



LINKING AND OVERLAP BETWEEN THE EU'S SECURITY POLICIES

FOUNDATION FOR EUROPEAN
PROGRESSIVE STUDIES
FONDATION EUROPÉENNE
D'ÉTUDES PROGRESSISTES



Dr Christian Deubner
Member of FEPS Scientific Council

**FEPS
STUDIES**
JULY
2016

Contents:

Introductory Remarks

- The Link between Internal and External Aspects of Security Policies
- The Global Context
- Operational Linking and Integration Deepening

Internal-External Security Policy: Overlap and Operational Linking, and Interdependence

- Points of Departure
- Sum-up in 2014, Outward-oriented Operational Linking
- Sum-up in 2014, Inward-oriented Operational Linking
- How to Differentiate between Internal (FSJ) and External (CSDP) Security Policies
- And what Exactly is the Nature of their Interrelationship?
- Remaining Limitations of EU-Enablers, and EU Developments in 2014-15
- Terrorism and Challenges to the EU Border System, and EU Responses in 2014-15

Conclusions

- The Dynamic Interdependence of the EU's External and Internal Security Policies
- The Development of Overlap and Operational Linking
- The Rapprochement of Internal and External Security Policy
- Operational Linking and Integration Deepening

Bibliography

ACRONYMS:

- Concerning EU Internal and External Security Policy

EUMS: The European Union and its Member States

EU-MS or MS: The Member States of the EU

EU: The European Union

ISP: Internal Security Policy, including Justice Policy, used in a generic sense

HA or JHA: Home Affairs, or Justice and Home Affairs, used in a generic sense

FSJ : Freedom, Security and Justice, designating subject matter of the EU policies referring to Internal Security

ESP: External Security Policy, used in a generic sense

CFSP: The EU's Common Foreign and Security Policy

SDP: The EU's Common Security and Defence Policy

- Concerning other terms used in this report

AQIM: Al-Qaeda in the Islamic Maghreb

CT: Counterterrorism

EEAS: European External Action Service

EMCDDA: European Monitoring Centre for Drugs and Drug Addiction

GCTF: Global Counterterrorism Forum

IcPS: Instrument contributing to Peace and Security

IOC: International Organised Crime

MUJAO : Movement for Oneness and Jihad in West Africa (splinter group of AQIM)

SOC: Serious Organised Crime

UNODC: United Nations Office on Drugs and Crime

UNSC: United Nations Security Council

Introductory Remarks

The Link between Internal and External Aspects of Security Policies

This link between internal and external aspects of security policies is present at every stage from the challenges which internal and external security policies face down to the tools –or ‘enablers’– which they apply to master them.

Our first hypothesis and point of departure was that much of what is new in European security policies is located in the intersection between the two, i.e. the overlap, the interdependencies, the interactions between **internal and external security policy** – the ‘external dimension’ of the Area of Freedom, Security and Justice, in EU-terminology. It is here that this report focuses its attention. Preliminary research confirms this first hypothesis, and also shows that the internal-external link in itself is not new in EU security policy. It was already prominently set out in the first official security policy statements of the European Union of 2003 and 2008, but also in the Defence White Books of the important military powers among the EU’s Member States.¹ From the perspective of the year 2015 one must rather stress the widening of the overlap, and the growing indispensability, intensification and ubiquity of the linking taking place between the two areas.

Since the turn of the century the European Council has underlined the close interdependence of the internal and external dimensions of the EU’s security policy. The Commission’s 2014 Implementation Report of the Internal Security Strategy² ISS makes a strong point of “Strengthening the link between EU internal and external security” (p.16): “As EU (..internal..) security depends on external factors, the ISS 2010-2014 stressed the importance of ensuring coherence and complementarity between the internal and external aspects of EU security policies. To this end, important steps were undertaken”.

Remember the “key-threats” which the so-called Solana report on the EU’s security³ of 2003 enumerated: “Terrorism, proliferation of weapons of mass destruction, regional conflict, state failure, organised crime”. In the follow-up report of 2008⁴, the threats remained the same but were spelt out somewhat further: “Conflicts in the Middle East and ... even in our neighbourhood. State failure affects our security through crime, illegal immigration and, most recently, piracy. Terrorism and organised crime..., including within our own societies....”

