



Converging and conflicting ethical values in the
internal/external security continuum in Europe

European Commission, 7th Framework Programme

D.6.4 Recommendation Report on the Consequences of the ENP in terms of its Value-based and Ethical Implications

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**D.6.4 Recommendation Report on the Consequences of the ENP
in terms of its Value-based and Ethical Implications**

Workpackage 6 (Lead beneficiary Bilkent University)

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This report is the fourth deliverable of work-package 6 (WP6) of the FP7 project entitled ‘Converging and conflicting ethical values in the internal/external security continuum in Europe’. The project takes as its starting point a change in policy practice, namely the merge of external and internal aspects of security in Europe. Research conducted as part of the project focuses on ethical challenges that are tied up with such change. The purpose is to supplement existing understandings with a value oriented analysis. The concern being, policies that are designed to provide security in Europe may end up reducing the level of protection of the individual rights and freedoms, and thereby jeopardising the values which the European Union (EU) has sought be built upon.

The specific focus of WP6 is the impact of such change in policy practice on the Mediterranean neighbourhood of the European Union. The comprehensive evaluation report submitted by WP6 in December 2010 (D.6.3) clarified the implications of European policy-making vis-à-vis the Mediterranean in individual, societal, and state/regime terms. We focused on three cases, Algeria, Egypt and Morocco (in alphabetical order) in evaluating these implications. In analysing the implications of European policy-making, WP6 has organised for interviews to be conducted in three Southern Mediterranean countries by CIDOB-associated researchers.¹ The interviewees were chosen from within both governmental and non-governmental circles. The latter group included activists and academics. Overall 35 interviews were conducted and 33 of them transcribed. Our evaluation and recommendations are based on the interview data as well as the research we have conducted in the past three years (namely, literature review, review of EU documents, and analysis of existing policies). In what follows, we bring the interview data together with other research to evaluate the ethical implications of European security practices vis-à-vis the Mediterranean.

Our focus in the evaluation report and this policy recommendations report is broader than WP6’s original mandate, which covered those policies adopted as part of the European Neighbourhood Policy (ENP). This is because the ENP is considered as a crystallised form of the merge of internal and external aspects of security in European policy-making. We have broadened our mandate to cover country-to-country security cooperation across the Mediterranean. The emergence of the security continuum in this part of the world and insecurities that followed have been products, mostly but not wholly, of country-to-country cooperation. Accordingly this recommendation report is less focused than it could have been

¹ Louisa Dris-Ali Hamadouche (Algeria), Habiba Mohsen (Egypt) and David Alvarado (Morocco).

had it remained with the more narrow mandate. At the same time, it is more comprehensive in terms of evaluating the implications of various European security practices at multiple levels – multilateral level, EU to country level and country-to-country level.

I. European Security Practices in the Southern Mediterranean

The EU does not lack policies and instruments to develop robust relations with its neighbouring countries. This is particularly true for the Southern Mediterranean. Since the mid-1990s North-South cooperation was institutionalised in the form of the Barcelona Process. This multilateral partnership, initiated in 1995, was characterised by a comprehensive approach towards the Mediterranean including, among other elements, the need to foster political and security cooperation. One of the most remarkable novelties of this framework was the linkage of the political and security agenda with economic and social issues, as a coherent strategy to achieve the goal of an area of prosperity and peace.

Yet, the Barcelona Process created greater expectations that it could ever hope to meet. This provoked, among observers as well as practitioners, from the EU and its neighbour partners, a widespread feeling of fatigue. Consequently, some proposed new initiatives as a means to overcome these problems. First, in 2004, Mediterranean countries were invited to participate in the European Neighbourhood Policy (ENP). ENP is different from the Barcelona Process in that it is characterised by differentiation and bilateralism. As such, the inclusive identity in security-building of the Barcelona Process was replaced by increasing differentiation between Eastern and Southern neighbours, as opposed to a partnership on equal footing. In terms of instruments, externalised European security practices increasingly made use of technologised and militarised tools. Second, in 2008, a new multilateral initiative was launched: the Union for the Mediterranean (UfM), which adopted the *acquis* of the Barcelona Process but attempted to increase Southern Mediterranean countries' ownership towards this policy.

