

What Europe must do to ensure a two-state deal



Questions still abound as to the EU's position regarding Palestinian statehood. **Muriel Asseburg** and **Jan Busse** list the key decisions European policymakers must take to ensure the peace process becomes viable

The declaration of a Palestinian state now looms large on the horizon. The direct talks between Israel and the Palestinians that started in early September are aimed at resolving all final status issues, ending the occupation that began in 1967 and establishing an independent, democratic and viable Palestinian state that would live side by side in peace and security with Israel. The Middle East Quartet of the U.S., the EU, the UN and Russia declared that these negotiations could be completed within a year. Back in August of last year, the Palestinian Prime Minister Salam Fayyad published a government programme entitled "Ending the Occupation, Establishing the State" which sets out to achieve Palestinian statehood within two years. In autumn 2011, therefore, the Palestinians might well proclaim their independent state.

Europeans along with the other Quartet members have been full of praise for Fayyad's approach to building the institutions, infrastructure and economy of a Palestinian state. Last December, the European Union expressed its explicit support for the Fayyad Plan, the Quartet having endorsed it in September 2009 and reiterating its support in March of this year.

But neither the EU nor the Quartet have detailed what their endorsements imply for the international community. Will the Europeans and their Quartet partners be ready to push for recognition of the state by the UN Security Council and the General Assembly, thereby making Palestine a fully-fledged member of the family of nations? Or will they once more – as they did when the original interim period provided for by

the Oslo Accords was about to run out in May 1999 – convince the Palestinian leadership that it is too early to proclaim their State? In the end, European support for Palestinian state-building that does not include eventual European recognition of a Palestinian state does not make sense. And it would be contradictory to the European understanding that the establishment of a Palestinian state next to Israel would be the best guarantee for Israel's security and for its recognition as a respected partner in the region.

Palestine already possesses many features of a state. The State of Palestine declared in Algiers in 1988 is recognised by some 100 countries, while even more than that entertain diplomatic relations with Palestine or with the PLO. Palestine holds observer status at the United Nations as well as such additional rights and privileges as the right to participate in general debate. The Palestinian Authority (PA) is a complete administration. It issues passports as well as stamps. Yet the PA lacks effective control over Palestine's territory and its borders, and its decisionmaking powers are all but reduced to self-administration. Palestinian police need Israeli permission each time they want to move from one Palestinian city to the other, and every single building project outside these cities (the West Bank's so-called "A areas"), be it a street or a well, requires a permit from Israel.

Since the beginning of the Oslo Peace Process, the EU has approached the issue of Palestinian statehood simultaneously with a bottom-up and top-down approach. On the one hand, the EU has promoted Palestinian institution building from

below by supporting the establishment of governance institutions, infrastructure, and the regulatory frameworks for a national economy. On the other, it has diplomatically supported and complemented U.S.-led negotiations for Israeli-Palestinian as well as for a comprehensive Arab-Israeli peace.

Over the last 15 years, though, both elements – negotiations and institution building – have seen only limited progress, if not regression. And the current negotiations between President Mahmoud Abbas and Prime Minister Benjamin Netanyahu are unlikely to lead to a durable compromise unless the international community steps in much more forcefully. The two sides are just too far apart on such issues as Jerusalem, the Jordan valley and refugees, and the power balance between Israelis and Palestinians is too asymmetric. Institutions that were established quickly during the interim period with substantial European support were destroyed to a large degree by Israeli military operations during the Second Intifada.

The territory available for a Palestinian state has become ever more fragmented and limited because of continued settlement building, the erection of the Separation Wall that cuts deeply into the West Bank, the isolation of East Jerusalem from the West Bank and the territorial – and since June 2007 also political – split between the West Bank and the Gaza Strip. Apart from their declarations, the Europeans have done little to prevent this fragmentation.

Europeans have also done little to work credibly against authoritarian tendencies in the PA, under both President Yaser Arafat

and his successor. Priority has instead been given to Israeli security considerations and the continuation of the peace process, however flawed. Also, by adhering to a "West Bank first" approach after Hamas's June 2007 takeover of the Gaza Strip, Europeans have taken sides in the power struggle between Hamas and Fatah and have contributed to reinforcing the political split between the two Palestinian governments. The consequence is that today we can witness two authoritarian Palestinian systems in the making. The EU's uncritical support for President Abbas and his Prime Minister overlooks the fact that they lack democratic legitimacy. Today, all the PA institutions – President, the Prime Minister, the Palestinian Legislative Council as well as the municipalities – either have overrun their terms or lack democratic endorsement.

