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# Democratic Conditionality Clause, Use of Sanctions and the Role of the European Parliament in the Euro- Mediterranean Partnership: A Preliminary Assessment\*\*

**Abstract:** *This article briefly reviews new forms of diplomacy (economic and parliamentary) before it applies them to the European Union (and in particular to the European Parliament) and the Euro-Mediterranean Partnership (EMP). Due to the existence of a "democratic conditionality clause" in all agreements with the EMP's Southern Mediterranean countries, this study offers a general assessment of how the European Parliament has reacted to cases of violations of human rights and other democratic principles.*

**Key Words:** *European Parliament, Euro-Mediterranean Partnership, parliamentary diplomacy, conditionality.*

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## Introduction

As with the European Union (EU)'s external relations in general, the European Parliament (EP) has consistently claimed to promote human rights and other democratic principles in the world. The Euro-Mediterranean Partnership (EMP) includes references to the need for democracy in the region in its initial November 1995 Barcelona Declaration and in all subsequent EMP documents.<sup>1</sup> But it has been argued that several bilateral agreements that stem from the EMP (especially those with Tunisia, Morocco or Israel) do not contain as strict a democratic clause as required.<sup>2</sup> Moreover, there have been many cases of human rights violations in the Southern Mediterranean since 1995, some have led to sanctions and others have not. As late as April 2004, the latest Annual Report of the *Observatoire pour la protection des défenseurs des droits de l'homme* claims that the overall situation has worsened in the Maghreb and the Middle East.<sup>3</sup>

This article contains a number of objectives: first, to offer a brief review of the existing literature on new forms of diplomacy (economic and parliamentary) in general; second, to offer a more specific review of EU policy towards the Mediterranean. Those two objectives (theoretical and empirical) set the scene for the third function of this study: to briefly assess the role of the European Parliament in the Mediterranean, with a particular emphasis on the post-1995 era, and with a special focus on the use of economic sanctions (i.e. the use of negative means, the so-called "sticks", rather than that of positive means, the "carrots"). This article concludes with a call for more empirical and systematic research to be carried out in the future. We also identify Morocco and Israel as the two most promising areas for further investigation and we offer some insight in those two cases. Although we consider that special attention should equally be given to Turkey, we do not engage in such an exercise because there have been extensive studies of EU relations with that particular country,<sup>4</sup> even if the role of the EP has remained

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<sup>1</sup> F. Pierros- J. Meunier - S.Abrams, *Bridges and Barriers - The European Union's Mediterranean Policy, 1961-1998*, Aldershot: Ashgate, 1999. A. Vasconcelos, Alvaro- G. Joffé (eds.), *The Barcelona Process - Building a Euro-Mediterranean Regional Community*, London: Frank Cass, 2000. F. Attinà - S. Stavridis, (eds.), *The Euro-Mediterranean Partnership from Stuttgart to Marseilles*, Naples: Giuffrè, 2001.

<sup>2</sup> L. Feliú, "Human Rights and the Barcelona Process", in F. Attinà - S. Stavridis (eds.), *The Barcelona Process and Euro-Mediterranean Issues from Stuttgart to Marseilles*, Milan: Giuffrè, 2001, pp.81-85. E. Lannon - K. Inglis, Kirstyn - T. Haenebalcke, "The Many Faces of EU Conditionality in Pan-Euro-Mediterranean Relations", in M. Maresceau - E. Lannon (eds), *The EU's Enlargement and Mediterranean Strategies*, Basingstoke: Palgrave, 2001, pp.105-106.

<sup>3</sup> *Le Monde*, 17.4.2004.

<sup>4</sup> J. Van Westering, "Conditionality and EU Membership: The Cases of Turkey and Cyprus", *European Foreign Affairs Review*, Vol.5, No.1, 2000, pp 85-118.

*A number of developments, such as the democratisation of politics (both internal and external), the domestication of foreign policy, and technological developments have facilitated the emergence of an international role for parliamentary institutions throughout the world.*

under-studied.<sup>5</sup> But the main reason for not including Turkey in our research results from the existence of a Customs Union with the EU since 1996, and from the fact that, since the December 1999 Helsinki European Council, there has also existed an EU pre-accession strategy.

A final objective of this study relates to a more theoretical question. We do not purport to come to a final conclusion on that particular issue, but just to make some inroads into the question of whether the international role of the EP in the Mediterranean amounts to “economic parliamentary diplomacy”. In short, our two main guiding research questions are as follows:

- Has there been a consistent EP policy towards the Mediterranean, since 1995, with regard to human rights and other democratic principles (democratic conditionality)?

- Does it amount to economic parliamentary diplomacy?

In this article, we do not address these two questions fully. These questions would represent, however, the underlying research questions for any future research. We therefore intend to offer a preliminary framework for any future assessment of the use of economic and other financial sanctions by the EP.

## Old and New Forms of Diplomacy

In “Diplomacy”, it is now common to refer to “old and new forms” of diplomatic practice. Traditionally, diplomacy is considered to be the prerogative of the “state”, and more particularly of governments and foreign ministries/ministers.<sup>6</sup> The growth of the state in the post-WW2 era and the emergence in (Western) Europe of an integration process that favoured the executive branch of government have meant that the “parliamentary decline” thesis initially

<sup>5</sup> For exceptions see C. Nas, *The Approach of the European Parliament to the Issue of Ethnic Minorities and Minority Rights in Turkey within the Context of the European Minority Rights Sub-Regime*, Jean Monnet Working Paper No.18.98, University of Catania, November 1998. S. Krauss, “The European Parliament in EU External Relations: The Customs Union with Turkey”, *European Foreign Affairs Review*, Vol.5, No. 2, 2000, pp 215-237.