Since the Tampere Presidency Conclusions (1999), which integrated the external dimension of internal European security into the political agenda of the EU, but more so in the post-9/11 period, the internal/external security continuum has taken the form of 'externalisation' – the process of pursuing EU 'internal' security through policies that are operationalized in the immediate neighbourhood. In the Mediterranean, it is not only the Union itself but also individual Member States that have engaged in externalisation. European security cooperation in the Mediterranean has paid particular attention to: immigration control, border control, fight against criminal networks and trafficking and also

counter terrorism. In these areas, there has been an increase in collaboration and assistance since mid-1990s. The intensification of this cooperation agenda contrasts with the scarce results in other important issues such as conflict resolution and political reform that have produced fewer results, even if they usually ranged high in the declared priorities.² While the Union's own externalisation practices have been relatively transparent, there is scant information on country-to-country cooperation.

Indeed, EU policies (understood as policies carried out by European institutions) are only part of the equation. Next to these policies, some member states have developed, alone or in cooperation with other member states, other initiatives which, quite often, are far more opaque and have had a strong security component. This is the case of the multiple cooperation agreements between European and Southern Mediterranean governments but also sub-regional cooperation frameworks such as the 5+5 (bringing together Portugal, Spain, France, Malta, Italy, Mauritania, Morocco, Algeria, Tunisia and Libya) which has been reinforced in order to launch cooperation programmes in areas such as migration, border control or defence. Thus, while the European policies and practices are often criticised for their opacity and counter-productive effects in terms of respect for human rights, it is worth pointing out that country-to-country cooperation can be exposed to greater criticisms.

Country-to-country cooperation between the North and the South has involved exporting surveillance technology to Southern Mediterranean countries, signing readmission agreements, training immigration and police officers, and performing joint patrols at the Mediterranean Sea. Morocco has signed readmission agreements with Spain (1992, 2003), Germany (1998), and France (1993, 2001). It has also been exercising joint naval patrols with Spain since 2004. Egypt signed agreements with Greece (1998) and Italy (2007) in the area of cooperation against organized crime and addressing irregular migration. In the area of counter-terrorism, Morocco and Algeria are close partners with Spain and France.

Migration Control

Migration control is one of the areas where the EU and Member States have externalized its control policies through, on the one hand, signing readmission agreements with Southern Mediterranean states, and, on the other, institution and capacity-building, often through

² The countries which have signed Action Plans are Armenia, Azerbaijan, Egypt, Georgia, Israel, Jordan, Lebanon, Moldova, Morocco, Occupied Palestinian Territory, Tunisia and Ukraine. In WP6, the Mediterranean Neighbourhood in general, Algeria, Egypt and Morocco in particular are analyzed.

recourse to highly technologised and sometimes militarised means. Continuous cooperation offers in terms of border management and equipment have been on top of bilateral agendas. Action Plans have assigned Morocco the largest border surveillance system in the South; Algeria was allotted €10 million to improve the capacity of its police in tackling irregular migration. ILOs were mostly sent to Libya and Morocco. Next to it, we should note the particular role of FRONTEX, the agency that was created to analyse risks and coordinate operations and does actually carry out a substantial number of operations, sometimes in cooperation with third countries. FRONTEX is accountable to the European Commission and the Council with room for improvement in its transparency. Yet, those scrutinizing these actions seem not to have paid enough attention to the fact that individual migrants are the most affected by these actions, which presume from cutting the channels of immigration whereas overpasses the emergence of new routes for clandestine migration flows (see below).

