

Policy Department External Policies



WORKSHOP SUMMARY THE IMPACT OF THE LISBON TREATY ON ESDP HELD ON MONDAY 11 FEBRUARY 2008

SECURITY AND DEFENCE



**DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION
DIRECTORATE B
- POLICY DEPARTMENT -**

Workshop Summary

"The Impact of the Lisbon Treaty on ESDP"

held on

Monday 11 February 2008, 15:00 – 18:30

Summary

On 11 February 2008 the Policy Department in DG EXPO organised a Workshop on behalf of the Subcommittee on Security and Defence (SEDE). This was the first Workshop of its kind for DG EXPO. The large participation and interest from within and outside the European Parliament made for a successful event. The substance of the Workshop provided an opportunity for key Members of the European Parliament to present their views on the innovations in the Lisbon Treaty in the area of External Relations as well as to look in more depth at specific proposals including the new High Representative for Foreign Affairs and Security Policy, the European External Action Service, Permanent Structured Cooperation and the mutual defence article. The second part of the seminar focussed on the role of national parliaments and the European Parliament in scrutinising ESDP and on how parliamentary oversight might be strengthened in the future. This Workshop Summary provides an overview on the issues raised during the Workshop. It is not intended as a verbatim reproduction of the event. The summary and programme is used as a means to disseminate the Workshop presentations which should be useful to those interested in the details of the presentations as well as those who were unable to attend.

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1. Programme

Workshop

"The Impact of the Lisbon Treaty on ESDP"

Monday 11 February 2008, 15:00 – 18:30

Brussels

Room ASP 5G2

Programme

- 15.10-15.15 Introduction by **Mr Karl von WOGAU**, Chairman of the Sub-Committee on Security and Defence (SEDE)
- 15.15-17:25 **The impact of the Lisbon Treaty on ESDP**
- **Dr Antonio MISSIROLI**, Director of Studies, the European Policy Centre (EPC), Brussels
- **Mr Christian MÖLLING**, Senior Research Fellow, Center for Security Studies (CSS) - ETH Zurich
- **Dr Thomas ROITHNER**, Austrian Study Center for Peace and Conflict Resolution (ASPR), Vienna
- Discussants:** **Mr Jo LEINEN**, MEP, Chairman AFCO
Mr Andrew DUFF, MEP
- Debate:** SEDE Members and Experts
- 17.25-18.25 **Parliamentary Scrutiny of ESDP following the Lisbon Treaty**
- **Dr Hans BORN**, Geneva Centre for the Democratic Control of the Armed Forces (DCAF), Geneva
- Debate:** SEDE Members and Experts
- 18.25-18.30 Concluding Remarks by **Mr Karl von WOGAU**

2. Summary¹

2.1 Introduction - innovation or consolidation?

The Lisbon Treaty offers indeed new possibilities for the development of the Common Foreign and Security Policy (CFSP) and, with the introduction of mutual assistance obligations, also for defence and security policy. Nevertheless, these possibilities do not amount to real innovations because *"a lot has happened without the Treaty of Lisbon by using the so called Schengen-method"*. Thus, a discussion related to the European Security and Defence Policy should emphasise the real innovations of the Lisbon Treaty. This workshop provided an occasion for such a debate where Members and experts discussed in detail the full extent to which the Lisbon Treaty consolidates past developments and provides a framework for the future development of European Security and Defence policy.

2.2 Framing European Defence - the Foreign Policy Framework

"...in the field of CFSP and ESDP the Lisbon Treaty offers many opportunities (...) but also presents us with a number of unknowns (...) there is a strong push for coherence on the one hand and the persistence of a degree of compartmentalisation in foreign policy, if not a degree of new isolation of certain elements of foreign policy on the other..."

From the perspective of CFSP and ESDP important questions arise with the introduction of the Lisbon Treaty concerning three major points:

- the implementation of the new institutional arrangements,
- the novelties brought into the area of ESDP,
- and the role of the European Parliament in these two spheres.

The first and the 'hottest' question primarily concerns the appointment of the new EU Troika. Here, there is a potential for a clash in the field of external representation, where the High Representative/Vice President of the Commission will be sharing his competences with the President of the Council. Experience shows us that competences which may seem rather poorly defined in the Treaty can grow when executed by an ambitious personality. To avoid situations in which the former would be driven by the latter a proposition should be put forward before the Treaty enters into force (with the European Parliament and national parliaments involved) to determine the responsibilities of the respective members of the Troika. This agreement could also clarify other institutional questions such as coordination between the permanent and rotating structures of the Council and the bureaucratic structure supporting the High Representative/Vice President (HR/VP) of the Commission. Last but not least is the European External Action Service (EEAS), which needs careful consideration as its impact on overall functioning of the CFSP is evident and whereby *"...it may be easier to establish its central structure in Brussels than in third countries and EU delegations around the world, especially where the Union has its ESDP missions"*.

