation

of human rights stemming from basically Islamic approach and the perception of any Western intervention as new-colonialism, and at the other, the European Union's – generally West's- human rights ideology that is based on universality. Political dialogue should be supported by the European Union's performance showing a strong intention to diminish the distrust between cultures such as facilitation of human movement between the European Union member states and the Mediterranean countries; and realistic approach to economic issues which should include movement of services and abolition of tariffs and quotas for agricultural products, and reduce the gap between the payments and commitments in the framework of the Partnership.

In the case of cultural perceptions, one must not overlook that; Universal Declaration of Human Rights is a product of a particular culture. We do not argue whether it belongs to only that culture. The point is that, it is a cultural outcome formed by philosophy, religion and economic developments. Thus, it is not plausible to expect the Mediterranean countries to change all the traditions and ideas in a short term. In some extent, the Mediterranean states' interpretations of human rights should be recognized; at least, they should not be discussed. However, our expression is far from giving a concrete solution, for the issue is related with politics and attitudes of western officials.

In order to tackle the problems arisen around the human rights discussions, non-governmental organizations should be supported with adequate means, but such organizations should not serve only for documentation of violations, but also –may be rather- public awareness and education.

The European Union's approach of not using negative and economic measures against human rights violations is appropriate, but there is still a lot of thing should be done. If the Europe Union is honest in its commitments in promotion of human rights in – external relations, in general and in- Mediterranean countries, in particular, it should give more importance in political dialogue and allocate more funds. Due to their crucial role in the Process, the policy has to seek how the NGOs can be strengthened without irritating sensitive groups and governments and how it can be ensured the NGOs to participate the Process more efficiently.

The European Union's human rights policy has gained a new dimension with the Commission's very recent Communication (COM(2001) 252). Especially, making the European Parliament more efficient in human rights debates with Mediterranean countries can facilitate to achieve positive and concrete results. Time will show if this new attempt can be successful.

APPENDIX

The Barcelona Declaration

Adopted at the Euro-Mediterranean Conference 27 and 28 November 1995

The Council of the European Union, represented by its President, Mr Javier SOLANA, Minister for Foreign Affairs of Spain,

The European Commission, represented by Mr Manuel MARIN, Vice-President,

Germany, represented by Mr Klaus KINKEL, Vice-Chancellor and Minister for Foreign Affairs,

Algeria, represented by Mr Mohamed Salah DEMBRI, Minister for Foreign Affairs,

Austria, represented by Ms Benita FERRERO-WALDNER, State Secretary, Ministry of Foreign Affairs,

Belgium, represented by Mr Erik DERYCKE, Minister for Foreign Affairs,

Cyprus, represented by Mr Alecos MICHAELIDES, Minister for Foreign Affairs,

Denmark, represented by Mr Niels Helveg PETERSEN, Minister for Foreign Affairs,

Egypt, represented by Mr Amr MOUSSA, Minister for Foreign Affairs,

Spain, represented by Mr Carlos WESTENDORP, State Secretary for Relations with the European Community,

Finland, represented by Ms Tarja HALONEN, Minister for Foreign Affairs,

France, represented by Mr Hervé de CHARETTE, Minister for Foreign Affairs,

Greece, represented by Mr Károlos PAPOULIAS, Minister for Foreign Affairs,

Ireland, represented by Mr Dick SPRING Deputy Prime Minister and Minister for Foreign Affairs

Israel, represented by Mr Ehud BARAK, Minister for Foreign Affairs,

Italy, represented by Ms Susanna AGNELLI, Minister for Foreign Affairs,

Jordan, represented by Mr Abdel-Karim KABARITI, Minister for Foreign Affairs,

Lebanon, represented by Mr Fares BOUEZ, Minister for Foreign Affairs,

Luxembourg, represented by Mr Jacques F. POOS, Deputy Prime Minister and Minister for Foreign Affairs,

Foreign Trade and Cooperation,

Malta, represented by Prof. Guido DE MARCO, Deputy Prime Minister and Minister for Foreign Affairs,

Morocco, represented by Mr Abdellatif FILALI, Prime Minister and Minister for Foreign Affairs,

the Netherlands, represented by Mr Hans van MIERLO, Deputy Prime Minister and Minister for Foreign Affairs,