Counter-terrorism

The EU and some Member States have provided with technical and financial assistance to Southern Mediterranean counterparts to increase their capacity to fight terrorism. In the area of *counter-terrorism*, the Union has provided technical and financial assistance to the Southern neighbours through programmes addressing youth radicalization, increasing the capacity of law enforcement agencies, and providing training for border, airport and maritime security. In the Morocco Action Plan (2005) and Egypt Action Plan (2007), policies dealing with terrorism in the Southern neighbourhood were designed to allow information exchange on terrorist groups and their supporting networks (including financial ones) as well as the means and methods used in counter terrorism (including technical fields). There is also permanent cooperation among intelligence agencies in this particular domain. Terrorist attacks that in past hit some EU cities such as Madrid and London but also some Mediterranean countries such as Algeria, Morocco and Egypt, have pushed for these increase cooperation. New threats perceived to be originating from the Sahel region (Eastern Mauritania, Southern Algeria, Northern Mali and Niger) are also calling for favouring a wider cooperation in this field. Due to the very nature of the threats and the means utilised to combat it, there is very scant reliable and public information on the type, scope and magnitude of the assistance provided by Europeans to their southern counterparts. However, what it is particularly well-known is that Southern Mediterranean regimes have instrumentalised the need to combat terrorism in order to perpetuate practices such as decades-long states of emergency in Algeria or Egypt that have served as a legal stratagem to intensify control over citizens and

organisation, preventing demonstrations, justifying politically-motivated arrests, limiting individual rights and impeding the raise of strong opposition movements.

Democracy Promotion

In terms of *political reform*, Action Plans and Strategy Papers have diagnosed the problem as one of 'political systems' in the Southern neighbours and called for political and judicial reforms. The Union has provided substantial financial aid to develop programmes in Egypt, Morocco and Algeria (such as 'Egyptian Democratic Status Watch'). In the Egypt Action Plan, the articles on the promotion of democracy and the rule of law point to a variety of areas for improvement including fostering the role of civil society, engaging in dialogue on the death penalty, and asserting the freedom of expression and independence of the media. The Morocco Action Plan has a more intensive agenda that includes clauses about decentralization, and the promotion of cultural and linguistic rights of Moroccan peoples. The willingness of the EU to provide security for itself and in its neighbourhood cannot be decoupled from its attitude and policies towards democracy and human rights promotion.

The EU affirms that this is an important tenet in its relations with the Southern Mediterranean and an integral part of both multilateral and political dialogue frameworks. Specific projects are also financed aiming at reinforcing judicial reform, human rights, strengthening good governance actions or empowering civil society. However, the EU has been subject to criticism due to the gap between its rhetoric and real practices and, more specifically, because the EU (and even more its Member States) have given an uncritical support to those regimes that assured regional stability and were ready to cooperate. For instance, those partner countries have been more willing to cooperate in issues of vital interest of the EU such as immigration control or terrorism they have benefit from additional European funds (be them at the EU level in the case of Morocco, or bilateral Italian funds in the case of Italy, to give just two examples) and have been less exposed to criticisms and pressures from the EU side.

Current events in North Africa such as the popular uprisings in Tunisia, Egypt and the expansion of protest movements elsewhere, will certainly force the EU to revise its long-decades strategy towards southern Mediterranean. Securing the EU could not longer be made at the expenses of the citizens in the neighbour countries. Not only for what implies a contradiction in the values the EU is supposed to project, but also because in this internal/external continuum, the insecurity of our neighbours can also spread in the EU. This was already stated in the European Security Strategy of 2003: The best protection for our

security is a world of well-governed democratic states. The best means to consolidate international order is to disseminate good government, support political and social reforms, combat corruption and abuse of power, establish the supremacy of the law, and protect human rights. Yet, it seems that in the particular case of the Mediterranean actions but also discourses have followed a different strategy.