In the ESDP area itself, renamed by the Treaty as the Common Security and Defence Policy (CSDP), several points need to be addressed. The first, also of an institutional nature, concerns the role and location of the military bodies within the new structure.

¹ Quotes are used to highlight key points raised by participants but have not been attributed to individuals.

The nature of "*the dormant clauses in the Treaty*", namely the solidarity clause and the mutual assistance clause, because whilst uncertainties remain about their actual use, they do nevertheless provide a good legal basis for new policies should the member states agree. Finally, a major novelty comes in the form of Permanent Structure Cooperation, whereby a "*very careful balance between implicit political incentives and explicit functional incentives will need to be set to make it an added value for the EU*".

Although the European Parliament is the big winner in the Lisbon Treaty, it is not the case in the area of CFSP and CSDP. Much depends now on how it will act and react vis-à-vis the new provisions, namely the appointment of the new Troika, and especially the HR/VC as well as the creation of the EEAS. In both cases the pattern of relations will determine the effectiveness of cooperation between these new entities. Civilian crisis management is an area lying at the juncture of different competences, policies, pillars and institutions which is why it is important for the European Parliament to establish cooperative relations with all concerned bodies and especially with the Council. "*The more antagonistic the EP is in its approach to the Council the more the Council tries to establish structures outside the EP and this cooperation should not be treated as a zero sum game*".

2.3 Permanent Structured Cooperation

"... Permanent Structure Cooperation is a moving target which will reveal its potential impact only over time..."

The intentions standing behind Permanent Structured Cooperation (PSCoop) are clear. It is to enable those willing and able to contribute more to European defence capabilities. However, what is also clear is the fact that PSCoop in its present form as it stands in the Protocol to the Lisbon Treaty is above all vague and there are a number of unknowns, which will determine over time its actual impact on ESDP.

The protocol is weak on details of membership criteria, benchmarks for measuring defence capabilities, cooperation practices, and the specific mandate of the EDA. For example the entry criteria set in Art. 1 of the Protocol is not accompanied by any benchmarks or details beyond current commitments e.g. Battlegroups. If the latter is the benchmark then what was once foreseen as an exclusive club is now a club within reach of all Member States. Also the role of the EDA in monitoring the progress of Member States to meet their commitments in PSCoop remains unclear in practice. Considering the fact that these are the Member States, who comprise EDA's governing board and the fact that the EDA already takes a different approach to defence planning than some of the MS all raise questions about the prospects for an effective role for the EDA.

The most striking question is, however, why would the MS decide to establish PSCoop in the first place? The watered down entry criteria mean in fact that all MS participating in ESDP could sign the Protocol. "*Thus partners and problems will remain the same, inside the cooperation as well as outside*". This leaves us with an interesting question - what could be the incentives which would make MS tackle the problem of (already identified) capabilities shortages, which they have failed to address so far and decide to do it under the framework of PSCoop?

2.4 Between War and Peace - the evolution of European defence

"Military operations abroad seem to be the most central feature of European Union's foreign policy. The Treaty of Lisbon emphasizes the general value of peace. This has to be judged positively (...) and would have to be underlined by strengthening the efforts made for civil conflict resolution."

The implementation of the Lisbon Treaty could be conceived as a turning point in whether the European Union will become a military or a peace power. Whilst the verdict is still out, trends in recent years highlight that military operations have attracted more media attention giving the impression that EU external action favours military Crisis Management rather than Civilian Crisis Management. There is a recognised need to address this perceived imbalance. Civilian responses including diplomacy and human rights should not be overshadowed by arms deals and exports in order to ensure that the EU is not undermined and that it is seen as *"being an honest broker of human rights, sustainable development, and poverty reduction. Instead, disarmament should be promoted."*

Moreover, civil challenges, as listed in the European Security Strategy, require civilian solutions. The priorities of security policy should be changed accordingly. *"A mutual assistance commitment is a feature of a military pact and obviously obsolete as a security instrument in the XXI century"*. The potential for *core groups* should not lead to the creation of a two-speed Europe and nor should any binding commitments amongst the most developed defence states leave others behind or unable to participate in decisions. *"The Treaty of Lisbon emphasizes the general value of peace. This has to be judged positively (...) and would have to be underlined by strengthening the efforts made for civil conflict resolution."*

2.5 Parliamentary Oversight of European Defence

"...democratic legitimacy and societal support for peace missions is as important as financial and human resources support..."