<sup>6</sup> A. Watson, *Diplomacy – The Dialogue Between States*, London: Methuen, 1982. J. Hoffman, “Reconstructing Diplomacy”, *British Journal of Politics and International Relations*, Vol.5, No.4, November 2003, pp 525-542. See also E. Barbé, *Relaciones Internacionales*, Madrid: Tecnos, 1995, pp. 117-226, P. Braillard- M- R. Djalili, *Les Relations Internationales*, Paris: PUF, 1988. pp. 31-73.

appeared to remove parliaments from the diplomatic agenda, especially when combined with the democratic deficit of European integration.<sup>7</sup>

However, a number of developments, such as the democratisation of politics (both internal and external), the domestication of foreign policy, and technological developments<sup>8</sup> have facilitated the emergence of an international role for parliamentary institutions throughout the world. In recent years, the “parliamentary decline” thesis appears to have been stopped, if not reversed. It has also been argued that there is even a clear “parliamentarisation” of European integration.<sup>9</sup> The Greek MEP and Constitutional lawyer specifically referred to the example of the overwhelming presence of parliamentarians in the 2002-2003 Convention on the Future of Europe. In the case of Euro-Mediterranean relations, the development of the EMP Parliamentary Forum into a Parliamentary Assembly in 2003-2004 would also confirm such a trend.<sup>10</sup>

Economic diplomacy<sup>11</sup> is also a relatively new phenomenon. Even if economic power has been a traditional instrument of International Relations/IR in general, and of Foreign Policy Analysis/FPA in particular for some time.<sup>12</sup> We do not enter here the wider theoretical debate, nor do we address the question of its efficiency. As Christopher Hill has noted:

“It is not easy to make power fungible, that is to say to translate it from one activity to another. This has been evident for some time in relation to economic sanctions and conditionality. The political limits of economic diplomacy are fairly clear”.<sup>13</sup>

Suffice it to say that by adding less traditional forms of diplomacy to those already available, economic diplomacy has sometimes increased the role of Parliaments because the latter have traditionally had the “power of the purse” (budgetary powers). Through economic and other financial means, parliaments

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<sup>7</sup> D. Chrysoschoou – S. Stavridis - M. Tsinisizelis, “European Democracy, Parliamentary Decline, and the Democratic Deficit in the European Union”, *Journal of Legislative Studies*, Vol.4, No.3, Autumn, 1998, pp 108-128.

<sup>8</sup> C. Hill, *The Changing Politics of Foreign Policy*, Houndmills: Palgrave, 2003, pp.219-282.

<sup>9</sup> D. Tsatsos, Remarks made during the 21<sup>st</sup> Cyprus-EU Joint Parliamentary Committee meeting in Nicosia on 22-24 May 2004.

<sup>10</sup> S. Stavridis, *From Parliamentary Forum to Parliamentary Assembly in the EMP: Much Ado About Nothing?*, Barcelona: IEMed and IUUE/UAB Mediterranean Observatory e-paper, 2004. (in press)

<sup>11</sup> N. Bayne – S. Woolcock (eds.), *The New Economic Diplomacy – Decision-making and Negotiation in International Economic Relations*, Aldershot: Ashgate, 2003.

<sup>12</sup> R. Keohane – J. Nye, *Power and Interdependence: World Politics in Transition*, Boston: Little and Brown, 1972, R. Gilpin, *War and Change in World Politics*, Cambridge: Cambridge University Press, 1981.

<sup>13</sup> C. Hill, *Superstate or Superpower? The Future of the European Union in World Politics*, EFP Working Paper 2003/1, www.lse.ac.uk, p.8.

*In general terms, there is no such a thing as “aid without strings”.*

have increased their international presence over recent years: This is particularly true of the European Parliament.<sup>14</sup>

As for parliamentary diplomacy, it appears to be a concept that is more widely accepted by practitioners than by theorists.<sup>15</sup> There seems to be only one book-long academic study of the subject and it refers to the CSCE and East-West relations during the Cold War era.<sup>16</sup> Admittedly, there are works on individual parliaments and in that particular respect the role of the US Congress continues to be of particular interest to academics.<sup>17</sup> What remains undisputed is the proliferation of transnational parliamentary bodies. As undisputed is an increase in the international actions by parliamentary bodies, be they supranational, national or even sub-national. This new form of diplomacy represents a phenomenon that has not been given the necessary attention to date. It remains also clear that its impact is rather difficult to assess,<sup>18</sup> especially with regard to international conflicts resolution.

Part of the originality of this study is our effort to combine these last two (economic and parliamentary) forms of “new diplomacy”. Thus our contribution to theory-building will be made through a selective use of empirical studies in the Mediterranean region since the setting up of the Barcelona Process in 1995. At the end of this empirical part, we hope to be able to shed some light on the question as to whether there is here evidence of economic parliamentary diplomacy.

We now turn to the use of “conditionality” in international relations. In general terms, there is no such a thing as “aid without strings”.<sup>19</sup> International development assistance programmes always include a number of objectives and priorities from the donor country or entity. The exception might be when dealing with emergency assistance, following a natural disaster or sometimes civil war

<sup>14</sup> R. Corbett, Richard, “Testing the New Procedures: the European Parliament’s First Experiences with its New “Single Act” Powers”, *Journal of Common Market Studies*, Vol. 27, No. 4, June 1989, pp 359-379.

<sup>15</sup> S. Stavridis, “*Parliamentary Diplomacy*”: some preliminary findings, Jean Monnet Working Paper in Comparative & International Politics No.48, Political Studies Department, Università di Catania, November 2002.

<sup>16</sup> J- C, Guibal, *Rapport d’information de la Commission des Affaires Etrangères de l’Assemblée Nationale (France) sur l’avenir du processus euroméditerranéen*, No.1297, Paris, 16 December 2002, www.assemblee-nat.fr

<sup>17</sup> H. Martin, Stavridis” interview with the EPP MEP in Strasbourg on 5.9.2002.

<sup>18</sup> S. Stavridis, “The Parliamentary Forum of the Euro-Mediterranean Partnership: An Assessment”, *Mediterranean Politics*, Vol.7, No.2, Summer 2002, pp 30-53, S. Stavridis, “The International Relations of the Cypriot Parliament”, *Journal of Southern Europe and the Balkans*, Vol.5, No.3, December 2003, pp 337-354.

<sup>19</sup> See A. Huliaras, “The Tied Aid Paradox”, *Agora Without Frontiers*, Vol. 6, No. 3, December 2001, pp 263-274.

situations, but even in those specific cases one cannot exclude political motives as the recent international reactions to earthquakes in Iran and Morocco have illustrated. Thus, “conditionality” is a *sine qua non* in foreign policy actions.