II. Ethical Implications of European Security Practices

EU policies are mostly judged by those criteria that the Union has set upon itself as a ‘different kind of power’. The Union is different because of the civilian instruments it uses and the values it upholds. These values include the protection and promotion of human rights, democracy and good governance. Vis-à-vis the Mediterranean, the Euro-Mediterranean Partnership (EMP) has emphasised the value aspect, but has not successfully backed it up in practice. With the transition from EMP to ENP, EU's reliance on externalisation, and especially since the surfacing of country-to-country cooperation, the single most important discontinuity is no more that of ‘the gap between say and do’ (as was the case with ‘normative power Europe’) but one of European actors engaging in practices that contradict the values the EU has sought to build and, in some cases, doing so by making use of persisting nonattendance to such values by Southern regimes (including low human rights standards and limited scrutiny into reports of abuse). Accordingly, the discontinuity is not one between what EU says and does vis-à-vis the Mediterranean, but between what European actors do in the Mediterranean in the attempt to protect those very values at home.

One such site of discontinuity is the individual-level, in relation to the rights of immigrants and asylum-seekers. For individuals it is becoming increasingly difficult to reach Europe as a result of both internal EU policies—such as carrier sanctions and strengthening visa policies—and externalization policies including FRONTEX-coordinated operations conducted on the territorial waters of Southern Mediterranean states. Accordingly, *irregular immigrants* head towards more dangerous routes in order to escape detection and repatriation. While the number of immigrants arriving at known ports may have been decreasing, the death toll persists. What is more, irregular immigrants increasingly fall in the hands of human smugglers who have become more ‘professional’ in exercising disproportionate power over these ‘next-to-no-rights’ individuals. Second, there is the issue of maltreatment of individuals in transit. So long as irregular immigrants are kept outside the EU borders by measures taken by Southern Mediterranean states, European actors seem to overlook how these measures affect individual immigrants (or Southern societies, see below). Accordingly, transit

processing centres have been established, new border surveillance technology has been installed, readmission agreements were signed, joint border patrol operations were conducted, and border police was trained. It is reported that immigrants are often subjected to violence in the hands of officials and forced to live in inhuman conditions in these camps. Beatings and rapes in the camps in Morocco, Tunisia, and Libya, and police brutality towards immigrants including shootings are documented.

Asylum-seekers have increasingly been viewed in relation to the 'national security' agendas of European and Southern Mediterranean states. The linkage between migration, terrorism, and Islamist activism, as established by Southern regimes but resisted by the EU in discourse and in practice, has now been exported to Europe. What is particularly worrying in this regard is deportations to countries where individuals face torture and other inhuman treatment. While such deportations are prohibited by the European Convention of Human Rights, some EU Member States seem to have found ways of circumventing such bans, including rendition.

Another site of discontinuity is the level of *society*. One implication of the externalization of European security practices is the (re)emergence of societal insecurities in the South Mediterranean neighbours. For example, immigrants, especially those coming from sub-Saharan Africa, are often portrayed as 'black locusts' by some public officials in Morocco or 'invaders' in Libya. Attacks to sub-Saharan immigrants by South Mediterranean natives have followed in some contexts. At the same time, a racialised division of labour has emerged in the South. This has not only contributed to the insecurities of immigrants (who take up jobs as undocumented workers sometimes under inhumane conditions) but also re-fuelled xenophobia.

III. Policy-recommendations addressed to the EU institutions

- ***Undertaking an ambitious revision of the current policies towards the Mediterranean Region and their implication in terms of security.*** The EU could make use of the current critical situation (political blocking of the UfM, stalemate of the Middle East Peace Process, demands for an strategic review of the ENP, the negotiation of the 2014-2020 EU budget, the ongoing political and social revolts in North Africa and the Middle East) as a catalyst to revise the principles, instruments and effects of the current policies deployed in the Mediterranean. So far, four assumptions proved to be inaccurate: (1) promoting free trade would transform the political and security reality in the Mediterranean (2)securing the EU borders would protect the EU from all sort of

insecurity (3) maintaining a high degree of cooperation with non-democratic regimes was the best way to promote changes in the region while maintaining stability and (4) by focusing on practical or technical issues new policies would be able to de-securitize cooperation to the extent possible. All these issues should be addressed in order to promote a new European Strategy towards the Mediterranean.