Parliamentary scrutiny of ESDP missions is at present deficient, both at the European and national levels. While the European Parliament is not mandated to exercise robust legislative oversight of ESDP, national practices vary widely in strength and effectiveness, ranging from Parliaments authorising the launch of an operation to situations where they are not even being informed. Moreover with some notable exceptions, in most Member States civilian ESDP missions escape parliamentary scrutiny entirely. Without introducing additional reforms, the role of the European Parliament could be strengthened via following three strategies:

- improving inter-parliamentary cooperation by holding systematic and mission-focused discussions with national parliaments, in particular with the defence committees of those parliaments;
- strengthening oversight practices in relations with the Council, for instance by enhancing democratic legitimacy of ESDP missions with a reference in Joint Actions to the non-binding opinion of the European Parliament; and

- finally strengthening oversight practices within the European Parliament. The latter should include *inter alia* using European Parliament resolutions as the best instrument of expressing (non-binding) opinions in each of the successive stages of an ESDP mission. First and foremost the European Parliament should however develop close cooperation with national parliaments.

2.6 Discussion

"The European Parliament has a role to play in the scrutiny of CFSP and ESDP, where there is still a vacuum of democratic control."

The appointment of the Troika and especially the High Representative and the President of the Commission represent new opportunities for the European Parliament. It should insist on making these appointments after the elections to the European Parliament in order to build a political package. This will cause some conflicts, but the European Parliament should be clear that it has a role to play. This is also the case in the scrutiny of CFSP and ESDP, *"where there is still a vacuum of democratic control."* At present, there are hybrid structures: while the *"scrutiny is slipping away from the national parliament, it has not arrived at the European level yet."* Last but not least, the European Parliament should contribute to clarifying financing mechanisms.

The discussion about the impact of the Lisbon Treaty has to recognize its large potential and the *"dramatic impact"* it has on CFSP and ESDP mainly due to the commitments which the member states signed up to. The treaty enables the deployment of civilian and military capabilities to multinational forces with the possibility of *"trusting a core group with military tasks."* Permanent Structured Cooperation provides a link between military capabilities and political will, so *"if you are not in, you are out."* Altogether with the extension of the Petersberg Tasks and with mutual solidarity and defence assistance, the Lisbon Treaty strengthens the military dimension of the EU and presents *"a chance that we as a Union in these troubled times certainly need to exploit to the full with skill and courage without which military actions are always doomed to fail."*

Whilst the Chairman, Mr Karl von Wogau set the tone of the debate by stating that the Treaty has not brought any major innovation in the field of ESDP, some Members were of a different opinion (Mr Pflüger and Mr van Orden). Others agreed (Mr Duff, Mr Leinen, Mr Geremek, and Ms Gomes) that while the Treaty has in fact consolidated trends under way since 1999, it does nevertheless have the potential to create a new dynamism which once used by Member States will produce significant changes. Members agreed widely on the need to strengthen the role of European Parliament in scrutinising ESDP through the existing treaty provisions, as well as stressing at the same time the need to establish close cooperation with national parliaments. Discussion on the upgrading of SEDE triggered passionate responses from both those in favour and those against.

3. Presentations and Studies:

3.1 Briefing on "The impact of the Lisbon Treaty and ESDP" by Dr Antonio MISSIROLI, Director of Studies, the European Policy Centre (EPC), Brussels
See additional study EXPO/B/SEDE/2007/50, PE 389.028



3.2 Presentation on "Permanent Structured Cooperation" by Mr Christian MÖLLING, Senior Research Fellow, Centre for Security Studies (CSS) - ETH Zurich

Permanent structured cooperation – a new corner stone or just yet another initiative?

The Lisbon Treaty establishes i.a. the permanent structured co-operation (PSCoop). PSCoop has spurred various phantasms and horrors among both EU sceptics and supporters. While some see it as a potential duplication to NATO endeavours, others consider PSCoop as a breakthrough towards more and better EU capabilities.

The general aim of the protocol is to enable those member states to engage in PSCoop who can and want to do more in ESDP. It insists on the necessity that MS undertake collective efforts to improve their capabilities. The ultimate aim is to enhance the EU defence capacities through national and multinational contributions.

However, currently the main characteristics of PSCoop are above all vague. This concerns especially the kind of cooperation that can come under the PSCoop – with regard to content, outcomes and who will or can participate.

Yet it is noteworthy that PSCoop is a moving target which will reveal its potential impact only over time. Thus the this paper aims at describing and analysing the current stand of the protocol and its implications. It will proceed along the structure of the protocol:

Preamble	General remarks and evolution
Article 1	Who can enter?
Article 2	Cooperation: options and areas
Article 3	Role of EDA

Preamble

The protocol preamble and the relevant treaty passages indicate priorities and red lines. A latter one is the non-discrimination of NATO and non-duplication in the area of capability development. On the other hand it envisages requests for capabilities or urgent assistance by the UN. Yet, words like “rapid response” or “EU Battlegroups” (EU BG) have been avoided to maintain constructive ambiguity vis-à-vis the UN.

However, PSCoop is about operational capabilities and not about operations. It neither involves mutual defence commitments, nor binding commitments to deploy troops. Neither does it allow mounting missions on behalf of the EU without the unanimous approval by the Council.

Prerequisites – who can enter?

