

Position paper of the Euro-Mediterranean Human Rights Network

on BARCELONA + 10 AND HUMAN RIGHTS

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This position paper of the Euro-Mediterranean Human Rights Network provides a general assessment of the attention given to human rights in the Euro-Mediterranean Partnership (EMP) at regional multilateral level and bilateral level 10 years after the Barcelona Declaration. It also makes some recommendations on how to strengthen the human rights and democratization aspects of the EMP.

The regional level

1- It is difficult to say that the Euro-Mediterranean Partnership helped improve the human rights situation in the region or that human rights principles were coherently and consistently applied in regional cooperation. Except for the case of Turkey the few noticeable improvements in the past decade were matters of internal changes in the individual countries and not of a proactive relation between the Partners to the Barcelona Declaration. Changes for the better in Turkey were the outcome of a bi-lateral pre-accession strategy and not of the dynamic created by the Barcelona process.

2- Looking at the Conclusions of the EMP Ministerial meetings over the years since the Barcelona Declaration in 1995, it becomes obvious that human rights were marginalised in high level discussions until the 11th September 2001 after which references to human rights became more prominent as in the *April 2002 Valencia Conclusions of the Fifth Euro-Mediterranean Conference of Foreign Ministers* and the *21 May 2003 European Commission Communication on Reinvigorating European Union (EU) actions on Human Rights and democratisation with Mediterranean Partners* (endorsed by the EU Council in November 2003). The European Parliament highlighted in its resolutions in 2002 and 2003 on the EMP, and in particular in its resolution of 20 November 2003 on the European Neighbourhood Policy (ENP), the importance to refer to human rights protection.

However, at the regional level references to human rights remained at the declarative level while reference to binding obligations of Partners to respect international human rights standards were carefully avoided. In this context it is worthwhile noticing that the region has seen a rise in both the North and the South of restraints and violations of civil liberties in the aftermath of the September 11, 2001 attacks despite the fact that reference is sometimes made to human rights in relation to the fight against terrorism in EMP documents.

Looking carefully into the activities that have taken place within the different chapters of the Barcelona process is illustrative of the above remarks.

3- In the First Chapter of the Barcelona process it is hard to identify any initiatives except on the declarative level.

EMP High Officials did at some point exchange information about the international human rights Conventions signed/ratified by their respective countries and they initiated a (short) series of presentations on why some countries had made reservations to some of the Conventions.

4- High officials also invited once (on 18 September 2002) representatives of the Euro-Mediterranean Human Rights Network to give a presentation at one of their meetings, and approved that the Malta Training courses for Young diplomats and a EuroMesCo annual meeting included sessions making explicitly reference to human rights.

5- Two documents dealing with the regional dimension of the Barcelona process proved the tendency towards making more explicit declarative reference to human rights, democracy, good governance and the independence of the judiciary, while remaining of a non-binding character i.e. the *2002 Program for Cooperation in the field of justice, combating against drugs, organised crime and terrorism as well as cooperation in the treatment of issues relating to the social integration of migrants, migration and movement of people*" and the *Regional Indicative Program for the Mediterranean Region for 2004-2006*. However this was not followed by any operational action, as they do not propose any particular action, programme or budget line to sustain activities addressing this field directly.

6- Another document, the *Communication on Reinvigorating EU Actions on Human Rights and democratisation with Mediterranean Partners* proposes 10 operational recommendations to promote human rights and human rights dialogue in the region. It was highly welcomed by human rights NGOs. However, it seems that it has since then been 'overruled' by the European Neighbourhood Policy and ENP Action Plans and to have lost operational momentum and support.

7- Human rights are universal, indivisible, interdependent and interrelated, as expressed in the UN Universal Declaration of Human Rights of 1948 and reaffirmed in the Vienna Declaration and Program of Action of 1993. However an overview of activities and programs under the Second Chapter of the Barcelona Declaration relating to the economic and financial cooperation shows that despite the MEDA regulation's article 3 and 11 emphasizing that respect for human rights and democracy are essential elements of cooperation, no systematic procedure or attempt to incorporate human rights concerns exist under this chapter, whether in the phase of programming, implementation or evaluation. This means for example that regional issues pertaining to free trade and their impact on human rights (for example the right to work, development and migrants' rights) are left unaddressed by the EMP.

8- The only more or less explicit reference to human rights issues in the Second Chapter is the recognition of the key role women play in development and the commitment to promote their active participation in economic and social life and in the creation of employment.

Two conferences on this question took place under the last EU Portuguese and Belgium Presidencies. A first positive step was the approval of a small EU regional program, that to become significant should be followed up and widened to cover a larger range of women's rights issues including the question of gender main-streaming.

9- Coming to the Third Chapter of the Barcelona Declaration it is possible to find more concrete examples of initiatives aimed at human rights promotion: First of all the civil forums meetings that since the Stuttgart Civil Forum in 1999 had human rights high on the agenda. Also a number of Wilton

Park conferences (co-funded by MEDA) are worth mentioning as they brought human rights activist, government officials and experts together in the same room to dialogue on human rights matters. A MEDA sponsored seminar in May 2001 on Access to Justice in the Euro-Mediterranean region did the same as well as a civil society meeting on migrant's and refugees' rights under the Dutch EU Presidency in 1998 that later reported back to a High Officials' meeting.