Portugal, represented by Mr Jaime GAMA, Minister for Foreign Affairs,

the United Kingdom, represented by Mr Malcolm RIFKIND QC MPI, Secretary of State for Foreign and Commonwealth Affairs,

Syria, represented by Mr Farouk AL-SHARA-A, Minister for Foreign Affairs,

Sweden, represented by Ms Lena HJELM-WALLEN, Minister for Foreign Affairs,

Tunisia, represented by Mr Habib Ben YAHIA, Minister for Foreign Affairs,

Turkey, represented by Mr Deniz BAYKAL, Deputy Prime Minister and Minister for Foreign Affairs,

the Palestinian Authority, represented by Mr Yasser ARAFAT, President of the Palestinian Authority.

Taking part in the Euro-Mediterranean Conference in Barcelona:

- stressing the strategic importance of the Mediterranean and moved by the will to give their future relations a new dimension, based on comprehensive cooperation and solidarity, in keeping with the privileged nature of the links forged by neighbourhood and history;
- aware that the new political, economic and social issues on both sides of the Mediterranean constitute common challenges calling for a coordinated overall response;
- resolved to establish to that end a multilateral and lasting framework of relations based on a spirit of partnership, with due regard for the characteristics, values and distinguishing features peculiar to each of the participants;
- regarding this multilateral framework as the counterpart to a strengthening of bilateral relations which it is important to safeguard, while laying stress on their specific nature;
- stressing that this Euro-Mediterranean initiative is not intended to replace the other activities and initiatives undertaken in the interests of the peace, stability and development of the region, but that it will contribute to their success, The participants support the realization of a just, comprehensive and lasting peace settlement in the Middle East based on the relevant United Nations Security Council resolutions and principles mentioned in the letter of invitation to the Madrid Middle East Peace Conference, including the principle land for peace, with all that this implies;

- convinced that the general objective of turning the Mediterranean basin into an area of dialogue, exchange and cooperation guaranteeing peace, stability and prosperity requires a strengthening of democracy and respect for human rights, sustainable and balanced economic and social development, measures to combat poverty and promotion of greater understanding between cultures, which are all essential aspects of partnership,

- hereby agree to establish a comprehensive partnership among the participants - the Euro-Mediterranean partnership - through strengthened political dialogue on a regular basis, the development of economic and financial cooperation and greater emphasis on the social, cultural and human dimension, these being the three aspects of the Euro-Mediterranean partnership.

POLITICAL AND SECURITY PARTNERSHIP: ESTABLISHING A COMMON AREA OF PEACE AND STABILITY

The participants express their conviction that the peace, stability and security of the Mediterranean region are a common asset which they pledge to promote and strengthen by all means at their disposal. To this end they agree to conduct a strengthened political dialogue at regular intervals, based on observance of essential principles of international law, and reaffirm a number of common objectives in matters of internal and external stability.

In this spirit they undertake in the following declaration of principles to:

- act in accordance with the United Nations Charter and the Universal Declaration of Human Rights, as well as other obligations under international law, in particular those arising out of regional and international instruments to which they are party;
- develop the rule of law and democracy in their political systems, while recognizing in this framework the right of each of them to choose and freely develop its own political, socio-cultural, economic and judicial system;
- respect human rights and fundamental freedoms and guarantee the effective legitimate exercise of such rights and freedoms, including freedom of expression, freedom of association for peaceful purposes and freedom of thought, conscience and religion, both individually and together with other members of the same group, without any discrimination on grounds of race, nationality, language, religion or sex;