Progress has been made in the security field. With the help of the European police mission (EUPOL COPPS) and the team headed by U.S. security co-ordinator Keith Dayton, the PA has restored order in West Bank cities, satisfying citizens' needs for security. The PA has also been enabled to fulfil its security commitments under the 2003 road map, something acknowledged by Israel, which in return has resumed security co-ordination with the PA and lifted some checkpoints. But in the eyes of Palestinians international security sector support has lacked legitimacy. It has been first and foremost interpreted in the dual contexts of Israel's interest in subduing "resistance" and the Palestinians' internal power struggle. Promised reforms to increase the political independence and accountability of the security services and of the criminal justice institutions have not been forthcoming. There is thus a real danger that

the EU is contributing to the establishment of an authoritarian and repressive security apparatus.

In its Berlin Declaration of 1999, the EU expressed its readiness to consider recognition of a Palestinian state "in due course". The reality we have to face, however, is that the Palestinians are not moving towards statehood. Prime Minister Fayyad has jump-started the economy, invested in infrastructure and housing and improved governance to a certain degree, but his efforts have been all but restricted to some 40% of the highly fragmented West Bank (the so-called A and B Areas). East Jerusalem has remained off-limits. The Palestinian body politic remains split and the Gaza Strip is under blockade. Palestinians will never be able to achieve effective control over their territory under continued occupation. What is more, bi-lateral negotiations will hardly lead to compromise on essential final status issues. Therefore, "in due course" is not approaching. Should Europeans then recognise a Palestinian state even if the conditions for effective statehood are not yet met on the ground?

The proclamation of a Palestinian state and its recognition by EU member states would clearly not resolve many of the problems that still stand in the way of effective Palestinian statehood. It would not end the Israeli occupation regime or the presence of Israeli settlers and military in the West Bank and East Jerusalem. It would not resolve final status issues between Israel and the Palestinians, and would not necessarily produce progress in the dispute between the PA government in the West Bank and the Hamas government in Gaza. And even an internationally recognised

Palestinian state would possess neither the exclusive monopoly of power over its territory nor would it exert effective control over its borders.

The role of the U.S. is of crucial importance if European recognition were to be more than merely a symbolic act. This is particularly so with regard to Israel's reaction, and also to ensure that the UN Security Council agrees to proposing Palestine's full membership of the General Assembly. For the recognition of Palestine to be made a step of real significance, therefore, it is essential that Europe act in co-operation with the U.S. and the wider international community. Becoming a fully-fledged member of the UN would be a vitally important political underpinning for the Palestinian state.

Above all, if accompanied by an intensive international engagement, recognition of the State of Palestine in the territories occupied by Israel in 1967 could give the negotiations a decisive push, creating a new dynamic that could save the two-state settlement. The Palestinian state's territorial scope and international status would in this way no longer be up for negotiation. So the two parties could focus on sorting out their bi-lateral relations in such areas as security arrangements, land swaps, refugees, economic co-operation and water management.

A unilateral declaration of independence would, by contrast, certainly not take matters forward. Not only must the process be carefully prepared and internationally supported to avoid confrontations, but also the parties will need international mediation if they are to

come to terms over final status issues. This requires a clear-cut commitment as well as close EU-U.S. co-operation over recognising the Palestinian state. Such recognition, therefore, should not be conceived as a threat, but as a step in the peace process.

The EU should also use its recognition as a political instrument to enforce norms and standards – just as it does towards countries applying for EU membership – ranging from democratic procedures to good governance, human rights and the rule of law.

In addition, the Europeans need to urgently address the future state's territorial and political fragmentation – focusing above all on the Israeli settlements and settlement infrastructures, Jerusalem, Palestinian unity and the Gaza blockade. First and foremost, the ongoing construction of settlements in the occupied territories – which are illegal under international law – is a concrete obstacle to a Palestinian state with contiguous territory. Based on the February 2010 Brita Ruling of the European Court of Justice, Europeans should at last devise effective mechanisms to prevent exports that originate in Israeli settlements being imported under preferential conditions of the EU-Israel Association Agreement. East Jerusalem is crucial. Thus, Europeans should insist on a complete stop to settlements, including in East Jerusalem. They should also systematically support Palestinian infrastructure and institution building in East Jerusalem.

In the same vein, ending the Gaza blockade should be among the top priorities on the European agenda. A mere easing of the blockade will not allow for economic revival or liberate Gaza's population from

the collective punishment and the isolation it has been subjected to. The EU should offer to resume and even extend its monitoring activities at Gaza's border crossings to contribute to their regular opening, and to guarantee regular imports and exports. This requires not only Israeli, PA and Egyptian agreement but also the engagement of the de facto government in Gaza.

Palestinian reconciliation and a comprehensive power-sharing agreement are currently unrealistic. The interests of Fatah and Hamas are too divergent and the positions of external actors are too contrary. The Europeans should nevertheless continue to stress their support for Palestinian unity and try to convince the U.S. to no longer block it. For the Europeans, that would imply

figuring out how to deal with an interim body (and a future government) supported by all relevant Palestinian factions.

A two-state settlement will not come into being through the Fayyad plan and through purely bi-lateral negotiations. What is needed is a serious Quartet commitment towards recognition of a Palestinian State and consistent, forceful mediation between Israel and Palestine. □

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