These meetings have been important as 'ice breakers' between people that rarely meet.

10- Finally, it is worthwhile mentioning that human rights have been included as main concerns of the EuroMed Youth Platform and the newly established Anna Lind Foundation for Dialogue between Cultures and Civilisation. In addition, human rights issues are key concerns of the newly established EuroMed NGO Platform that will co-organise Civil Forum meetings.

However, it is important to add that none of the conclusions of the meetings under the Third Chapter mentioned above seems to have been taken on board for operational considerations at the official level and that no program can be identified under the Third Chapter where human rights have been flagged as the key issue. One has to turn to programs and activities that lie at bilateral level or outside the direct remit of the EMP (see below) to find conspicuous initiatives relating to human rights.

The Bi-lateral level

11- The bi-lateral dimension of the Barcelona process may have had a bit more impact on the human rights situation in individual countries, even if it still remains very limited. However, human rights promotion and protection seem to get an increasingly prominent role in the bi-lateral relations between the EU and the Mediterranean partner countries.

The Human Rights Clauses of the bi-lateral Association Agreements are legally binding commitments to respect human rights. The EU never threatened to suspend an Association Agreement in the region. However now that all Association Agreements are coming into force, it seems that human rights concerns are raised more systematically at association council and committee meetings, although there is still a lack of consistency and real dialogue on these issues. Moreover EU countries tend towards the lowest common denominator when agreeing on how strong criticism can be raised on certain issues.

12- It is to be welcomed that several EU Country Strategies for 2002-06 and now most of the EU National Indicative Programs for 2005-06 for Mediterranean countries deal with human rights and include human rights programs funded by MEDA. It will be essential that the EU evaluate these programs and their impact on the situation on the ground. However in spite of all EU commitments in this regard, mainstreaming of human rights in other MEDA programmes is not put into practice yet and this should be developed as a matter of priority.

13- The most important development taking place today is based on the European Neighbourhood Policy's Country Reports and Action Plans which might open new roads for change.

An analysis of the five EU individual Country Reports shows that they appear to be a largely accurate reflection of many of the key issues in each state. The fact that the EU reports are on occasion quite critical of the human rights situation in all five countries is testament to how far the EU has come to

provide a more objective appraisal. Each report includes a list of the international human rights obligations of each country.

In general the content of the ENP Action Plans do relate closely to many of the priority issues identified in the Country Reports, with the noticeable exception of the Action Plan for Israel. At the same time – while running in parallel to the MEDA National Indicative Programs - they do mark a stronger emphasis on human rights than these through their (albeit not universal) reference to the need to fulfil international treaty obligations and the intention to use monitoring mechanisms to measure progress.

14- The proposal to establish Sub-Committees on Human Rights in the framework of the Association Agreements between the EU and Jordan, Morocco and Tunisia, is also to be welcomed^[1].

15- However, beyond this a somehow narrow conceptualization of rights continues to prevail as the ENP Country Reports and Action Plans focus predominantly on civil and political rights.

Economic, social and cultural rights receive a lack of attention as evidenced by the fact that human rights are not discussed at all under the economic and social issues section despite the potential negative impact on human rights of policies such as structural adjustment and market reforms. Issues such as development, education and poverty are also not presented in terms of relevant rights under the UN International Covenant on Economic, Social and Cultural Rights and other relevant treaties binding on partner countries^[2]. Nor do human rights figure to any great extent under Justice and Home Affairs despite the clear impact on a range of civil liberties^[3].

16- Furthermore, no mention is made of what or how specific benchmarks and indicators will be used or of implementation timelines. Much activity seems to be predicated on 'initiating dialogues or exploring possibilities' without the concrete timelines or outputs envisaged in earlier Communications. It is not clear why some actions have been allocated short term or medium term status, when they are supposed to conclude and whether the former are meant to precede the latter or continue to run in parallel.

17- Finally, practically no role has been given so far to dialogue and consultation with civil society in the process of drafting, implementation and evaluation of the Action Plans. This contradicts the wording of the *2003 Communication on Reinvigorating EU Actions on Human Rights and Democratisation with Mediterranean Partners* and the *June 2004 EU Strategic Partnership with the Mediterranean and the Middle-East*.

Other Actions related to the EMP and human rights in the region

18- The most visible and successful approaches to human rights promotion are the ones promoted by the European Initiative for Democratisation and Human Rights (originally the MEDA Democracy Program established at the request of the European Parliament to promote independent civil society and human rights work in the region). Under this program numerous local human rights NGOs have been funded and important regional bottom-up initiatives have grown such as the Euro-Mediterranean Human Rights Network, the regional programmes of the International Federation for Human Rights (FIDH), the Cairo Institute for Human Rights Studies, the Arab Institute for Human Rights, Penal Reform International, etc. They have provided real opportunities – often with the support of the European Parliament - for intercultural exchange, capacity building and policy making to an extent that

the human rights NGOs in the region are among the most articulate and proactive defenders of the regional cooperation

19-This relative success has however, to a vast extent been hampered by legal and practical constraints to human rights work in most South Mediterranean countries as well as regular restructurings and dysfunctioning of the EIDHR, including discontinued funding of some of the most successful initiatives. In addition, the EMP has benefited to an unnecessarily little degree from these initiatives as no regular structured dialogue has taken place between the human rights groups and the officials of the Partnership except in more informal meetings and conferences.