As for the internal dimension of EU security, and also for its external dimension, the dominant new issues which have engaged intensive attention and provoked counter-measures from decision makers all over the EU are the repeated acts of radical Islamist terrorism, since 2001, and most recently in November 2015, and the challenge to the EU’s external border system by a criminal migrant smuggling campaign of unheard-of dimensions.

They have clearly been the primary new ‘driving’ factors.

¹ UNSC 2001 09 29; EU, High Representative of the (2003). “A Secure Europe in a Better World. European Security Strategy” (Solana Report). Brussels: EU, 2003 12 12; EU - Council (2008), “Report on the Implementation of the European Security Strategy - Providing Security in a Changing World -”, Brussels: EU, 2008 12 11.; France (2013), Livre Blanc Défense et Sécurité Nationale, Paris; UK Government (2015), National Security Strategy and Strategic Defence and Security Review, p.11

² European Commission EU, “The Final Implementation Report of the Eu Internal Security Strategy 2010-2014,” COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL (2014 06 20). COM(2014) 365 final

³ EU (2003), A Secure Europe in a Better World. European Security Strategy, p.3 ff.

⁴ EU (2008), Report on the Implementation of the European Security Strategy - Providing Security in a Changing World – (17104/08), December 10 2008.

Both the Solana report and also its follow-up of 2008 can still be considered security reports in an encompassing sense. Speaking of a “European Security Strategy” without further specification, they also testified to the increasing difficulty of separating the two spheres and attributing certain threats clearly to either the internal or to the external security field, a difficulty which increases further once one enters into the field of security *policy*, i.e. of preventive or defensive measures.

All the same, to answer this dilemma with the idea of a European Security Strategy in an encompassing sense appears a questionable option, given the principal differences between internal and external security policies in European democracies which adhere to the rule of law. The report will return to that important question.

Anyhow, at the time of Solana the EU had already acquired a certain portfolio of security policies: justice and home affairs policy in the inter-governmental ‘third pillar’ of Maastricht (1992), transferred into the community orbit in Amsterdam (1997), and foreign security and defence policy in the inter-governmental ‘second pillar’ of Maastricht, where it remained until the Treaty of Lisbon. These policies were then and remain under the control of Councils of the Member States’ (EUMS or MS) Justice and Home Affairs Ministers on the one and their Foreign and Defence Ministers on the other hand, and clearly distinct from each other.

In practice, then, the security policy could not become ‘encompassing’ in the sense of Solana. Two security policies, within their inherited national frames of tasks and institutions, and partly transferred to the common policy-making at EU-level, establish the necessary links under the pressure of contingency and using the instruments at hand, at the national level and set up in the evolving apparatus of Brussels.

Global Context

The context for the interdependence of the EU’s internal and external security, and security policies, which have become ever closer over the past three decades, is globalisation. The end of the Cold War has further accelerated and widened that process; it has also re-opened borders on the east and south-east of Europe, between cultural, social and political worlds which retain many of their pre-1945 differences. The result is an ever wider sphere of open societies, and intense global exchange between more diverse regions, in legal and in illegal channels, with peaceful and with less peaceful intentions. The effective regulation of internal affairs, including internal security, is henceforth no longer possible neither for states nor for the EU without cooperation with third countries.

A key part of that global context are the global rule-setting system, the United Nations, and the global organisations for operational cooperation in the issues at hand, the UN’s Office on Drugs and Crime (UNODC), the Global Counterterrorism Forum (GCTF) and the International Criminal Police Organization (Interpol), to name just the most important among them. To those must be added the only national law-enforcement-and-intelligence-collection actor with a truly global reach and impact in the counter-terror and counter-organised crime domain: the United States of America.⁵

In fact, both the United Nations and the United States pursue strategies of combining internal and external security policies – as does the EU; both create precedent legislation, and executive action, in this area. In the UN, the EUMS, and especially the two permanent European members of the Security

⁵ Cf. also the UN Counter-Terrorism Committee, and at regional level NATO with its new Strategic Concept, and the Lisbon Summit Declaration, both of which include major counterterrorism measures for Member States. The OSCE has also adopted new measures to counter transnational threats, including terrorism. Likewise the G-7’s Roma-Lyon Group, <https://fr.usembassy.gov/country-reports-terrorism-2015/>



Council, have a significant voice in shaping international legislation and the UNODC's operations on the ground. The United States' homeland security agencies, strategies and worldwide counter-crime campaigns constitute powerful precedent, and are operational partners for the UN and the EU.