PSCoop will operate on an opt-in basis. Accordingly, there is no obligation for MS to take part. It is open to those MS that meet two criteria:

1. To undertake to proceed more intensively to develop their defence capacities through the development of their national contributions and participation, where appropriate, in multinational forces, in the main European equipment programmes, and in the activity of EDA in the field of defence capabilities development, research, acquisition and armaments.
2. To have the capacity to supply either at national level or as a component of multinational force groups, targeted combat units for the missions planned, structured at a tactical level as a battlegroup.

The original idea behind PSCoop was to create a more exclusive club for those who can and want to do more in European defence. Vice versa it should also allow the naming and blaming of those who contribute less and hence to incite them to increase their endeavours in view of operative capabilities.

However, a second look on the entry criteria raises doubts about the success of the initiative. The first criterion is without any benchmark. The second criterion basically means to participate to a marginal extent in EU BGs.

In fact PSCoop was one of the driving forces behind the participation on EU BG for many smaller MS. During the initial development of both, the EU BG Concept and PSCoop, these initiatives became linked up. Participation in EU BG became the de facto entry criterion for PSCoop. The idea was to ensure that MS engage in force transformation and capability development.

France and the UK initially plead for robust and mainly national force formations to ensure military efficiency and get MS engaged in doing/spending more on defence. The alternative model was a multilateral formation that allows every party to participate. No MS wanted to stay outside PSCoop because they did not want to be seen as second class members. However, especially the smaller MS did not want to engage in costly capability development either. Until here the idea of the “PSCoop Club” worked.

Then smaller MS and those in favour of multinational formations succeeded in watering down EU BG entry criteria. Forces can be multilateral and need only to accompany niche capabilities. The obvious effect on PSCoop is that this blurs both initiatives and potentially limits the success of the PSCoop.

Options for Cooperation - parameters unclear

Without being comprehensive, Article 2 of the protocol outlines more precisely potential areas for cooperation.

Article 2.x	Principal form or area of cooperation	More detailed options, if indicated in the protocol
A	Ensure level of investment expenditure on defence equipment	
B	Synchronisation of national defence apparatuses,	<ul style="list-style-type: none">▪ harmonisation of need identification▪ pooling or role specialisation▪ cooperation on training and logistics
C	Enhance the ability to commit forces esp. through	<ul style="list-style-type: none">▪ enhancing availability, interoperability, flexibility, deployability▪ Identification of common objectives for commitment▪ review of national decision making procedures

D	Bi- multinational cooperation to remedy shortfalls of the "capability development mechanism"	
E	Joint Equipment programmes under EDA framework	

But this does not determine certain projects or other substance of cooperation. Currently, EU capitals seem to have no precise idea on what to do with the PSCoop. Or, from a more constructive angle, the substance is still to be developed.

Basically, two options could be imagined:

- (Europeanization) Transfer currently existing multilateral initiatives among EU MS under the framework of PSCoop or
- (Creation) establish new initiatives and programmes.

An example for the first option is the Movement Coordination Center Europe. Also the LoI agreement could possibly come under PSCoop. Here the six LoI countries could act as a core group to enlarge the agreement as a means to facilitate intra EU armaments cooperation and transfers.

To set up new initiatives a look into the ECAP files May give first indications Moreover taking into account the intermediate results of the Capability Development Mechanism may be helpful.

The advantage of starting with such existing projects is that the partners know each other and are accustomed to a certain routine and culture of cooperation. But under which circumstances would these projects be accessible for new members? States that already participate in such frameworks are likely to be reluctant about unconditioned enlargement. Cooperation will especially be hindered rather than intensified when new members are integrated for political rather than substantive reasons. This in turn risks leading to sub optimal effectiveness.

As far as information is available until today PSCoop can be initiated by qualified majority. The process of cooperation and decision making will than take place among the Members of a specific cooperation group, but within Council meetings. While only members of cooperation groups can decide on the concrete progress, the other MS can participate in the debate and follow the developments. However, even if PSCoop can be set up by qualified majority, it is hard to imagine that such a move would actually be undertaken against the explicit opposition of other member states.

What role for EDA?

EDA is given a central role within the overall construction of the protocol. Article 3 tasks EDA to contribute to the regular assessment of the contributions and progress of the MS.

For the assessment certain criteria are to be developed. However the precise circumstances are again vague. Thus many formal but also political questions arise. Who will develop the criteria, will they be listed and become auditable? Who will assess them? What will happen then – will EDA emit recommendations? Will MS

follow the recommendations? It is hard to imagine that EDA can seriously assess the MS, that is, the members of its governing board.

EDA takes already a different approach compared to some MS in that it favours a capability based approach towards defence planning as opposed to a threat based one. Consequently measuring of performance may become a complicated exercise and results may not be comparable among MS.

PSCoop –where is the added value for ESDP?

Currently the status of PSCoop is that of an empty piece shell (of paper). Detailed arrangements for its implementation have yet to be elaborated. From an optimistic point of view this means that the initiative can be turned into a motor of ESDP. This implies using the ambiguities of the protocol in a constructive way.