- ***Increasing oversight on cooperation and assistance with Mediterranean countries.*** Cooperating with third countries can not be made at the expenses of individual freedoms of their citizens. This implies that all sort of assistance programmes, joint mission or legislative harmonization programmes required or promoted by the EU should contain specific measures to ensure that this will not result in exporting insecurity. Thus, specific information mechanisms, capacity of the EU delegations to direct inquiry on the utilisation of the EU assistance and the effects of such. Under EMP and later ENP, the Union has engaged in state-building, provided development aid and encouraged Security Sector Reform. However, reports indicate that development aid is increasingly being tied to Southern neighbours (and other African states) signing readmission agreements (often regardless of who is more in need of development aid) This, in turn, carries risks that European development aid would be used for migration control. In a world where development aid budgets are on the rise, this may not necessarily be a negative development. That said in a world of shrinking development aid budgets, this would constitute another value discontinuity and demands careful scrutiny. Such scrutiny on the Union level is crucial not only because of value discontinuities between what Member States do and what values the Union has sought to build, but also because what Member States do has implications for the Union in the eyes of Southern actors. The interviews we have conducted in Algeria, Egypt and Morocco all point to a decline in EU's profile in the eyes of Southern actors. The insecurities that follow country-to-country cooperation is blamed (often incorrectly) on the Union. This, in turn, is likely to have implications for Union-to-country cooperation under ENP, and region-wide projects in the Euro-Mediterranean framework.
- ***Moving forward the EU's Migration and Asylum policy.*** The attempts to seal the EU borders to any sort of migratory flows have proven to be a partial measure. Accordingly it has proven to be an insufficient instrument for assuring orderly, secure and regular management of people's movement. There is an urgent need to rethink the EU policies in

this particular field by revising: quotas for regular migrations, mobility partnership, visa facilities for professionals, circular migration programmes and a safer and quick-reacting asylum policy.

- ***Promoting Security Sector Reform.*** Too often the EU and its Member States, when talking Security Sector Reform in partner countries have given preference to modernisation efforts in equipment and training (particularly in fields such as border control, fight against terrorism, etc.). Taking into account the current situation in North Africa and the Middle East the EU could, in the short term, insist that those countries that have started a democratic transition could also undergo a process ensuring the democratic control of the armed forces. In more global terms, the EU could also incorporate programmes with third countries whose focus would be transforming the role of security forces from being “guardians of the state/regime” to become “forces serving the general interest and respecting and protecting human rights”
- ***Revise Cooperation in the field of Cyber-space.*** Cooperation in controlling cyber-terrorism and cyber-attacks has been common practice between the South and the North of the Mediterranean. However, up until now the EU has not paid due attention to the importance of digital freedom as one of the rights a citizen should enjoy nowadays. With the uprisings just happening in the Arab World where Internet and other actual means of communication have had an essential role, the EU could also find ways of guaranteeing this freedom of virtual communication and information.
- ***Increasing coherence and oversight over specific policies and actions of the EU and its Member States.*** Policies implemented both by the EU and the Member States could improve their transparency and accountability. An increase in the parliamentary control would help to correct this deficiency, for instance regarding FRONTEX missions. In addition, the EU should have the capacity and legitimacy to oversee how individual member states cooperate with third countries in fields such as border control, counter-terrorism, and fight against trafficking. EU delegations in third countries should be provided with better access to information in order to assure the coherence among these policies and the EU ones. Moreover, the European Commission could propose the adoption of commonly-agreed protocols to ensure that cooperation or assistance

programmes would not make the citizens of the EU neighbouring countries more vulnerable to any sort of abuse.

- ***Empowering civil society.*** An articulated civil society is of paramount importance to ensure the democratic quality of a political system. EU civil society and could be instrumental in controlling the ethical implications of the actions undertaken by European institutions and individual member states and, on top of it, could definitely contribute to strengthen their counterparts in Mediterranean countries. The European Instrument for democracy and human rights (EIDHR) where specific funds could be assigned to train civil society as to be able to follow and control specific policies in fields such as migration flows, internal security, fight against terrorism, etc. A specific programme could be launch focusing on better empowerment of civil society entities which could play a constructive role in supervising the development of the cooperation in these fields