What really matters is the inclusion, or not, of a “democratic conditionality clause” in international agreements. We simply dismiss the “cultural relativist” claim on the grounds that there are universal values, and that human rights and democratic principles belong to that category.<sup>20</sup> Below we discuss in more detail the conditionality clause as it is applied by the EU. Suffice it to say that there are at least two different types of such clauses in international agreements:<sup>21</sup>

- the “basis-clause” with no legal ground for suspension in case of human rights violations;
- the “essential element clause” which confirms that there is a need to respect those rights and principles, and that these principles constitute “an essential part/element” of the agreements.

There are other examples of conditionality, mainly to do with the so-called “positive use” of economic means, sometimes leading to eventual sanctions. A good example in the past is that of South Africa during its *apartheid* regime.<sup>22</sup> We could also refer to the US policy towards Cuba in general, and more recently the Helms-Burton Act. Similarly, we could mention the more recent question over EU relations with Cuba and its non-acceptance of joining the ACP framework. The main reason for such a situation stemmed from the fact that the Cuban regime did not want to be bound by any formal framework that included any democratic conditionality clause.<sup>23</sup>

## Conditionality in EU Policy: The Case of the Mediterranean

Without going into detail, we refer briefly to the vast (and expanding)

<sup>20</sup> A. Zghal, « Crítica de la hipótesis de la incompatibilidad del islam con los valores de la sociedad civil », *Quaderns de la Mediterrània/Cuadernos del Mediterráneo*, Nos. 2-3, 2001. pp. 25-4, I. Ibrahim, “Debating Democracy in the Arab World”, *Civil Society: Democratization in the Arab World*, Vol. 9, No. 98, February 2000.

<sup>21</sup> L. Feliú, “Human Rights and the Barcelona Process”, in F. Attinà - S. Stavridis (eds.), *The Barcelona Process and Euro-Mediterranean Issues from Stuttgart to Marseilles*, Milan: Giuffrè, 2001, pp 67-95, A. Gomez, *El uso de la clausula democrática y de derechos humanos en las relaciones exteriores de la Unión Europea*, IUEE Obs Working Paper No.39, February 2003, www.uab.es, A. Cebada, «La cláusula democracia/derechos humanos como instrumento de condicionalidad en las relaciones exteriores de la CE», in C. Escobar (ed.), *La Unión Europea ante el siglo XXI: los retos de Niza*, Madrid: Imprenta Nacional del Boletín Oficial del Estado, 2003, pp 87-105.

<sup>22</sup> M. Holland, *The European Community and South Africa: European Political Cooperation under Strain*, London: Pinter, 1988, M. Holland, “The Joint Action on South Africa: a Successful Experiment?” in M. Holland (ed), *Common Foreign and Security Policy – The Record and Reforms*, London: Pinter, 1997, pp 174-183.

<sup>23</sup> J. Roy, *The European Union Perception of Cuba: From Frustration to Irritation*, IUEE Obs Working Paper No.47, May 2003, www.uab.es/iuee

*With regard to the Mediterranean, there is ample evidence of EU interest in attempting to produce a coherent and consistent policy that promotes human rights and other democratic principles in the region.*

literature on the use of democratic conditionality in EU policy. The EU has been developing an external policy based on the use of conditionality. Be it in the Balkans<sup>24</sup> or in the Mediterranean or in Asia,<sup>25</sup> let alone the Lomé countries,<sup>26</sup> it is now the norm for all EU association and cooperation agreements to include a conditionality clause.<sup>27</sup> According to Brandtner and Rosas,<sup>28</sup> there are now more than fifty agreements that contain such a conditionality clause. This particular dimension of EU external policy began in the early 1980s when Central American democracies asked for such an inclusion.<sup>29</sup> It became really important in the post-Cold War era

in the 1990s, not only when it was included in the Lomé IV agreement, but also with the democratising Central and East European countries.<sup>30</sup> Thus, a conditionality clause is expected as an accepted norm in today's EU international agreements with third countries. More importantly for this study, such a clause can be used as a crucial element in any assessment of EU foreign relations.

As for the need for consistency in EU policy, we simply mention it here as it represents both a result and a requirement of EU foreign policy. It is a result as there needs to be consistency among all international agreements that the Union enters into. It is a requirement because - and it is unique to the EU - the road to a common European stance in world affairs requires some consistency. This does not mean that in practice such consistency necessarily exists or that it could not be improved, but it means that it is very difficult to expect a

<sup>24</sup> O. Anastasakis – D. Bechev, *EU Conditionality in South East Europe: Bringing Commitment to Process*, April 2003, [www.sant.ox.ac.uk/areastudies](http://www.sant.ox.ac.uk/areastudies)

<sup>25</sup> R. Youngs, *The European Union and the Promotion of Democracy*, Oxford: Oxford University Press, 2001.

<sup>26</sup> G. Crawford, *Evaluating EU Promotion of Human Rights, Democracy and Good Governance: Towards a Participatory Approach*, European Development Policy Study Group Discussion Paper No.22, October 2001, [www.edpsg.org](http://www.edpsg.org)

<sup>27</sup> E. Decaux, Emmanuel, « La PESC et la diplomatie des droits de l'homme » in A. Fenet – A. Sinay-Cytermann (eds), *Union européenne: intégration et coopération*, Paris: PUF, 1995, pp. 228-229, P. Alston (dir), *L'Union Européenne et les droits de l'homme*, Brussels: Bruylant, 2001.

<sup>28</sup> B. Brandtner – A. Rosas, « Préférences commerciales et droits de l'homme », in P. Alston (dir), *L'Union Européenne et les droits de l'homme*, *op. cit.*, pp.730.

<sup>29</sup> S. Stavridis, *Foreign policy and Democratic Principles: The Case of European Political Cooperation*, Unpublished PhD thesis, Department of International Relations, London School of Economics and Political Science, University of London, 1991, pp. 248-257.

<sup>30</sup> D. Marantanis, "Human Rights, Democracy and Development: the European Community Model", *Harvard Human Rights Journal*, Vol. 7, 1994, pp 1-32.

common policy without an element of consistency.<sup>31</sup> It is particularly relevant to our study because parliaments can (and should) act as monitors of such a consistency (or lack of). We do not expand further this important dimension of EU external policy, but simply refer to it in order to show that the European Parliament's role in monitoring whether there is consistency or not becomes all the more relevant and appropriate.