However, the realistic question is, what can PSCoop change at all? The starting point seems sub-optimal. Through watering down the entry criteria suddenly all member states who participated in ESDP are potentially able to sign the protocol. Thus partners and problems will remain the same, inside the PSCoop as well as outside. Why should those who weren't able to consent on initiatives to increase capabilities under "normal ESDP" rules, now be capable to do so under PSCoop rules?

Moreover, it is hard to imagine that a member state may be kicked out of the PSCoop if it does no longer fulfil the criteria – do these new rules of PSCoop prevent from braking rules?

Moreover the need for this precise initiative is not evident. Although member states agree on the need for more capabilities, there is no consent on specific demands. Why has the demand that PSCoop shall cover not been already tackled in an ad hoc framework outside the EU as it happened for decades? Why should actors now wish to let their initiatives come under the PSCoop and possibly have the effectiveness watered down?

Eventually, one has to conclude that the new quality of PSCoop is under-explored and under-explained.

Conclusion: officially: wait and see – internally: start thinking immediately

This ambiguous status of PSCoop - and the accompanying criticisms - are likely to stay until all member states will have ratified the LT. Moreover, a posting of concrete ideas in the midst of the ratification process is more than sensible. If some member state get the impression that PSCoop may lead into a huge bureaucratic organisation or may touch upon their vital national interests they may delay or even postpone the ratification.

This is especially true for countries like the UK. Here, 2008 may see a parliamentary quorum on the LT and parliamentary elections within a euro sceptic pool of voters. Under such circumstances it may be wise for the upcoming French EU Presidency to abstain from posting any spectacular ideas under the PSCoop label.

Meanwhile thinking about PSCoop is not forbidden: The ratification time can be used as time for reflection. The capitals should use the time to define their potential contributions, bearing in mind that these should be a) permanent and b) structured instead of ad hoc and vague.

Admittedly, the challenge is high for EU capitals – they would have to think beyond familiar Brussels trenches and its nitty-gritty everyday blocking and proclaiming of initiatives or who invests today comparatively more. They would have to think ahead and European.



3.3 Presentation on "Between Peace power and Military power" by Dr Thomas ROITHNER, Research Fellow, Austrian Study Center for Peace and Conflict Resolution (ASPR), Vienna

EU Between Peace Power and Military Power - Has the Decision Been Taken in Lisbon?

Presentation for the European Parliament, Directorate-General for External Policies of the Union, Subcommittee on Security and Defence with support of the Policy Department, Workshop "The Impact of the Lisbon Treaty on ESDP", Monday 11 February 2008, 15:00 – 18:00, Room ASP 5G-2, Brussels.

Summary

Military Operations Abroad and Mandates

Armament

Mutual Assistance during Attacks and Terrorism

A Two-Speed Europe

Priorities of Security Policy

Democracy-Political Aspects

Missing Aspects

Summary

Military operations abroad seem to be the most central feature of European Union's foreign policy. Besides the indispensability of a UN Security Council's mandate, a broad public debate is a necessary criteria for any military operation. Military operations for safeguarding raw materials or for other economic interests would lead the European Union in a wrong direction. Civil measures are at risk of being pushed into the background by focussing on military forces. This has also been pointed out by numerous non-governmental organizations when criticizing the civil-military cooperation.

The build-up of arms is a false instrument for being perceived as an honest broker for human rights, sustainable development, or a serious fight against poverty in the global south. Instead, initiatives for disarmament under the aegis of the United Nations should be supported and further developed.

A mutual assistance commitment is a feature of a military pact and obviously obsolete as a security instrument of the 21st century.

Security policy-oriented models of a core Europe for facilitating the establishment of military operations abroad threaten to narrow the reflection and trial phases of models of civil crisis prevention and civil crisis management. Valuable experiences might be discounted in the transformation of conflict.

Poverty, hunger, undernourishment, injustice, and global warming are listed in the European Security Strategy as Europe's challenges in the world. Civil challenges require civil solutions. Therefore, the present political and financial priorities between civil and military forces should be fundamentally changed accordingly.

Security policy is not only a task of political and military elites. A European public goes far beyond any referendums and includes also media, science, and non-governmental organizations.

Disarmament is not only a concern to be communicated to the outside. The lack of any typical military threat requires a reduction of conventional weapons and of nuclear weapons.

This contribution aims at elaborating concisely in 7 points the most important aspects of security policy and military policy of the Treaty of Lisbon². Instead of focussing all too much on a presentation of the contents of the Treaty, a peace-oriented scientific analysis and evaluation will be in the foreground.

When considering those parts of the Treaty of Lisbon referring to security policy, parallel developments – such as military operations abroad or the European Security Strategy (ESS) – cannot be ignored.