- give favourable consideration, through dialogue between the parties, to exchanges of information on matters relating to human rights, fundamental freedoms, racism and xenophobia;
- respect and ensure respect for diversity and pluralism in their societies, promote tolerance between different groups in society and combat manifestations of intolerance, racism and xenophobia. The participants stress the importance of proper education in the matter of human rights and fundamental freedoms;
- respect their sovereign equality and all rights inherent in their sovereignty, and fulfil in good faith the obligations they have assumed under international law;
- respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States, as reflected in agreements between relevant parties;
- refrain, in accordance with the rules of international law, from any direct or indirect intervention in the internal affairs of another partner; respect the territorial integrity and unity of each of the other partners;
- settle their disputes by peaceful means, call upon all participants to renounce recourse to the threat or use of force against the territorial integrity of another participant, including the acquisition of territory by force, and reaffirm the right to fully exercise sovereignty by legitimate means in accordance with the UN Charter and international law;
- strengthen their cooperation in preventing and combating terrorism, in particular by ratifying and applying the international instruments they have signed, by acceding to such instruments and by taking any other appropriate measure;
- fight together against the expansion and diversification of organized crime and combat the drugs problem in all its aspects;
- promote regional security by acting, inter alia, in favour of nuclear, chemical and biological non-proliferation through adherence to and compliance with a combination of international and regional non-proliferation regimes, and arms control and disarmament agreements such as NPT, CWC, BWC, CTBT and/or regional arrangements such as weapons free zones including their verification regimes, as well as by fulfilling in good faith their commitments under arms control, disarmament and non-proliferation conventions.

The parties shall pursue a mutually and effectively verifiable Middle East Zone free of weapons of mass destruction, nuclear, chemical and biological, and their delivery systems.
Furthermore the parties will consider practical steps to prevent the proliferation of nuclear, chemical and biological weapons as well as excessive accumulation of conventional arms;

- refrain from developing military capacity beyond their legitimate defence requirements, at the same time reaffirming their resolve to achieve the same degree of security and mutual confidence with the lowest possible levels of troops and weaponry and adherence to CCW.
- promote conditions likely to develop good-neighbourly relations among themselves and support processes aimed at stability, security, prosperity and regional and subregional cooperation.
- consider any confidence and security-building measures that could be taken between the parties with a view to the creation of an "area of peace and stability in the Mediterranean", including the long term possibility of establishing a Euro-Mediterranean pact to that end.

ECONOMIC AND FINANCIAL PARTNERSHIP: CREATING AN AREA OF SHARED PROSPERITY

The participants emphasize the importance they attach to sustainable and balanced economic and social development with a view to achieving their objective of creating an area of shared prosperity. The partners acknowledge the difficulties that the question of debt can create for the economic development of the countries of the Mediterranean region. They agree, in view of the importance of their relations, to continue the dialogue in order to achieve progress in the competent fora.
Noting that the partners have to take up common challenges, albeit to varying degrees, the participants set themselves the following long-term objectives:

- acceleration of the pace of sustainable socio-economic development;
- improvement of the living conditions of their populations, increase in the employment level and reduction in the development gap in the Euro-Mediterranean region;
- encouragement of regional cooperation and integration.

With a view to achieving these objectives, the participants agree to establish an economic and financial; partnership which, taking into account the different degrees of development, will be based on:

- the progressive establishment of a free-trade area;

- the implementation of appropriate economic cooperation and concerted action in the relevant areas;
- a substantial increase in the European Union's financial assistance to its partners.

a) Free-trade area

The free-trade area will be established through the new Euro-Mediterranean Agreements and free-trade agreements between partners of the European Union. The parties have set 2010 as the target date for the gradual establishment of this area which will cover most trade with due observance of the obligations resulting from the WTO.

With a view to developing gradual free trade in this area: tariff and non-tariff barriers to trade in manufactured products will be progressively eliminated in accordance with timetables to be negotiated between the partners; taking as a starting point traditional trade flows, and as far as the various agricultural policies allow and with due respect to the results achieved within the GATT negotiations, trade in agricultural products will be progressively liberalized through reciprocal preferential access among the parties; trade in services including right of establishment will be progressively liberalized having due regard to the GATS agreement. The participants decide to facilitate the progressive establishment of this free-trade area through the adoption of suitable measures as regard rules of origin, certification, protection of intellectual and industrial property rights and competition;

- the pursuit and the development of policies based on the principles of market economy and the integration of their economies taking into account their respective needs and levels of development;
- the adjustment and modernization of economic and social structures, giving priority to the promotion and development of the private sector, to the upgrading of the productive sector and to the establishment of an appropriate institutional and regulatory framework for a market economy. They will likewise endeavour to mitigate the negative social consequences which may result from this adjustment, by promoting programmes for the benefit of the neediest populations;
- the promotion of mechanisms to foster transfers of technology.