Cooperation within the UN and with the US has become an integral and crucially important part of the EU's home affairs diplomacy and its Internal Security Policy cooperation with CSDP, eo ipso of the link between the EU's security policies.

Operational Linking and Integration Deepening

Operational linking between the EU's two security policies presupposes a certain level of EU cooperation or integration of Member States' policies in the two fields; otherwise one would speak of operational linking between Member States' policies. Indeed, there is a substantial system of EU 'enablers' or 'tools': EU-level institutions, procedures and competences organising the cooperation between Member States' security policies which constitutes these EU security policies. They will be set out in more detail further down in this report.

Putting this system to use for an operation of EU counterterrorism, or a mission of the Common Security and Defence Policy (CSDP) promises to bind Member States' security authorities closer together and intensify EU cooperation. This effect could be expected in even higher degree from operational linking between the two policies. For instance, Member States' FSJ authorities taking part in an extra-EU capacity building mission of the CSDP could be expected to be literally 'integrated' into an EU-organised project.

Accordingly, the last question to be asked in this report does concern this relationship between operational linking and integration deepening.

Internal-External Security Policy: Overlap and operational linking, and Interdependence

First Part

The first part of the report aims to present new developments of overlap and operational linking between the two security policies in an innovative and systematic analytical approach. At the outset the reader finds a schematic overview of the EU's internal and external security policies, and their areas of overlap, to which to refer when reading the following analysis.

A Schematic Overview of the EU's Internal and External Security Policies, and their Areas of Overlap

The point of departure for our analysis of the link and overlap between the European Union's Internal and External Security Policy can be

- I. Either the European Union's **Internal Security Policy** responding to challenges within its territory or against its borders (which is that of its Member States),
- II. Or the EU's **External Security Policy (Foreign and Security Policy)** missions abroad, their objectives and their tools.

Both of these two policies do

- A. On the one hand re-actively try to protect the citizens and the democratic order inside the EU, or
- B. On the other hand pro-actively try to further the interests of the EU in its neighborhood and the world:
 - a) Reduce tensions and causes of war; spread the EU's political values; reduce armaments and prevent the spread of WMD; protect the lives and rights of its citizens abroad, protect the trade routes and vital supply lines;
 - b) Hold outside threats against its internal and external security at a distance from the EU.

...more particularly...

- I. **Internal Security policy** of the EU and its MS will
 - A. Defend against challenges to EU-territory and its borders, of non-state law-breakers, also those come from abroad, or commissioned, ordered and trained by foreign actors, and
 - B. Cooperate abroad, with foreign authorities like law enforcement and judicial actors in the countries of origin or transit of threats against EU internal security
 - a) to help/motivate them, within their countries to stem and reduce these threats.
 - b) To get intelligence about, foil specific attacks of, terrorists and the designs of OC criminals within the EU in an incipient phase, or after a crime get help for investigating foreign origins of crime and terror and get their perpetrators to justice, f.i. by European arrest warrant from another EU-MS.
 - C. Cooperate abroad, with foreign authorities like the US' law enforcement and intelligence agencies, and within global cooperation formats like the United Nations, or Interpol,
 - a) to create and implement international legislation against terrorism and organized crime,
 - b) to share intelligence, and join up in international police cooperation.
- II. **External Security policy** of the EU will
 - A. Almost never defend the citizens, border, and the democratic order of the EU against aggression by state-actors like military forces. EU- MS deal with that in the NATO Alliance or unilaterally/in coalition.
 - B. Cooperate abroad, with foreign authorities like the US' law enforcement and intelligence agencies, within and with the NATO alliance, to support counter-terrorism or counter-OC operations,
 - C. Mainly strive for, stabilize, preserve, very rarely impose EU-preferred policy outcomes by diplomacy, rarely by military instruments, in tension/violence situations, or in focal points of organized crime, in the EU's neighborhood like the Balkans, the Mediterranean or further off, ever more in Africa but also elsewhere, with the aim
 - a) Of inciting its external partners to create a political/security situation conducive to introduce EU-favored security sector reform and capacity building in border management, counterterrorism, migration control, and of subsequently implementing these measures to help prevent outside threats against its internal security to attain the EU.
 - b) Of ending piracy against EU shipping, or criminal migrant smuggling into the EU,
 - c) Or of supporting EU-preferred policy outcomes by military instruments, in tension or violence situations: outcomes conforming to EU values, and/or favoring EU(-MS') interests f.i. by defeating adversary interests,
 - i. In utilizing EU-MS' armed forces, normally flanked by a comprehensive supplement of other civilian EU policy instruments to render the outcomes more sustainable.
 - ii. Among these latter, components of the EU's Internal Security Policy can have an important place.

