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CMPD Food For Thought Paper

From strengthening ties between CSDP/FSJ actors towards more security in EUROPE

The "Strengthening Ties between CSDP and FSJ"¹ Road Map was established in December 2011. Four progress reports on the overall implementation of the Road Map activities and, in parallel, completed actions were presented to Member States.

The principles contained in the Road Map remain valid but it has now become necessary to move beyond the measures identified in 2011, also taking into account the evolving international context and especially those aspects that challenge security in Europe. Accordingly, this paper focuses on three priority areas for further progress:

Improving situational awareness and exchange of Information within the EU;

Operationalising the nexus between internal/external security; and

Civ-Mil convergence and synergies.

The paper's aim is also to draw the attention of Member States to concrete actions that at a later stage may contribute to the implementation of the forthcoming EU Global Strategy on Foreign and Security Policy (EUGS).

As stated by the HRVP on the eve of the European Council of June 2015, missions and operations are increasingly embedded in a wider EU approach. The linkages between internal and external security, including in areas such as irregular migration, trafficking of all sorts, terrorism and hybrid threats are an increasingly important context for the further development of CSDP and when considering any possible new operation/mission.

CSDP was designed as a tool to prevent, manage or resolve crises outside the EU of both military and civilian nature, as an integral part of EU foreign policy. Many CSDP missions and operations may also deal with the reform of the security sector (SSR) and supporting a Host Country to build sustainable Rule of Law institutions, as part of their contribution to international peace and security.

¹ Doc. 18173/11

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EUNAVFOR MED Operation *Sophia* is a recent example of a military CSDP operation that works in a broader context of the nexus between internal and external security, aiming to prevent illegal and irregular migratory flows by disrupting smuggling/trafficking networks in the South Central Mediterranean, while also saving lives at sea in compliance with international law. While it is an unprecedented situation in the Mediterranean, the suitability of using a military operation as the only CSDP tool, dealing with complex areas of law enforcement and migration, begs closer scrutiny. The case for a closer and more balanced role for the police and the military in crisis management missions was also highlighted on 31 May 2016, in the UN SG initiated "External Review of the functions, structure and capacity of the UN DPKO Police Division".

Operation Sofia is in any event an action that takes place close to EU borders, which therefore also calls for close interaction and cooperation with other EU instruments, notably with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX).

It is also an example of the renewed strategic and political importance of the nexus between internal and external security in the present European security environment. Beyond the EU borders, terrorist organisations and irregular migration flows are profiting from instability and unresolved external conflicts, which eventually have an impact on EU citizens.

Actions to strengthen ties between CSDP and FSJ actors were set up years ago and linkages have been established between the external and internal security of the EU. These linkages have become more structural over time, significantly in the area of Training –and especially visible with EU Agencies. However, there appears to be room for an enhanced implementation of existing agreements and for revisiting this agenda in light of new challenges. The European Border and Coast Guard regulation, when adopted, would define cooperation with neighbouring countries and countries of origin/transit of irregular migration as one component of the "European integrated border management" which subsequently will increase the external activities of internal security actors.

In the spirit of the Comprehensive Approach, it might entail the need to blur the lines between internal and external security. This will require even closer cooperation between all EU actors in the future in order to achieve better synergies and avoid duplication of efforts.

1. IMPROVING SITUATIONAL AWARENESS AND EXCHANGING INFORMATION WITHIN THE EU

EU actors abroad – EU Delegations, in particular where Counter Terrorism/Security Experts, European Migration Liaison Officers (EMLO) or EU agencies liaison officers (such as Frontex') are deployed, and CSDP missions – should further contribute to situational awareness and to the exchange of information among EU actors.

Two lines of action could help reach the objectives of improving Situational Awareness and exchanging information within the EU, by setting up:

- A Country Situational Awareness Platform (CSAP)².

The objective is to bring together the EU and Member States present on the ground across the full spectrum of relevant actions: political dialogue and action plans, development co-operation, technical assistance and joint programming, input to security-related strategies, local cooperation with CSDP missions and operations, consular protection, etc. The Head of Delegation could have a co-ordinating role for joint reporting, where appropriate and resourced to do so, and thus also enhance cooperation with EU Member States' representatives on the ground.

CSAP test cases could be envisaged in two crisis areas in the course of 2016.

Based on the results, CSAP standard procedures could be adopted as a working mechanism that would consistently inform the geographical desks, EU INTCEN/EUMS INT (SIAC), the crisis management structures, joint programming and contribute to the EEAS's early warning system, responding to the need for info/knowledge/analysis sharing within the EU family.

- Dedicated crime information cells within the CSDP missions and operations.