Military Operations Abroad and Mandates

The European Union emphasizes that civilian and military means may be used for achieving the objectives outside of the European Union (Article 28a.1.). The previous Petersberg tasks – humanitarian tasks up to tasks of combat forces – are extended in Article 28b by disarmament operations and counter-terrorism measures in civil and military terms. The ESS, established in 2003, states: “With the new threats, the first line of defence will often be abroad.”

The defensive concept of defence is replaced by more offensive military operations abroad. Military forces are becoming an ordinary instrument for safeguarding interests. Thus measures of developmental cooperation, of crisis prevention, or of working out a comprehensive overall concept for a crisis region can be pushed in the background more easily. The obvious disproportion between civil and military instruments under both qualitative and quantitative aspects favors the military instrument.

As deployment areas for future EU military interventions, the Reform Commission for Austrian Armed Forces³ highlighted in Spring 2004, “besides the Balkans, above all the opposite coast of Africa, and in the medium-term also Western Africa, or the Northwest

² With regard to the Reform Treaty of Lisbon, as of 4 January 2008 reference has been made to the officially published version dated 17 December 2007; source: <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2007:306:SOM:DE:HTML>.

³ Austrian Armed Forces Reform Commission (2004): Report of the Austrian Armed Forces Reform Commission. Armed Forces 2010. Vienna; source: http://www.bmlv.gv.at/facts/management_2010/pdf/endbericht.pdf, last visited on 4 January 2008.

of Central Africa and East Africa ('extended periphery')". In order to be able to carry out such military interventions, highly professional soldiers (e.g. "battle groups") and most modern warfare materials are required. Hence this will lead to a quantitative disarmament (less soldiers) and a qualitative armament (more expensive warfare material) in the armies of the European Union.

With regard to deployment scenarios, the Austrian Ministry of Defence noted already in 2001: "Prof. Dr. Erich Reiter, Commissioner for Strategic Studies of the Federal Ministry for National Defence stated the following to be a major objective of European Security Policy: (...) Cooperation with the United States of America and with Japan for a global management of conflicts and for the purpose of gaining access to strategic raw materials, of maintaining free trade and navigation"⁴. The German White Paper, published in 2006, fears "any disturbances of raw material and merchandise flows, for example, due to increasing piracy"⁵, thereby supporting the idea outlined for the first time in 1992 (Defence Policy Guidelines)⁶. Also a merely rudimentary copying of a U.S. military policy (resource wars) will not only bring about peace policy problems for the European Union but also problems in terms of democracy and economic policy, and effectively damage the Union's reputation as a bearer of hope for a more peaceful and just world.

As for military operations abroad, one relies "in accordance with the principles of the United Nations Charter" (Article 28a.1.). In numerous countries, a debate has been initiated as to whether or not the principles of the United Nations are inevitably to be equated with a mandate of the Security Council. In this connection, the core and starting point of such reflections are the military missions of NATO and the United States in Kosovo in 1999 and in Iraq in 2003 which violated international law. The European Union avows to "the strict observance and the development of international law" (Article 2.5.). But Austrian laws – such as Article 23 f of the Austrian Constitution, the War Materials Act ("Kriegsmaterialgesetz"), the Criminal Code regarding a Danger to Neutrality ("Strafgesetz zur Neutralitätsgefährdung"), or the Foreign Troops Act ("Truppenaufenthaltsgesetz") – have also for quite some time considered such military missions legitimate which have only a mandate of the European Union. In the comments relating to Article 23 f of the Constitution it is assumed that military missions without a UN mandate do not conflict with neutrality. The EU's close ties to NATO also seem to be problematic.

Any intention to carry out future military interventions and military operations, if necessary without a UN mandate, means that the legitimacy of such operations will not only be lost in terms of international law, but that the already extremely slight approval of the Austrian population with regard to the use of heavy weapons will be further reduced. Renowned commentators have noted in magazines that the path from demonstrations against George W. Bush's foreign policy to manifestations against an EU policy might not be far off.

⁴ Austrian Federal Ministry for National Defence (BMLV) (2001): Sicherheit mit moderner Technik, <http://www.heeresgeschichtlichesmuseum.at/cms/artikel.php?ID=1783>, last visited on 4 January 2008.

⁵ German Federal Ministry of Defence (BMVG 2006): White Paper 2006 on German Security Policy and the Future of the Bundeswehr, page 23, Berlin, source: <http://www.weissbuch.de>, last visited on 4 January 2008.

⁶ German Federal Minister of Defence (BMVG 1992): Defence Policy Guidelines of German Bundeswehr, Bonn 26 November 1992, Chapter 2, item 8, 8.

The “battle groups“ are the core of the debate focussing on the compliance with or the violation of international law in EU military operations. Without a mandate of the UN Security Council, the EU “battle groups“ – as a spearhead of troop units capable of military intervention – will bring about political problems regarding their compatibility with active neutrality and peace policy. ”Battle groups“ shall “among other things be available for operations of the United Nations”⁷, and the Austrian military magazine *Österreichische Militärische Zeitschrift* has information about military operations “especially (but not exclusively)”⁸ for the UN. With regard to the deployment areas of the “battle groups“, Africa, especially, is in the center of considerations in the EU.⁹ The Reform Commission of Austrian Armed Forces considers the “battle groups“ a “new quality of armed forces planning“ and a “clear further development“¹⁰, because the aim of these troops is not to combine or to integrate existing capacities but to create new capacities.¹¹ There is a shift from quantity to quality.