With regard to the Mediterranean, there is ample evidence of EU interest in attempting to produce a coherent and consistent policy that promotes human rights and other democratic principles in the region. A detailed reading of the 1995 Barcelona Declaration and post-Barcelona EMP documents and other CFSP literature would confirm such a view. However, there is also ample evidence that there is still a long way to go before we can see true evidence of the existence of an effective democratic external EU policy. That is to say, there is still a gap to bridge between the rhetoric and the reality of EU Mediterranean policy.<sup>32</sup> There is equally ample evidence in academic and other scholarly studies, including those of respected international organisations such as the UNDP, that there exists a serious "freedom deficit" in the Arab world and that this situation is seen as one of the main causes of its economic and social backwardness.<sup>33</sup>

As all EMP partners (except for Syria to date) have (re-) negotiated new Partnership Agreements with the EU, there exist now relevant examples under the new EMP "regime". It is therefore useful to consider both cases of EP sanctions and the way the new treaties have been renegotiated (in particular to follow Feliu's argument above - if there has been a "watering down" of the rather ambitious discourse on human rights and democratic principles as included in the 1995 Barcelona declaration and subsequent formal declarations). At this point, it is also important to stress that there have been cases (most recently in 2002 with Israel) where the EP issued a call for sanctions but EU governments did not respond. Thus, we need to be careful and assess not only examples where the EP has indeed been able to apply sanctions or other financial restrictions but also those where the will of the majority of

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<sup>31</sup> On consistency, see S. Nuttall, Simon, *"Consistency" and the CFSP: A Categorization and Its Consequences*, EFP Working Paper 2001/3,2003, LSE European Foreign Policy Unit: [www.lse.ac.uk](http://www.lse.ac.uk), M - A. Medina, *The Coherence of the European Foreign Policy: a Real Barrier of an Academic Term?*, IUEE Obs Working Paper No.27, September 2002., [www.uab.es/iuee](http://www.uab.es/iuee),

<sup>32</sup> B. Chourou, "A Challenge for EU Mediterranean Policy: Upgrading Democracy from Threat to Risk", in S. Panebianco (ed.), *A New Euro-Mediterranean Cultural Identity*, London: Frank Cass, London, 2003, pp 23-46.

<sup>33</sup> R. Pace, "Democracy, Economic Development and Regional Stability in the Mediterranean Region", in P. Xuereb, (ed.), *Euro-Med Integration and the "Ring of Friends"- The Mediterranean's European Challenge Vol. IV*, European Documentation and Research Centre, University of Malta, 2003, p.101.

*There are formal or informal forms of parliamentary cooperation in the Mediterranean. In particular, one should mention the Parliamentary Forum of the EMP. The idea of a parliamentary dimension to the Barcelona Process dates back to 1995 and the launch of the Process.*

MEPs has not been followed through by governments.

First, we list the existing EU agreements under the new EMP framework:

- Agreements already signed and which have entered into force: Tunisia, Morocco, Israel, Jordan, and with the Palestinian Authority (interim agreement).
- Signed: Egypt (expected to come into force in mid-2004), Algeria and Lebanon.

More analytically and in chronological order, we refer to the relevant articles in the recent Agreements. The July 1997 Agreement with the Palestinian Authority contains the following article (Article 2):

“Relations between the Parties, as well as all provisions of the Agreement itself, shall be based on respect of democratic principles and fundamental human rights as set out in the universal declaration on human rights, which guides their internal and international policy and constitutes an essential

element of this Agreement”.<sup>34</sup>

In the case of Jordan, article 2 is similar to that of the PA above:

“Relations between the Parties, as well as all provisions of the Agreement itself, shall be based on respect of democratic principles and fundamental human rights as set out in the universal declaration on human rights, which guides their internal and international policy and constitutes an essential element of the Agreement”.<sup>35</sup>

There are therefore explicit references to the Universal Declaration and there is reference to “guide” and “essential”, for both internal and external policy.

In the cases of Tunisia and Israel, the reference to the Universal Declaration has been dropped. The March 1998 Agreement with Tunisia contains the following article (Article 2):

“Relations between the Parties, as well as all provisions of the Agreement itself, shall be based on respect for human rights and democratic principles which guides their domestic and international policies and constitute an essential element of the Agreement”.<sup>36</sup>

The reference to the universal declaration on human rights has been dropped. The 2000 agreement with Israel contains the same Article 2 as in the

<sup>34</sup> See OJ L 187, 16.7.1997. The same text is included in the Agreement with Egypt which was signed in June 2001.

<sup>35</sup> OJ L 129, 15.2.2002.

<sup>36</sup> OJ L 097, 30.3.1998.

Tunisia case, with the exception that “domestic” is replaced by “internal”.<sup>37</sup> So, once again, the reference to the universal declaration on human rights has been dropped. This is a point that is noted in the existing literature.<sup>38</sup>

In the cases of Morocco and Algeria, the reference to the Declaration and respect for human rights and other democratic principles are only mentioned as an “inspiration” of policies. In the case of Morocco, Article 2 reads:

“Respect for the democratic principles and fundamental human rights established by the Universal Declaration on Human Rights shall inspire the domestic and external policies of the Community and of Morocco and shall constitute an essential element of this Agreement”.<sup>39</sup>

In the case of Algeria the only differences are the use of “international” instead of “external” and that “the Community and Morocco” has been replaced by “Parties”.<sup>40</sup>

Finally, in the case of Lebanon, we were unable to find any reference to an Article 2 in the Interim Agreement of September 2002.

In brief, we can see discrepancies in the language, as follows:

- strong: Palestine, Egypt and Jordan
- no reference to Declaration: Tunisia and Israel
- “inspiration”: Morocco and Algeria
- no such clause?: Lebanon

What really matters, in fact, is the reference (or lack of) to an “essential element” of the Agreement. In the Law of Treaties (and the Vienna Convention) if there is a breach in one of the “essential elements” of the treaty or agreement, the whole treaty/agreement, or part of it, can be suspended.<sup>41</sup> Thus, the “stick” is there to be used. The questions of “when and where” it has been the case, and, equally, of “where and when it has not”, become therefore elements of particular interest.

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<sup>37</sup> OJ L 147, 21.6.2000.