In the following pages the report puts these different interrelated elements linking internal and external security policy into an **analytical order**, differentiating between internal-external security policy *Overlap and operational linking* on the one hand, and *Interdependence* on the other.

The report continues with an account of security challenges and of EU and EUMS' reactions since the turn of the century and up to 2014, organised according to the analytical concept presented previously, summing up the principal challenges to the EUMS' internal security and the EU-External Security Policy reactions which they provoked, or vice versa, especially by what this report calls *operational linking*. In doing so, it differentiates between what it calls the 'EU's Home Affairs Diplomacy' and the combination of 'CSDP and Internal Security Policy'.

In this 'CSDP and Internal Security Policy' part we elaborate on the different types of supplement which military CSDP missions can give to FSJ missions, or vice versa.

Second Part

The following second part of the report discusses the relationship between these policies and their links, and the development of EU policy integration.

This account begins with looking at the substantial **weaknesses** which remain in 'EU's Home Affairs Diplomacy' and the combination of 'CSDP and Internal Security Policy', mainly because the EUMS retain all operational capabilities in internal and external security policy and often do not only not integrate their unilateral actions into the EU policy frame but do not even inform their partners about them. But neither do the EU's own institutions always succeed in bringing their different competences and capacities from community-managed and from CFSP-managed policies to bear in a coordinated manner on an issue at the linking-point between external and internal security.

The **newest developments up to the end of 2015** are discussed in referring to the Commission's Communication of 28 April 2015 on a "European Agenda on Security"⁶ and the reactions of European Parliament and Council. An event-oriented evaluation is added, looking at the Paris attacks and the smuggler-boosted migrant challenge to the EU border regime. Especially the different reactions of Member States to that challenge on the central Mediterranean Route from Libya to Italy on the one hand, on the eastern Mediterranean Route from Turkey to Greece on the other hand, and the political proposals for longer-term solutions to that challenge are probed. They are evidence for the limits of operational linking and of the EU-integration reached in that field, and for the meaning of dynamic interdependence between a disunited EU and certain key neighbour states.

The conclusions will take up the most important results of this analysis, concerning:

- the dynamic interdependence of the EU's external and internal security policies;
- the development of overlap and operational linking;
- the rapprochement of the EU's internal and external security policy; and
- the persisting and necessary differences between these two security policies;
- the interaction between operational linking and the trend of European integration.

⁶ European Commission (2015), "Communication from the Commission – the European Agenda on Security", Strasbourg, 28.4.2015, COM(2015) 185 final, http://ec.europa.eu/dgs/home-affairs/e-library/documents/basic-documents/docs/eu_agenda_on_security_en.pdf

In this report, the first step is to put these different interrelated elements linking internal and external security policy into something resembling an analytical order. It proved difficult to find other systematic attempts in that direction which could guide this work. BRADY&PARKES' 'EU Home Affairs Diplomacy' appears to address the same issues, but in fact its argument does not have that systematic ambition.⁷ On specific issues out of this policy field, on the other hand, important systematic contributions do indeed exist, especially as to immigration control, for instance Christian KAUNERT's and Sarah LÉONARD's 'European Security Governance and the European Neighborhood after the Lisbon Treaty'. The two editors assert in their introduction that "This book is based on a broad understanding of security. We consider that security concerns are increasingly triggered by challenges such as terrorism, climate change, mass migration flows, and many other 'non-traditional' security issues. This book tries to capture these aspects of the EU's fast changing security policies following the entry into force of the Lisbon Treaty on 1 December 2009".⁸ That is an understanding shared by the author of this report. Elements of a systematic approach to the issue can also be found in certain Commission documents.⁹

I begin with differentiating between internal-external security policy *Overlap and operational linking* on the one hand, and *interdependence* on the other. These categories may appear banal, but they prove to be helpful in ordering our ideas and arguments.