b) Economic cooperation and concerted action

Cooperation will be developed in particular in the areas listed below and in this respect the participants:

- acknowledge that economic development must be supported both by internal savings, the basis of investment, and by direct foreign investment. They stress the importance of creating an environment conducive to investment, in particular by the progressive elimination of obstacles to such investment which could lead to the transfer of technology and increase production and exports;
- affirm that regional cooperation on a voluntary basis, particularly with a view to developing trade between the partners themselves, is a key factor in promoting the creation of a free-trade area;
- encourage enterprises to enter into agreements with each other and undertake to promote such cooperation and industrial modernization by providing a favourable environment and regulatory framework. They consider it necessary to adopt and to implement a technical support programme for SMEs;
- emphasize their interdependence with regard to the environment, which necessitates a regional approach and increased cooperation, as well as better coordination of existing multilateral programmes, while confirming their attachment to the Barcelona Convention and the Mediterranean Action Plan. They recognize the importance of reconciling economic development with environmental protection, of integrating environmental concerns into the relevant aspects of economic policy and of mitigating the negative environmental consequences which might result. They undertake to establish a short and medium-term priority action programme, including in connection with combating desertification, and to concentrate appropriate technical and financial support on those actions;
- recognize the key role of women in development and undertake to promote their active participation in economic and social life and in the creation of employment;
- stress the importance of the conservation and rational management of fish stocks and of the improvement of cooperation on research into stocks, including aqua-culture, and undertake to facilitate scientific training and research and to envisage creating joint instruments;
- acknowledge the pivotal role of the energy sector in the economic Euro-Mediterranean partnership and decide to strengthen cooperation and intensify dialogue in the field of energy policies. They also decide to create the appropriate framework conditions for investments and the activities of energy companies, cooperating in creating the conditions enabling such companies to extend energy networks and promote link-ups;

- recognize that water supply together with suitable management and development of resources are priority issues for all Mediterranean partners and that cooperation should be developed in these areas;
- agree to cooperate in modernizing and restructuring agriculture and in promoting integrated rural development. This cooperation will focus in particular on technical assistance and training, on support for policies implemented by the partners to diversify production, on the reduction of food dependency and on the promotion of environment-friendly agriculture. They also agree to cooperate in the eradication of illicit crops and the development of any regions affected.

The participants also agree to cooperate in other areas and, to that effect:

- stress the importance of developing and improving infrastructures, including through the establishment of an efficient transport system, the development information technologies and the modernization of telecommunications. They agree to draw up a programme of priorities for that purpose;
- undertake to respect the principles of international maritime law, in particular freedom to provide services in international transport and free access to international cargoes. The results of the ongoing multilateral trade negotiation on maritime transport services being conducted within the WTO will be taken into account when agreed;
- undertake to encourage cooperation between local authorities and in support regional planning;
- recognizing that science and technology have a significant influence on socio-economic development, agree to strengthen scientific research capacity and development, contribute to the training of scientific and technical staff a promote participation in joint research projects based on the creation of scientific networks;
- agree to promote cooperation on statistics in order to harmonize methods an exchange data.

c) Financial cooperation

The participants consider that the creation of a free-trade area and the success the Euro-Mediterranean partnership require a substantial increase in financial assistance, which must above all encourage sustainable indigenous development and the mobilization of local economic operators. They note in this connection that:

- the Cannes European Council agreed to set aside ECU 4 685 million for this financial assistance in the form of available Community budget funds for the period 1995-1999. This will be supplemented by EIB assistance in the form of increased loans and the bilateral financial contributions from the Member States; effective financial; cooperation managed in the framework of a multiannual programme, taking into account the special characteristics of each of the partners is necessary;
- sound macro-economic management is of fundamental importance in ensuring the success of the partnership. To this end they agree to promote dialogue on their respective economic policies and on the method of optimizing financial cooperation.

PARTNERSHIP IN SOCIAL, CULTURAL AND HUMAN AFFAIRS: DEVELOPING HUMAN RESOURCES, PROMOTING UNDERSTANDING BETWEEN CULTURES A EXCHANGES BETWEEN CIVIL SOCIETIES

The participants recognize that the traditions of culture and civilization throughout the Mediterranean region, dialogue between these cultures and exchanges at human, scientific and technological level are an essential factor in bringing their peoples closer, promoting understanding between them and improving their perception of each other.