<sup>38</sup> L. Feliú, “Human Rights and the Barcelona Process”, in F. Attinà - S. Stavridis (eds.), *The Barcelona Process and Euro-Mediterranean Issues from Stuttgart to Marseilles*, op. cit., pp 67-95, A. Cebada, Alicia, « La cláusula democracia/derechos humanos como instrumento de condicionalidad en las relaciones exteriores de la CE », in C. Escobar (ed.), *La Unión Europea ante el siglo XXI: los retos de Niza*, Madrid: Imprenta Nacional del Boletín Oficial del Estado, 2003, p.99.

<sup>39</sup> OJ L 170, 18.3.2000.

<sup>40</sup> It was signed in Valencia, 22.4.02.

<sup>41</sup> W. Czaplinski, lectures and seminars (PhD programme on the European Union and Jean Monnet Module on the EU as an international actor), University of Zaragoza, 23-24 February 2004, A. Clapham, « Où en est la politique étrangère commune de l’Union européenne en matière de droits de l’homme et comment se manifeste-t-elle au sein des instances internationales? », in P. Alston (dir), *L’Union Européenne et les droits de l’homme*, op. cit., p 656. For a judicial discussion of the question, see E. Riedel – M. Will, « Clauses relatives aux droits de l’homme dans les accords extérieurs des communautés européennes » in P. Alston, (ed.), *L’Union Européenne et les droits de l’homme*, *ibid.*, pp. 757-760.

*The EP has passed numerous resolutions condemning violations of human rights and other democratic rights in Southern Mediterranean countries, from Turkey, and Syria in the East to Algeria and Morocco in the West.*

## **The EP and the Use of Sanctions in the Mediterranean (i): The General Framework**

We now turn to the question of whether the EP's role in the Mediterranean amounts to a case of economic parliamentary diplomacy. We do not enter into the wider theoretical discussion of the role of the EP in EU integration theory,<sup>42</sup> nor on its wider role as a human rights "norm entrepreneur" or otherwise.<sup>43</sup> Within the EP's external activities, one can identify the following means of parliamentary control:

- use of declarations, statements and resolutions;
- and, more recently, that of "CFSP recommendations";
- debates;
- oral and written questions;
- reports;
- activities of its Committees, Delegations and other institutionalised forms of trans/supra/inter-national relations;
- budgetary powers, including the MEDA democracy programme and the European initiative for Democracy and Human Rights/EIDHR, as useful means to act internationally in the Southern EMP partner states in general and in their emerging civil societies in particular;<sup>44</sup>
- public hearings.

Equally, the EP currently possesses the following committees and delegations that are of particular relevance to our research: currently 3 of the existing 17 Parliamentary Committees cover directly international affairs:

- the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy,
- the Committee on Industry, External Trade, Research and Energy,
- the Committee on Development and Cooperation.

Other Committees also play a role in external affairs, such as the one on Fisheries, or that on Agriculture (and Rural Development) or finally, the one on Environment (and Public Health and Consumer Policy). Of the existing 35

<sup>42</sup> D. Viola, *International Relations and European Integration Theory: The Role of the European Parliament*, Jean Monnet Working Paper, No.26, University of Catania, January 2000.

<sup>43</sup> K. Smith, *The European Parliament and Human Rights: Norm Entrepreneur or Ineffective Talking Shop?*, Dossier "El Parlamento Europeo en la Política Exterior" No.11, 2004. [www.uab.es/iuee](http://www.uab.es/iuee)

<sup>44</sup> *ibid.*, p.2, A. Junneman, *The European Parliament and its Impact on the Promotion of Democracy and Human Rights in the Mediterranean*, Dossier "El Parlamento Europeo en la Política Exterior" No.8, 2004, [www.uab.es/iuee](http://www.uab.es/iuee), pp.5-6.

parliamentary delegations, 8 deal with the Mediterranean Region narrowly or widely defined: the 3 Joint Parliamentary Committees with respectively Malta, Cyprus and Turkey, the 5 interparliamentary delegations, respectively, with the Maghreb countries and the Arab Maghreb Union, with the Mashreq Countries (and the Gulf States), with the Palestinian Legislative Council, and with Israel.

According to a recent study,<sup>45</sup> during the period 1999-2002, the Mediterranean and the Middle East topped the list of EP resolutions, declarations and oral questions:

- just over 60 for sub-Saharan Africa.
- about 40 for Latin America.
- over 100 for Asia and Oceania.
- under 40 for the Western Balkans.
- about 10 for the USA.
- over 20 for the Newly Independent States (NIS).
- about 40 for Central and Eastern Europe.
- nearly 120 for the Mediterranean and the Middle East.
- also over 60 for human rights, 25 for disarmament and non-proliferation, as many for the CFSP/ESDP, nearly 60 for development policy and nearly 20 other themes.

With an overall total estimated to be just under 600 in all, about one sixth deal with the Mediterranean and the Middle East.

In addition, there are formal or informal forms of parliamentary cooperation in the Mediterranean. In particular, one should mention the Parliamentary Forum of the EMP.<sup>46</sup> The idea of a parliamentary dimension to the Barcelona Process dates back to 1995 and the launch of the Process. But it only materialised in 1998, and it only met three times in its regular form (1998-2001-2002) and once in its extraordinary form (following the 11<sup>th</sup> September 2001 mega-terrorist attacks). Its last planned meeting in late March 2003 in Elounda Bay (Crete, Greece) had to be postponed due to events worldwide and more specifically in Iraq. It has now been turned into a Parliamentary Assembly. Its first meeting took place in Athens on 22-24 March 2004. There also exist other parliamentary *fora* that cover the Mediterranean. They are

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<sup>45</sup> A. Herranz, *El Parlamento Europeo en la acción exterior*. Dossier Parlamento Europeo, 2003, [www.uab.es](http://www.uab.es)

<sup>46</sup> S. Stavridis, "The Parliamentary Forum of the Euro-Mediterranean Partnership: An Assessment", *Mediterranean Politics*, Vol.7, No.2, Summer 2002, pp 30-53, S. Stavridis, Stelios, *From Parliamentary Forum to Parliamentary Assembly in the EMP: Much Ado About Nothing?*, *op. cit.*, (in press), A. Biad, «Los parlamentos como nuevos actores del partenariado: hacia una diplomacia parlamentaria en el Mediterráneo», *Agora-Revista de Ciencias Sociales*, No. 8, 2003, pp 11-19, C. Retta, «La política euromediterránea: su dimensión parlamentaria en el proceso de Barcelona», *Agora-Revista de Ciencias Sociales*, No. 9, 2003, pp 37-51.