Overlap and operational linking apply, in this analytical concept, to the operational level: one actor's security policy¹⁰, one intentional continuum in which a political objective is pursued with different policies reaching into each other's remit, building upon or supplementing each other, in this case with internal *and* external security policy.

At the operational level, the EU's security decision-makers act in responding not only to incentives and challenges they receive from inside and outside their MS and the Union, but also to perceived strengths and failings of the EU's internal and the external security policy.

Interdependence between the two policies designates the overarching relationship between the EU's internal and the external security policy at a given point in time. It is dynamic because of—among other factors—the constant action of *overlap and operational linking*. But there may also be functional interdependencies between the two policies, working themselves out in a kind of functionalist logic. Interdependencies may also be politically created, be it by opposing actors who react to EU actors' initiatives, or by one and the same actor in the pursuit of one political objective, but in a discontinuity and replacement of one of the two policies by the other.

Within the 'dynamic interdependence' between the two policy spheres then, policy objectives pursued in one of the two can often only succeed when they use strategies of 'overlap and operational linking' vis-à-vis the other sphere.

'Overlap and operational linking', and the 'creation of interdependencies', are categories helpful for analysing and typifying operational processes. The 'dynamic interdependence' on the other hand puts the focus on the balance of the internal and external security policies at a given point in time, and the perspectives of their interdependent development.

Looking at cases of each of the two types of relationships will render the differences between them more comprehensible.

⁷ BRADY, Hugo & PARKES, Roderick (2015), EU Home Affairs Diplomacy: Why, What, Where and How, Chaillot Paper 135, July 2015, EU Institute for Security Studies

⁸ KAUNERT, Christian&LÉONARD, Sarah, Ed. (2013), European Security Governance and the European Neighborhood after the Lisbon Treaty, Milton Park (Routledge)

⁹ European Commission (2014), The final implementation report of the EU Internal Security Strategy 2010-2014, 20.06.2014, COM(2014)365 final, pp.16 f.

¹⁰ For instance a state or the EU-CFSP

Points of Departure

The point of departure for our analysis of overlap/linking and interdependence between the European Union's internal and external security policy can be either that the European Union pursues an action of internal security policy and uses operational linking, if need be, to widen its reach or increase its effectiveness vis-à-vis extra-EU partners by adding the tools of external security policy or diplomacy: operational linking, outward-oriented.

Alternatively, a foreign political actor may start or propose a measure, or action of internal security policy: from the introduction of PNR¹¹ on its national carriers' international flights, to the introduction of monitoring and freezing measures against the financial assets of terror-suspects, or the investigation of a crime with international organised ramifications. In each case it is evident that if the measures win wider international recognition, or if that actor carries enough weight vis-à-vis the EU (MS), the EU's external security policy/diplomacy will be used to either negotiate the adoption of similar measures by its/their own internal security policy, or the involvement of its law enforcement authorities into that investigation: operational linking inward-oriented.

The major part of the EU's public and political debate about these issues has turned to the first option as the point of departure, looking at that interdependence from the perspective of EU internal security being challenged from outside, and the EU (MS) reacting by measures of internal security policy, supplemented by operational linking to JHA diplomacy or external security policy. This is not the approach followed by this analysis. Here, both options will be tested for their role and weight in operational linking of EU security policies.

Enablers – the Tools of EU Policy

As Jörg MONAR wrote in 2013, "external pressures on their own, however, would not have been sufficient to ensure the development of a significant external dimension of the Area of Freedom, Security and Justice (AFSJ) without a range of internal 'enabling' factors. The extension of EU internal action possibilities through the Maastricht (1993), Amsterdam (1999) and Lisbon (2009) Treaty reforms, the growth of the internal legal acquis and the establishment and strengthening of the special agencies Europol, Eurojust and Frontex have all contributed to a parallel growth of the rationale, possibilities and needs for EU external action."¹²

The Lisbon Treaty stated that CSDP 'may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories' (art.43§1), and a few operations – especially in the Balkans – have indeed implicitly established a bridge between external and internal security. Efforts have also been made to strengthen ties between CSDP and FSJ affairs (the 'CSDP-FSJ Roadmap'), but the two domains have remained operationally distinct.