In this spirit, the participants agree to establish a partnership in social, cultural and human affairs. To this end:

- they reaffirm that dialogue and respect between cultures and religions are a necessary pre-condition for bringing the peoples closer. In this connection they stress the importance of the role the mass media can play in the reciprocal recognition and understanding of cultures as a source of mutual enrichment;
- they stress the essential nature of the development of human resources, both as regards the education and training of young people in particular and in the area culture. They express their intent to promote cultural exchanges and knowledge of other languages, respecting the cultural identity of each partner, and to implement a lasting policy of educational and cultural programmes; in this context the partners undertake to adopt measures to facilitate human exchanges, in particular by improving administrative procedures;
- they underline the importance of the health sector for sustainable development a express their intention of promoting the effective participation of the community in operations to improve health and well-being;

- they recognize the importance of social development which, in their view, must go hand in hand with any economic development. They attach particular importance to respect for fundamental social rights, including the right to development;
- they recognize the essential contribution civil society can make in the process of development of the Euro-Mediterranean partnership and as an essential factor for greater understanding and closeness between peoples;
- they accordingly agree to strengthen and/or introduce the necessary instruments of decentralized cooperation to encourage exchanges between those active in development within the framework of national laws: leaders of political and civil society, the cultural and religious world, universities, the research community, the media, organizations, the trade unions and public and private enterprises;
- on this basis, they recognize the importance of encouraging contacts and exchanges between young people in the context of programmes for decentralised cooperation;
- they will encourage actions of support for democratic institutions and for the strengthening of the rule of law and civil society;
- they recognize that current population trends represent a priority challenge which must be counterbalanced by appropriate policies to accelerate economic take-off;
- they acknowledge the importance of the role played by migration in their relationships. They agree to strengthen their cooperation to reduce migratory pressures, among other things through vocational training programmes and programmes of assistance for job creation. They undertake to guarantee protection of all the rights recognized under existing legislation of migrants legally resident in their respective territories;
- in the area of legal immigration they decide to establish closer cooperation. In this context, the partners, aware of their responsibility for readmission, agree to adopt the relevant provisions and measures, by means of bilateral agreements or arrangements, in order to readmit their nationals who are in an illegal situation. To that end, the Member States of the European Union take citizens to mean nationals of the Member States, as defined for Community purposes,
- they agree to strengthen cooperation by means of various measures to prevent terrorism and fight it more effectively together, by the same token they consider it necessary to fight jointly and effectively against drug trafficking, international crime and corruption;
- they underline the importance of waging a determined campaign against racism, xenophobia and intolerance and agree to cooperate to that end.

FOLLOW-UP TO THE CONFERENCE

The participants:

- considering that the Barcelona Conference provides the basis for a process, which is open and should develop; - reaffirming their will to establish a partnership based on the principles and objectives defined in this Declaration; - resolved to give practical expression to this Euro-Mediterranean partnership; - convinced that, in order to achieve this objective, it is necessary to continue the comprehensive dialogue thus initiated and to carry out a series of specific actions;
- hereby adopt the attached work programme:
- The Ministers for Foreign Affairs will meet periodically in order to monitor the application of this Declaration and define actions enabling the objectives of the partnership to be achieved.
- The various activities will be followed by ad hoc thematic meetings of ministers, senior officials and experts, exchanges of experience and information, contacts between those active in civil society and by any other appropriate means.
- Contacts between parliamentarians, regional authorities, local authorities and the social partners will be encouraged.
- A "Euro-Mediterranean Committee for the Barcelona process" at senior-official level, consisting of the European Union Troika and one representative of each Mediterranean partner, will hold regular meetings to prepare the meeting of the Ministers for Foreign Affairs, take stock of and evaluate the follow-up to the Barcelona process and all its components and update the work programme.
- Appropriate preparatory and follow-up work for the meetings resulting from the Barcelona work programme and from the conclusions of the "Euro-Mediterranean Committee for the Barcelona process "will be undertaken by the Commission departments.
- The next meeting of the Ministers for Foreign Affairs will be held in the first semester of 1997 in one of the twelve Mediterranean partners of the European Union, to be determined through further consultations.

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