*The Israeli-Palestinian conflict is rather complex, and it is important to make it clear from the start that the EP is condemning both suicide and other terrorists attacks against Israelis, and the use of force by Israeli armed forces against Palestinian civilians.*

simply too numerous to discuss in detail, therefore more systematic research is needed. We simply list here the ones that include the EU and its member states in one form or another:<sup>47</sup>

- the Council of Europe Parliamentary Assembly (more relevant to Turkey's case);
- NATO Parliamentary Assembly (NAA) and its regular Mediterranean seminars;
- The WEU Assembly and defence and security matters, including the Mediterranean;
- The OSCE's Mediterranean dimension;
- The meetings of Mediterranean Parliaments Presidents;
- Bilateral forms of parliamentary cooperation be they formalised or not (the so-called "Friendship Groups").

This section has clearly shown that there are plenty of instruments available for the EP to express its opinion on any given violation of human rights or other democratic principle in associated third countries, especially in the framework of the Barcelona Process. The EP can be identified as the institution that has attempted to promote democratic principles in EU policy in general, and towards the Mediterranean in particular. Indeed as a leading academic observer of the Barcelona Process has noted:

"[t]he idea of democracy promotion did not figure in the original plans behind the EMP and was only added upon the insistence of the European Parliament".<sup>48</sup>

Now that the institutional framework has been described, we turn to the empirical cases of analysis.

## **The EP and the Use of Sanctions in the Mediterranean (ii): A Preliminary Assessment of Two Case Studies**

This section is sub-divided into two parts. The first uses the existing literature on the subject and identifies Morocco as an interesting case study for future systematic and comprehensive research. The second part also uses the existing literature but goes one step beyond a mere review. Indeed, it offers a brief analysis of the EP reaction to events in Palestine and Israel in the Spring of 2002. It seems that Israel and Morocco represent two excellent initial cases for future study.

<sup>47</sup> A. Biad, *ibid.*, pp. 12-16.

<sup>48</sup> R. Gillespie, *Organizing Security for the Mediterranean Peoples*, Paper presented to a Conference organised by the Hellenic Ministry of Defence, Corfu, 10-11 May 2003.

The EP has passed numerous resolutions condemning violations of human rights and other democratic rights in Southern Mediterranean countries, from Turkey, and Syria in the East to Algeria and Morocco in the West. According to the existing literature,<sup>49</sup> but also through the regular reading of the press and other media, the EP in one form or another criticises Southern Mediterranean countries for consistent human rights violations. For example, in 2000, an EP delegation visited Tunisia twice (in March and in December) to assess the human rights situation there.<sup>50</sup> The second visit occurred after the Tunisian government had put the *Ligue tunisienne des droits de l'homme* (LTDH) under judicial control. During their first visit, the EP delegation had met with the LTDH in addition to a meeting with the Tunisian Foreign Minister. Another example would be the EP holding a hearing on the human rights situation in Algeria in November 1997.<sup>51</sup> The hearing was organised by the Sub-committee on Human Rights of the Committee of Foreign Affairs, Security and Defence Policy of the EP. The EP's activities also received a lot of criticism in Algeria when it issued a resolution in May 2001 condemning the "repression in Kabylia", thus creating official protests in the name of the indivisibility of the Algerian state.<sup>52</sup>

With regard to Morocco,<sup>53</sup> argues that in January 1992 over the question of the Western Sahara, the EP did not give its assent to the Fourth Financial Protocols with Morocco. However he notes that there were more votes in favour (246) than against (110), even if the required majority was not reached. This situation must be put within the wider context of the constant EP interest in the Saharawi issue.<sup>54</sup> But it is important to contrast the negative votes with the fact that "the 1995 EU-Morocco Fisheries Agreements and the EU-Morocco Association Agreements were not affected by the issue".<sup>55</sup>

In addition to Morocco, Israel is particularly relevant to our work because it has complex and often tense relations with the EP. Thus, in 2002, the EP called

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<sup>49</sup> A. Junneman, *The European Parliament and its Impact on the Promotion of Democracy and Human Rights in the Mediterranean*, Dossier "El Parlamento Europeo en la Política Exterior" No.8, 2004, [www.uab.es/iuee](http://www.uab.es/iuee), p.4, E. Lannon – K. Inglis, Kirstyn – T. Haenebalcke, "The Many Faces of EU Conditionality in Pan-Euro-Mediterranean Relations", in M. Maresceau – E. Lannon (eds), *The EU's Enlargement and Mediterranean Strategies*, Basingstoke: Palgrave, 2001, p. 106.

J. Vaquer, *The European Union and Western Sahara*, ECPR Edinburgh Conference Paper, April 2003, p.14, K. Smith, *The European Parliament and Human Rights: Norm Entrepreneur or Ineffective Talking Shop?*, *op.cit.*

<sup>50</sup> *Le Monde*, 27.3.2004 and 3-4.12.2004.

<sup>51</sup> See [www.europarl.eu.int](http://www.europarl.eu.int), *Audition Publique "La situation des droits de l'homme en Algérie"*, Brussels, 25-26.11.1997, as printed 23.2.2001.

<sup>52</sup> *Le Monde*, 22.5.2001.

<sup>53</sup> J. Vaquer, *The European Union and Western Sahara*, *op.cit.*

<sup>54</sup> For details about the EP and the Western Sahara, see A. Urruela, "El Parlamento Europeo frente al conflicto del Sahara Occidental", *Papers*, No.46, 1995, pp 107-120.

<sup>55</sup> J. Vaquer, *The European Union and Western Sahara*, *op.cit.*, p.14.