What is very problematic in connection with military operations abroad is the mixture of military tasks with civil and police tasks, or judicial tasks. A wide-spread scepticism towards civil-military cooperation has developed, particularly among non-governmental organizations (NGOs) – and this has been confirmed by the most recent example of Chad – because the NGOs are afraid, and can prove through specific examples, that their principle of neutrality be undermined thereby (e.g. ICRC, MSF).

Armament

Article 28a.3 provides (as does the Austrian Armed Forces Reform Commission or the EU Security Strategy similarly) for the wish to increase the military budget: “Member States shall undertake progressively to improve their military capabilities“ and shall establish a European Armaments, Research and Military Capabilities Agency. It shall take care of any measure needed ”to strengthen the industrial and technological base of the defence sector“ (Article 28a.3.)

In view of the planned armament programs which, due to social disruptions, met with little public acceptance, “creative solutions“¹² for financing the armament projects were demanded at the summit of Laeken. EADS’s Annual Report 2001, supported by a NATO diagram up to the year 2010, forecasts that armament expenses in Europe and the United States will exceed those in the heydays of the Cold War by about 50 %.¹³

The build-up of arms is a false instrument for being perceived as an honest broker for human rights, sustainable development, or a serious fight against poverty in the global south. Armament creates insecurity and takes away the funds needed for the above-mentioned tasks. Instead, initiatives for disarmament, especially under the aegis of the

⁷ German Federal Ministry of Defence (BMVG 2004): Mobile Einsatzgruppen für Europa, Author: Markus Bach (2004), http://www.bmvg.de/sicherheit/europa/040406_battle_groups.php, last visited on 23 January 2007

⁸ Apfelknab Egbert (2005): Österreich beteiligt sich am Battlegroup Concept der EU, in: *Österreichische Militärische Zeitschrift* No. 1/2005, p. 68 – 72, here: 68.

⁹ Quille Gerrard (2004) „Battle groups“ to strengthen EU military crisis management?, in: ISIS (Institute for Security and International Studies), *European Security Review* April 2004; source: <http://www.isis-europe.org/ftp/Download/ESR%2022%20Battle%20Group.pdf>, last visited on 31 January 2007.

¹⁰ Austrian Armed Forces Reform Commission (2004), *ibid.*, page 73.

¹¹ Quille (2004), *ibid.*

¹² European Council (2001): Draft Report from the Presidency on European Union’s Security and Defence Policy, Appendix 1, Declaration on the Improvement of European Military Capabilities, 10 December 2001, item 12.

¹³ EADS’ Annual Report (2001): The Markets of EADS, <http://www.eads.com/xml/content/OF00000000400003/4/79/29606794.pdf>, diagram: Total Volume of Military Procurement Budgets in Europe and the United States of America, page 15, last visited on 4 January 2008.

United Nations, should be supported and further developed (e.g. NPT, CTBT, antipersonnel mines, conventional weapons, small weapons), and the European Union's own exports of weapons should be reduced.

Mutual Assistance during Attacks and Terrorism

With regard to mutual assistance the Treaty stipulates: "If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States" (Art. 28a.7). A mutual assistance obligation is a feature of a military pact, although Austria cannot be bound to any military assistance due to its special character (i.e. its neutrality). A mutual assistance pact is no adequate approach for a security policy of the 21st century. Any formation of a military block will lead to mistrust in some parts of the world and not resolve any problems.

If a Member State of the European Union is affected by a terror attack, then other Member States shall provide military aid and assistance, among other things, in order to ward off any threats to the territory of the Member States. This has triggered a debate on the domestic deployment of military forces in some Member States. In Austria, especially, such a debate is particularly sensitive for historical reasons.

A Two-Speed Europe

With the Treaty of Lisbon, the EU has two treaty-compliant possibilities for military operations abroad according to the "idea of a core Europe". The Council "may entrust the execution of a task, within the Union framework, to a group of Member States" (Article 28a.5.), or the Union relies on the "permanent structured cooperation" (Article 28a.6). Based on this kind of cooperation, the Members establish "with a view to the most demanding missions" more binding commitments among each other. Member States of the EU which are outside of this "permanent structured cooperation" have fewer possibilities of co-determination.

Eased possibilities for military operations abroad have been created by these two instruments, and as a consequence, may reduce the reflection and trial phases of civil crisis prevention and civil crisis management. As a result of the models of a core Europe, the EU additionally runs the risk of depriving itself of the valuable experiences of the non-participating states in civil crisis management.