As a rule, a CSDP Mission is responsible for its own intelligence support. The Mission contributes to the EEAS's situational awareness by closely cooperating with the HQ intelligence analysis bodies EU INTCEN and EUMS INT (essentially the Single Intelligence Analysis Capacity _SIAC, but also the EU Satellite Centre) who in turn share with the Mission the analyses they produce that can

² This action will be carried out within the development of the EU' Comprehensive Approach Action Plan 2016-2017.

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be of interest for them. EU staff in CSDP missions or operations is known to routinely collect and/or receive a number of information and intelligence reports from a variety of sources, which often are not exploited due to a lack of appropriate data analysis and repository systems. The regular transfer of that kind of information to EU INTCEN/ EUMS INT for further analysis and assessment would here be a first step.

It seems obvious that better involving CSDP missions in the sharing and possibly even gathering of crime-related information and criminal intelligence, within the scope of their core mandate, would not only contribute to the EU's internal security but also to the security and effectiveness of the EU presence itself. Such a development would also better reflect most UN SCR mandates related to policing and the Rule of Law in UN peacekeeping missions. Since 1999 we have not seen any full-fledged executive mandates. Over the past fifteen years, UN DPKO missions, in addition to capacity-building, are often in parallel mandated to provide more operational policing and justice support to host states, still with the host state having the ultimate responsibility. In this context the request from some West African States (Liberia, Sierra Leone and Guinea-Bissau) in the West African Coast Initiative³ inviting external actors and states for more active operational assistance to combat Transnational Crime in parallel to capacity building measures, is also noteworthy.

Where it is warranted in light of the mission's mandate, it would be advisable to consider setting up a dedicated cell geared to gather, centralize, analyse and appraise, (and when possible, corroborate), data collected by CSDP EU staff.

The framework for the exchange of classified and/or strategic information⁴ between the CSDP missions and a number of EU agencies has been established by means of administrative arrangements.

It should be stressed, however, that the conditions for a CSDP mission or operation to gather and process personal data in a Host Country or in its Area of Responsibility (AoR) need to be stringent. This means that they would require in particular a proper legal framework for the protection of individual rights, especially against the background of possible judicial proceedings. This would of course require also a political assessment.

³ <https://www.unodc.org/westandcentralafrica/en/west-africa-coast-initiative.html>

⁴ Strategic information is conveyed via EEAS services.

Therefore, the provisions for the handling and storage of personal data collected by missions and operations in the framework of their executive mandate should be worked out⁵. The current requirement whereby the collection and the transfer of personal data can only be carried out by executive missions should also be reconsidered.

The access of CSDP missions to criminal databases / networks from various EU Agencies and bodies like Interpol should also be discussed.

Crime information cells test cases could be envisaged in some CSDP missions/operations – to be determined in the course of 2016. This would require a PSC decision.

2. OPERATIONALISING THE INTERNAL/EXTERNAL SECURITY NEXUS

"The work in the area of strengthening ties between CSDP and FSJ should be intensified. The focus should be on improving coordination between the actors responsible for external and internal policies"⁶.

- FSJ EU Agencies

The enabling framework is (or soon will be⁷) in place. The new legal status of certain EU Agencies and working arrangements between the EEAS and relevant EU Agencies has built the foundations of structured permanent cooperation in the operational domain.

The priority has been to structure the approach to cooperation and to agree mechanisms and corresponding resources in coordination with the Commission⁸. For Agencies with which the

⁵ As called for by the Operation commander of EUNAVFOR MED SOPHIA in his March 24 letter to the President of the EUMC

⁶ Seminar on Civilian Capability Development 26 November 2015.

⁷ Cooperation frameworks with EUROJUST and CEPOL are being considered.

⁸ Administrative arrangements on sharing classified information between the EEAS and Europol and FRONTEX, working arrangement with Frontex, exchange of letters on enhancing cooperation with Europol, service level agreement between the SATCEN and FRONTEX.

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framework is in place, the top down approach has proven successful, not least by setting up regular trilateral meetings between the Commission, relevant Agencies and the EEAS, by regularly sharing non-classified information and by including the consultation of the EEAS in the establishment of EU Agencies' work programmes and including, whenever appropriate, relevant EU Agencies in the planning phase of CSDP missions. For the latter, we are looking forward to the establishment of closer interactions between services at the strategic level.

As for civilian missions, the revision of the "visiting experts" guidelines has enabled the participation of FSJ experts from Agencies in the conduct of CSDP Missions.

Implementing measures should be pursued to operationalise the connection with EU internal security actors at the strategic and operational levels, included with EU Agencies through working plans (*e.g. matrix*) and liaison mechanisms.

This would also lead to a proactive early information and intelligence sharing culture.

- Improving mechanisms in the decision-making process

Shared Strategic vision, taxonomy and risk analysis are key to synchronize the actions of the various EU entities.