*The impact of the EMP on the use of sanctions by the EU remains unclear, because although it provides a formal framework for the use of the democratic conditionality clause, the empirical record to date is far from being consistent, coherent or effective.*

for sanctions against Israel but was not followed by the EU governments. We must add that since at least the beginning of the second Intifada in September 2000, the EP has been pressurizing EU governments and institutions to take action. Partly in reaction to Syria and Lebanon's boycott of the Marseilles EMP Ministerial meeting in November, the EP stressed that Israel's responsibility in the deteriorating situation was extremely important. They used the existing EU-Israel Association Agreement as a means to claim that Israel was abusing its purpose by including products from the occupied territories as exempt from any duties as if they were Israeli products. In April 2001, Dutch Liberal MEP Louisewies van der Laan called it "a blatant violation of the trade agreement".<sup>56</sup> The European Commission

also followed that path when it proposed to impose duties on products exported from Israeli colonies in the occupied territories. The governments of Germany, the UK and the Netherlands prevented the adoption of such a measure at the EU level.<sup>57</sup> Continuous tension culminated in April 2002 (see below) but without success once more.<sup>58</sup> Thus, in September 2003, the EP came back with a similar charge.<sup>59</sup>

In more detail, in the case of Israel, we will concentrate on the April 2002 EP debate and resolution,<sup>60</sup> as an illustration of the way which the EP is trying to develop a consistent "foreign policy" towards human rights and other violations in the region. The Israeli-Palestinian conflict is rather complex, and it is important to make it clear from the start that the EP is condemning both suicide and other terrorists attacks against Israelis, and the use of force by Israeli armed forces against Palestinian civilians. The April 2002 debate and the subsequent adoption of a resolution on the Middle East (P5'TA(2002)0173) on 10 April, 2002, is significant in a number of important ways. The overall attitude can be summed up as one of more active diplomacy through a number of specific means:

- the suspension of the EU-Israel Association Agreement,
- an arms embargo against both Israel and the Palestinian Authority,

<sup>56</sup> See *European Voice* 29.3.2001.

<sup>57</sup> See *Le Monde* 24.11.2001.

<sup>58</sup> See *International Herald Tribune* 11.4.2002.

<sup>59</sup> See *Europolitique* 6.9.2003.

<sup>60</sup> See [www.europarl.u.int](http://www.europarl.u.int) -> activities -> verbatim report of proceedings/debates of 9 April 2002 as printed on 19.9.2003.

- unrestricted access to President Arafat and the PA for any EU representative,
- the sending of an interposition military force to the region,
- plus, a number of other actions including the freezing of contacts with senior Israeli officials or the recalling of EU ambassadors.

It is important to note that there was no overall agreement over the last two suggestions. Thus, the EP resolution calls for “an arms embargo on Israel and Palestine” (point 7) and “to suspend the EU-Israel Euro-Mediterranean Association Agreement” (point 8). The reference to the EMP Agreement is important because it shows that under the current framework institutionalised by the Barcelona Process, such a possibility is taken seriously.

In addition, it is important to mention that in spite of the assurances expressed during the EP debate by both Javier Solana (Mr CFSP) and Ramón de Miguel (the Spanish Secretary of State for European Affairs, in the name of the Spanish Presidency), there was finally no unanimity in the Council and therefore no action was taken by the EU. This dimension of the question is important with regard to the influence that the EP has (or can have, or even should have) in the CFSP. We do not develop this point here.

It is equally important to assess the various opinions among MEPs. The final resolution is a compromise text. There were “six motions for a resolutions” according to EP President Pat Cox. One could describe the various views in two different ways: First, as a divide between Left and Right. The main Left Party (the Socialist Group) is much more critical of the Sharon approach and asking for more drastic measures. Whereas the main Right Party (the EPP) is critical of the situation but would like to avoid throwing “any more oil on the fire” (in the words of German MEP Herman Brok). Second, it is possible to identify some divergence of views among these two main parties, with much more critical approaches from MEPs from Southern EU states and much less so from Northern countries. For instance, Spanish Socialist MEP Emilio Menéndez del Valle (a former diplomat and IR university professor) did not hesitate to declare publicly that “Ariel Sharon is a man of war”. Other political groups agreed with this overall approach, be they from the Greens or the other minor groups. More research is undoubtedly needed.

## **Conclusions**

Now that we have presented a preliminary assessment of two specific case studies we turn to what needs to be done in the future. What is clearly missing is a comprehensive and systematic assessment of EP activities (from reports, to plenary sessions, debates and other relevant sources, such as oral and written questions) in order to show:

1. If there is consistency in the EP’s stance on human rights and other democratic violations in the Mediterranean.

*Active and –at the same time– the weakest actor among of external democratisation and human rights policy? It appears to be the case.*

2. If there has been any change (improvement or deterioration) since the 1995 EMP introduction.

We have seen from the above sections that there are plenty of cases for identifying the “culprits” in the EMP, that is to say, which Southern Mediterranean states have been consistently violating basic human rights and other democratic principles. How and whether the EP has reacted in these cases constitutes an important element in any analysis of EU foreign policy and its consistency. In other words, the role of

the EP is important as a first step in trying to assess if the EU’s interest in human rights only amounts to a rhetorical commitment. We have not offered a comprehensive study, but simply concentrated on two case studies that are, in our view, representative of wider issues. The main findings of this preliminary study can be summarised as follows:

- The impact of the EMP on the use of sanctions by the EU remains unclear, because although it provides a formal framework for the use of the democratic conditionality clause, the empirical record to date is far from being consistent, coherent or effective.
- The role of the EP as a “moral tribune” is also an area for future research. For instance (unrelated to this particular case study), when Afghan commander Massoud was snubbed by the French government in April 2001, but was received by the EP’s then-President - France’s Nicole Fontaine - following Massoud’s assassination and the 11.9.2001 events, French Socialist MEP Olivier Duhamel declared that “*le Parlement européen a sauvé l’honneur de l’Europe*”.<sup>61</sup> A key aspect of this question would relate to the issue of real EP powers. As we saw in the case of Israel in 2002, the EP’s impact on overall EU decision-making remained rather limited.
- There are plenty of means available to implement a policy that respects and promotes human rights. The question is now one of how to achieve this, and no longer one about the need to possess the necessary - including judicial - means to do so.<sup>62</sup> It is an important point that is reminiscent of the Vincent argument in the mid-1980s that the means for the international protection of human rights exist. As John Vincent put it: “the texts are there (...) the task is to implement them”. What is lacking is the necessary political will. What was difficult (but not impossible) during the Cold War must surely be easier nowadays, even within an anti-international terrorism contex.<sup>63</sup>

<sup>61</sup> *Le Monde*, 21.12.2001.