Two sub-regional conferences in Amman and Casablanca (in 2002) which were initiated by the European Commission to consult with NGOs on the EIDHR were welcomed, but reports from these meetings, including recommendations, were regretfully never published.

20- **Summarising one can say that :**

The human rights situation in the region has not generally improved since 1995.

Human rights language has slowly gained ground in the declarative (but non-binding) regional documents of the EMP and EU for the region, but has not been followed yet by regional political dialogue on this issue, nor by concrete human rights specific activities or programs.

The EMP almost exclusively addressed civil and political rights issues and not issues relating to women's rights, migrants and asylum seekers' rights and economic, social and cultural rights, i.e. at the expense of a coherent and holistic approach to rights based development and cooperation.

Human rights promotion on a regional level has been marginalised and the bi-lateral approach has been strengthened but with an emphasis only on civil and political rights. The most systematic and promising initiatives seem to lie at that level. It is too early to predict how the ENP Action Plans will work. Taking the lack of benchmarking and time lines into consideration a lot will depend on political-diplomatic will to prioritise the human rights agenda.

Taking the ENP Action Plans, the *Communication on Reinvigorating EU Actions on Human Rights and Democratization with Mediterranean Partners* and other documents into consideration leads to the conclusion that 10 years after Barcelona 1995 a wide range of instruments to promote human rights within the framework of the EMP has been created upon which to build future work, except:

1. Mechanisms for benchmarking
2. Systematic and coherent dialogue and support to civil society (independent from the governments)
3. The promotion of a holistic regional approach to human rights promotion taking the indivisibility of rights into account

Filling these gaps and adding the necessary political dose of will to implement these instruments should be important steps for the future.

21- **Looking into the future**

Fulfilling the objectives of the Barcelona process in the field of human rights implies strengthening the regional approach while developing and in particular implementing bi-lateral instruments.

22- At the multilateral level:

- The Partner States of the EMP should establish a task force at the multilateral level with the aim of:
 1. Reinvigorating the implementation of existing instruments ;
 2. Analysing how the various parts of the Barcelona process interact and have impact on human rights (for example: the intricate relation between free trade, migrant's rights, women's rights, economic and social rights, and the rule of law) ;
 3. Proposing regional actions and programs to promote and protect human rights and promote gender equality ;
 4. Proposing actions for human rights and gender mainstreaming into all political dialogues, programmes and projects^[4] ;
 5. Establish a link between the UN mechanisms for the protection of human rights (special rapporteurs, working groups, monitoring committees of the Treaties and Pacts), conclusions and recommendations and the discussions on human rights in the framework of the EMP at multilateral and bilateral level.
- EMP Partner States should also propose relevant mechanisms for structural and systematic thematic dialogue with the most significant regional civil society human rights structures.
- A prerequisite for consistent dialogue would be to ensure efficient, sustained long term financial support to relevant local and regional human rights structures and encourage the lifting of legal restraints on civil society work. In this regard it should be considered to:
 1. Recognise the Euro-Mediterranean Human Rights Network as an effective and integral part of the EMP ;
 2. Create in 2005-06 a regional MEDA programme on human rights which would be complementary to the EIDHR ;
 3. Establish a regional Human Rights and Democracy Program within the framework of the future EU Neighbourhood financial instrument for 2007 - 2013.

23- At bi-lateral level

- Focus should lie on introducing clear bench marks and time lines for action that could help assess progress and set-backs on the basis of international human rights standards rather than on purely political grounds.
- As on the regional level an important aspect would be to promote a human rights approach based on the indivisibility of rights and to include structural and systematic consultation with civil society.

- Human rights and gender mainstreaming into all political dialogues and programmes is also a key element at bilateral level.

Finally, and most importantly, key importance for the Partner States of the Barcelona process should be to agree seeking highest possible standards in the field of human rights instead of the lowest common denominators.

¹ These Sub-Committees will gather officials from the European Commission, the EU Presidency and Member States and from each of the Mediterranean countries concerned in order to work specifically on the issue of human rights. A first meeting of this kind might take place soon with Jordan and in a few months time with Morocco. The draft Action Plan with Tunisia included the establishment of such a Sub-Committee, but the Tunisian government seems to do some steps back. The Action Plan with Israel included the creation of a Sub-Committee on human rights, but it was regrettably withdrawn from the final version of the Plan.

² See the EMHRN document, "the Human Rights Implications of the Meda Programmes, September 2002.

³ See the EMHRN document, "Justice in the South-East Mediterranean Region", October 2004.

⁴ See the EMHRN document on "the Human Rights implications of the MEDA programmes", September 2002, and the EMHRN document "the integration of Women's Rights from the Middle East and North Africa into the Euro-Mediterranean Partnership, May 2003.