Concerning a better adaptation of EU-'enablers', and especially its security-related agencies to these new tasks, EEAS in 2013 wrote that "The EU's initiative on strengthening ties between CSDP and Freedom, Security and Justice (FSJ) gives new possibilities for interaction and mutual support, as appropriate, between agencies such as EUROPOL, EUROJUST, FRONTEX and CEPOL in the planning and conduct of civilian but also military CSDP missions, as well as with international organisations

¹¹ PNR: Passenger Name Records

¹² MONAR, Jörg (2014), p.149

such as Interpol. It is also part of the overall toolbox that should be applied in the context of CSDP support to IBM”¹³.

At the time of that writing, important limitations for EU-action still remain, especially two mutually reinforcing elements, i.e. ‘shared competence’ and ‘lack of EU operational capabilities’. They will be taken up further on.

Sum-up in 2014 – Outward-oriented operational linking

Summing up the EU’s argument for outward-oriented linking, vis-à-vis external challenges to its internal security policy in 2014, one can still follow Jörg MONARs assertion of 2013 that “all these external challenges for the AFSJ have in common the fact that the EU’s capacity to respond effectively to them depends crucially on cooperation with third countries. European Union external borders can reduce but not stop crime and terrorism challenges threatening the EU externally, and, once these threats are inside, ‘the beast is loose’¹⁴ in an area of largely dismantled borders. The difference which border controls make for successful national law enforcement is here perhaps somewhat overstated, but the principal argument remains valid. As a result, purely national responses would be as ineffective as purely internal EU measures. Crime and terrorism challenges can only be effectively tackled if the countries from which they originate, or through which they transit, cooperate with the EU”¹⁵.

Two geographical fronts

Two geographical fronts are exemplary for the challenges and the manner they are dealt with. They lie to the east and south-east, and to the south of the EU. On the whole length of those two fronts, neighbouring states are covered by the European Neighborhood Policy ENP. It applies, in the east, to Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine, and, in the south, to Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, the occupied Palestinian territory, Syria and Tunisia.

By 2015, and compared to the status-quo ante 2010, the security situation outside the EU’s borders deteriorated, at least as seen from the EU’s Internal Security perspective.

European foreign policy initiatives vis-a-vis countries in these neighbourhoods of the European Union contain an ever higher share of security policy which is to the largest part internal security policy, i.e. security sector reform for the partner countries, or border control and management, migrant re-admission, and immediately related projects. This policy depends very much on leveraging the access to the large commercial and labor market of the EU, and the assistance and development policies of the Union in these parts of the world.¹⁶

¹³ EEAS document 10.12.2013, 02471/2/1/13 REV 2 COR 1, Revised draft EU Concept on CSDP Support to Integrated Border Management, p.5

¹⁴ MONAR, Jörg & NILSSON, Hans (2009), “Enhancing the EU’s effectiveness in response to international criminality and terrorism: current deficits and elements of a realist post-2009 agenda”, p.119

¹⁵ MONAR, Jörg (2014), “The EU’s growing external role in the AFSJ domain: factors, framework and forms of action”, in : Cambridge Review of International Affairs, 27:1, 147-166, p.148

¹⁶ For a detailed analysis of the EU-Belarus relationship around these issues cf. BOSSE, Giselle (2013), From Villains to the New Guardians of Security in Europe? Paradigm shifts in EU foreign policy towards Libya and Belarus, in: KAUNERT, Christian&LEONARD, Sarah Eds., European Security Governance and the European Neighborhood after the Lisbon Treaty, pp. 80 – 102

East and south-east

Especially in the east and south-east the challenges result from the disappearance of the heavily guarded interstate borders along the Iron Curtain of Cold War times. In that part of Europe, the neighbouring post-Soviet Central Asia, and including the immediately adjoining Turkey, functioning states with functioning security sectors and borders exist, with a few and small exceptions perhaps in the Western Balkans. Accordingly, security policy cooperation in that region is limited to the formats available under the institutional roof of the CFSP and the ENP, or EUMS' bilateral cooperation.