<sup>62</sup> E. Riedel – M. Will, « Clauses relatives aux droits de l’homme dans les accords extérieurs des communautés européennes », *op.cit.*, p.753.

<sup>63</sup> J. Vincent (ed.), *Foreign Policy and Human Rights*, Cambridge: Cambridge University Press for RIIA,

- There is a need perhaps to “fine tune” the conditionality clause to allow for a more flexible use whenever there are some violations, but not necessarily extensive ones. This is what we call the “Martin” argument, based on an interview with the French MEP in 2002.<sup>64</sup> His argument is based on the fact that since 1995 and the EMP’s creation, the EP has lost its veto right (*avis conforme*) except on the initial assent procedure (ratification). It now only needs a simple majority (*avis simple*), but it can no longer block/prevent/obstruct the financial side of the Association Agreements with EMP partner states.<sup>65</sup> By losing its past power/influence, the EP’s room for manoeuvre has been restricted. Therefore, without any changes in that particular area, the EP will have to make do with the current situation. However, MEP Martin called for a more flexible arrangement to be built into the EMP. Rather than the current “all or nothing” situation, the conditionality clauses should be altered in order to favour a more flexible use of sanctions. That is to say, instead of suspending the Agreement and doing nothing, there could be a third level of penalisation if need be (on the question of various levels of sanctions).<sup>66</sup>
- Similarly, attention should be given to the role of minority reports, i.e. reports that dissent from the majority view. Most notable is the example in 1998 when an EP visit to Algeria in September 1997 was criticised by two members of its parliamentary delegation.<sup>67</sup> The role of dissenting views in the overall action of the EP should also be researched further.

There is clearly plenty of room for more systematic and comprehensive research in this area of EU foreign policy. For instance, we suggest the following areas for future research:

- Assessing the EP’s use of sanctions in other individual states or regional groupings in the world.
- A comparative study contrasting differences and similarities between the various individual studies carried out.

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1986, p. 262.

<sup>64</sup> H. Martin, Stavridis” interview with the EPP MEP in Strasbourg on 5.9.2002.

<sup>65</sup> E. Lannon, Erwan, *Parlements et société civile dans la sécurité euro-méditerranéenne*, EuroMeSCO Paper No.19, November 2002, point 2.a, J. Roy, *The European Union Perception of Cuba: From Frustration to Irritation*, IUEE Obs Working Paper No.47, May 2003, www.uab.es/iuee, p.9, R. Rack – S. Lausegger, « Le rôle passé et futur du parlement européen », in Alston, Philip (dir), *L’Union Européenne et les droits de l’homme*, op. cit., pp 865-866, S. Woolcock, “The Regional Dimension: European Economic Diplomacy”, in N. Bayne – S. Woolcock (eds.), *The New Economic Diplomacy – Decision-making and Negotiation in International Economic Relations*, Aldershot: Ashgate, 2003, p. 208.

<sup>66</sup> E. Riedel – M. Will, « Clauses relatives aux droits de l’homme dans les accords extérieurs des communautés européennes », op.cit., p. 780.

<sup>67</sup> D. Cohn-Bendit – M. Rieu, *Rapport de Mission – Délégation euro-parlementaire à Alger du 8 au 12 février 1998 de Daniel Cohn-Bendit et Mychelle Rieu*, 1998.

*Does the EP remain the most active and – at the same time – the weakest actor among the EU institutions in the field of external democratisation and human rights policy? It appears to be the case.*

- A comparative study of any given empirical issue between the position of the EP and that of all, or a selection of, EU national parliaments.
  - A comparative study of how the various political groups/parties that are represented in the EP, but also in national EU parliaments, act on any given case, especially bearing in mind the need for consistency of approach and policy.
  - The role of other Parliaments in the Mediterranean (and other regions etc), with a distinction between [i] transnational Parliaments (IPU, NAA, etc); [ii] national ones with a special reference to the role of the national parliaments of the big EU states,<sup>68</sup> but perhaps also including the US Congress or other non-European parliamentary bodies; [iii] sub-regional parliamentary bodies (e.g. those from Catalonia,<sup>69</sup> the Canary Islands,<sup>70</sup> Scotland, Bavaria, or even Quebec).
  - Putting the parliamentary contribution into the wider context of cooperation in the Mediterranean, especially with regard to the building of civil society networks.<sup>71</sup>
  - A more comprehensive study similar to this one, but also including the use of positive means (incentives or “carrots”) as opposed to just sanctions and other financial penalties (“sticks”).
- In short, as Annette Junneman<sup>72</sup> has recently argued, does the EP remain “the most active and – at the same time – the weakest actor among the EU institutions in the field of external democratisation and human rights policy”? It appears to be the case. More research is still needed. We hope this study has presented some of the important issues that need further analysis in the future. There is little doubt in our minds that the role of the EP in the EMP remains an under-studied area of research.

<sup>68</sup> J - C. Guibal, *Rapport d'information de la Commission des Affaires Etrangères de l'Assemblée Nationale (France) sur l'avenir du processus euroméditerranéen*, No.1297, Paris, 16.12.2002, [www.assemblee-nat.fr](http://www.assemblee-nat.fr)

<sup>69</sup> S. Stavridis, *The Catalan Parliament and the Mediterranean: a preliminary assessment*, Working Paper No.41, IUEE (Institut Universitari d'Estudis Europeus/Observatori de Política Exterior Europea, UAB (Universitat Autònoma de Barcelona), Barcelona, March 2003, [www.uab.es/iuee..](http://www.uab.es/iuee..)

<sup>70</sup> J- I. Navarro, «El Parlamento de Canarias como sujeto de acción exterior» in F. Pau i Vall (ed.), *Parlamentos y Regiones en la Construcción de Europa*, Madrid: Tecnos, 2003.

<sup>71</sup> R. Pace – S. Stavridis – D. Xenakis, “Parliaments and Civil Society Cooperation in the Euro-Mediterranean Partnership”, *Mediterranean Quarterly*, Vol. 15, No.1, Winter 2003/4, pp 75-92.

<sup>72</sup> A. Junneman, *The European Parliament and its Impact on the Promotion of Democracy and Human Rights in the Mediterranean*, op.cit., p. 8.