Priorities of Security Policy

It has to be noted positively that "peace", "social justice", and "the well-being of its peoples" (Article 2) have been stipulated as objectives of the Union. Methods of civil conflict resolution have been fixed on a contractual basis. However, considerable imbalance between financial and political efforts for a further development of civil and military measures is to be observed.

The priorities of the EU between military and civilian efforts must be reversed. Strengths must not be manifested in military interventionism but in civil – social, economic, societal, diplomatic, and political – governmental and non-governmental

interventions in terms of a nonviolent "wise power"¹⁴. Such altered priorities would not only include a personnel and organizational extension of EU capacities for civil crisis prevention and civil crisis management, but also the political will of the EU and, in particular, of the Member States to make use of such civil forces and to support and to accompany such missions with the necessary political sensitivity. At present, the ratio of military and civil EU forces abroad is 20: 1.15

The European Security Strategy accurately specified Europe's challenges in the world: poverty, hunger, undernourishment, injustice, global warming, etc. Civil challenges require civil solutions. The efforts to be made to that end have to be submitted within the framework of international organizations (especially of the United Nations). The demand to base the foreign policy and the security policy of the EU primarily on civil foundations must be accompanied by a waiver of any offensively useable weapons and any offensive military operations.

At present, the path to a common foreign policy has gotten on the wrong track of a common military policy. A military policy coupled with an inadequately distinct foreign policy takes the EU in the wrong direction. This obscures an important look at the civil challenges according to the EU Security Strategy.

Democracy-Political Aspects

The European Parliament – as the only body being directly elected by the population – shall be "regularly" "consulted" and "informed" (Article 21.1.). The Court of Justice of the European Communities has been declared not competent (Article 11.1.). In the area of security policy, the ties to the citizens of the EU have unfortunately not become noticeably stronger.

The Treaty for a Constitution of the European Union was rejected by the referendums in France and in the Netherlands, and Valéry Giscard d'Estaing speaks of cosmetic changes¹⁶ which have been made to the Treaty since that time. In numerous states of the European Union, there are major parts of the population looking sceptically upon the Treaty for the most different of reasons and calling for a referendum. In Austria, 60 % would like to have a referendum, according to current opinion polls.

Only a few days ago, the Austrian EU Commissioner, Dr. Benita Ferrero-Waldner, explained to the press that Austria was no longer in the last place with regard to scepticism but behind Great Britain in the next to the last place. EU politicians and institutions do not only have to inform the citizens in a well-balanced way – so that the citizens will also feel at home in the „house of Europe“ – but they also have to ask for their approval to this Europe in the form of a referendum.

Foreign policy and security policy are not an exclusive task of politicians and military officers on a national and international level. A decision on military operations abroad is also a question of a public debate. This would not only increase the democratic legitimacy of such operations, but also lead to a discussion about the adequate military

¹⁴ Czempel Ernst-Otto (1999): Kluge Macht. Außenpolitik für das 21. Jahrhundert, Munich.

¹⁵ Evers Tilman (2006): Verhinderte Friedensmacht. Die EU opfert ihr zivilen Stärken einer unrealistischen Militärpolitik, in: Le Monde Diplomatique, September 2006.

¹⁶ Spongenberg Helena (2007): Lisbon Treaty made to avoid referendum, says Giscard, in: <http://euobserver.com/9/25052>, last visited on 29 October 2007.

operation abroad as such. This would possibly imply a more intensive dealing with non-military and preventively working mechanisms of crisis management. A fruitful further development of these mechanisms in the field of tension between politics, civil society, science, media, and the population would be a desirable consequence.

Missing Aspects

For good reasons, disarmament is considered an important globally political concern. Yet the addressee of this concern can only be identified outside of the Union. No details have been provided about any disarmament in the European Union, neither about conventional nor about nuclear disarmament. The Treaty of Lisbon makes no statement about the nuclear weapons states of Great Britain and France according to Article VI of the Non-Proliferation Treaty (NPT) for a complete disarmament. NATO's nuclear participation which has come up for discussion in politics and in public, hasn't been mentioned either.

The Treaty of Lisbon emphasizes the general value of "peace". This has to be judged positively as a basic principle and would have to be underlined by strengthening the efforts made for civil conflict resolution. Such a supplement would be a clear refusal to accept war as a means of politics. The war in Iraq has also shown within the EU that "peace policy" does not always rely on peaceful means.



3.4 Study on "Parliamentary Oversight of Civilian and Military ESDP Missions: The European and National Levels" by Dr Hans Born et al., Geneva Centre for the Democratic Control of the Armed Forces (DCAF), Geneva.
See additional study EXPO/B/SEDE/2006/38, PE 348.610



3.5 Briefing on the Implications of the Lisbon Treaty for CFSP/ESDP by Dr Gerrard QUILLE, Policy Department. DG EXPO, European Parliament. See additional study DGExPo/B/PolDep/2008_14, PE 388.943