The HRVP and senior EEAS officials are addressing the JHA Council and the European Council when they deal with FSJ matters, INTCEN is providing terrorist threat assessments and other CT-related products to COSI and the Working Party on Terrorism (TWP), as it is briefing the PSC with intelligence based assessments on matters of foreign and security policy relevance. EU Agencies are regularly invited to the PSC as well.

However, concerning the Decision-making process, although informal joint meetings of PSC/COSI take place once per Council Presidency, and all interlocutors have talks on the internal/external nexus, there is still scope for a reflection on a more structured consultation, closer cooperation and coordination between Council Working Groups (CIVCOM/PMG and COSI SG) to provide a strategic contribution from the JHA to the CSDP planning process, inter alia on external aspects of internal security, and threats and trends related to the regional approach and cooperation with third countries. Systematic information sharing between EU actors is also contribute to the decision making processes by building common understanding of the overall situation in this respect.

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This approach should encourage FSJ expertise to be further associated in the early phases of the strategic planning of CSDP missions, starting with a contribution to a PFCA (Political Framework for Crisis Approach, which should provide an overview of EU interests, activities and proposed actions in a given crisis situation to inform decision-making).

We would like to encourage a discussion with Member States on this issue.

- Training

The institutionalisation of CSDP/FSJ courses as well as streamlining the CSDP/FSJ nexus in various courses organised in the framework of CEPOL and ESDC has been carried out successfully. Training on raising awareness may be developed for example for experts, e.g. training on EU JHA Agencies may be delivered to Security experts sent to EU Delegations and similar training on the EEAS may be delivered to EU Agencies experts sent to EU Delegations. The ESDC and CEPOL will further explore possible enhanced cooperation.

The European Security and Defence College (ESDC) provides opportunities to improve links with relevant Union Agencies, including CEPOL, with FRONTEX, and with the European Union's law enforcement agency (EUROPOL).

The development of a joint training activity on CSDP/ FSJ between the ESDC and EUROPOL, and cooperation in the field of Cyber-related issues are scheduled, and the framing of an autonomous Knowledge Unit (AKU) on EUROPOL to be used in the ESDC eLearning system is planned.

The EEAS will explore, in coordination with the relevant services/colleges/agencies possibilities for a working arrangement with CEPOL (following a CEPOL request). Meetings and consultations between representatives from EEAS and CEPOL establishing and defining the particulars of cooperation and its implementation are ongoing.

The role of Member States' Centres of excellence may be explored in order to strengthen the CSDP/FSJ training approach in line with experiences acquired⁹ which would facilitate interoperability of CSDP assets and the identification of minimum training standards.

⁹ Such as European Union Police Services Training (EUPST), considering that EUPST specific objective is strengthening the training network and conducting training.

3. CIVIL CONVERGENCE AND SYNERGIES

CSDP missions and operations in the Sahel region and in the Horn of Africa are supporting Host Countries in the reform and training of law enforcement agencies and/or /defence forces. This should eventually contribute to an enhanced capacity of the Host Government to address cross-border threats more effectively (e.g. terrorism, irregular migration, drugs, piracy, organised crime,...).

It also could be noted that the two EU maritime operations have mandates which contain components of, and linkages with, law enforcement, in line with international maritime law, including piracy. Further thought should be given to whether law enforcement activities¹⁰ really should fall within the military area of responsibility or whether broader or more relevant solutions, including civilian CSDP, can be envisaged. This implies closer cooperation between military operations and FSJ agencies such as EUROPOL or FRONTEX (the latter's own operation Triton off the Italian coast is a good example). In essence, it can therefore be argued that the internal/external security nexus should also generate enhanced civilian-military interaction within the CSDP to better interact with FSJ structures and effectively implement a comprehensive approach.

At the same time, Lessons Learnt from EUFOR CAR, in which EUROGENDFOR deployed an "Integrated Police Unit", may indicate the initial usefulness of incorporating robust military-police/gendarmerie elements within the start-up period of an operation. Moreover, throughout a military operation, presence of civilian expertise that can provide advice, or police capabilities (e.g. to investigate crime-related issues) may be considered in the initial planning phase.

¹⁰ To be noted: In accordance with the Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly resolution 34/169 of 17 December 1979, referring to article 1:

(a) The term "law enforcement officials", includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention.

(b) In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.

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Further consideration should also be given to the design, deployment and support of a well-coordinated and possibly even integrated civ-mil CSDP deployment with complementary mandates and objectives (e.g. building maritime capacity implemented at sea and on land such as Nestor/Atalanta), but operating under their own crisis management and funding rules – as was put forward by the HRVP in her 2014 note on the financing of CSDP missions and operations.