They clearly belong in the overlap between the EU HA diplomacy, and its internal security policy, but without a dominant direct external security content. Even so, and depending on the concrete situations, some of these cases also deal with external security challenges and have a security policy function with an important link and overlap with the EU's internal security policy. In Africa this link is most evident.

South

In the south, on the African continent, the challenges result frequently from the underdeveloped and politicised condition of state and security administrations, extreme levels of poverty and unemployment for young adults, and the instability of regimes and the volatility of their politics. Organised crime and terrorism have found a fertile ground, spread wider and penetrated deeper among many African societies than in the Euro-Asian sector of the EU's neighbourhood. The dramatic speed of deterioration can already be seen when looking only at the southern ENP partners Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, the occupied Palestinian territory, Syria and Tunisia. Half of these ten partners now live through deep and violently fought-over crises of their political systems. In Syria-Iraq the Islamist terrorist caliphate Da'esh reigns over large parts of the two countries, in Libya it has established a strong foothold, and in Tunisia it commits terrorist attacks and tries to gain control of additional territory.

ENP does not reach south of these states, and its cooperation formats do not apply. Home Affairs cooperation switches to CSDP.

Borders

As Europol's SOCTA report wrote in 2013, routes through *Western Balkan* countries remain important for the movement of many illicit commodities into the EU.¹⁷ Heroin and cocaine pass through the Western Balkans after transiting through Turkey and Africa.¹⁸ Key migration routes also run through that region and many irregular migrants pass through the area. Indeed Turkey is the main staging point for illicit goods and irregular migrants travelling to the EU from parts of Asia. The Western Balkans are not only a transit region, but also a major source of firearms traded on the international weapons market, of drug precursors (ephedrine) and synthetic drugs.

FSJ Cooperation on all those issues takes place on the level of CFSP and in ENP and bilateral formats.

Concerning *Africa* there has been "increasing demand for CSDP to tackle border management tasks and to translate the principles of Integrated Border Management (IBM¹⁹) into the strategic and

¹⁷ Europol (2013), The EU Serious and Organised Crime Threat Assessment (SOCTA) 2013, p. 12

¹⁸ <http://www.emcdda.europa.eu/topics/pods/opioid-trafficking-routes>

¹⁹ Explained further down

operational processes for the planning and conduct of CSDP missions.” A civilian CSDP mission in Libya (European Border Assistance Mission EUBAM Libya) launched in May 2014 became the first CSDP mission fully devoted to border management. It is true that since then it has not been able to take up its work in the failing state that Libya was becoming.

Civilian Internal security programs for the partner states began to be explicitly integrated under the roof of CSDP missions.

But only Morocco (6/2013), Tunisia (3/2014) and Jordan have up to the end of 2015 been able to conclude mobility and migration partnerships with the EU, including substantial border management components²⁰ and only Lebanon and Tunisia have negotiated integrated border management agreements with the EU up to that date.²¹

EUBAM Rafah in Palestinian territories since 2005 and EUCAP Sahel in Niger and Mali (2012 and 2014) have strong border management components.

Serious Organised Crime

We have previously mentioned Europol’s information on the SOC presence in the eastern and south-eastern marches of the EU.

But for the EU the external geographic zone of most concern for serious organised crime quickly became –and has remained– West Africa and especially its most fragile states, for instance Guinea, Guinea-Bissau, Liberia and Sierra Leone. Mali borders Guinea on the north-east.²² “Fragile states in West Africa have been purposely targeted by traffickers due to weak institutions and fragmented law enforcement which provide opportunities for organised criminal networks to grow.”²³ A look at EMCDDA and UNODC data shows that the principal main route supplying European markets with drugs, in this case originating in South America, is the ‘cocaine route’ running through West Africa, from down south up to and through Senegal and Mali and further to Morocco. Cocaine is the most-consumed hard drug in the EU.²⁴

The first internal security challenge concerned the appearance on the West European markets of substantial additional quantities of cocaine having transited via West Africa. In addition illicit money transfers and illicit goods like illegal fishing products, timber, diamonds and gold were finding their way on this route. And finally a profitable smuggling of migrants from sub-Sahara Africa northwards to the Mediterranean had been established. West European law enforcement authorities wanted to keep this illicit merchandise and the migrants as far away as possible from their national territories and sought ways to disrupt the West African transit lanes, mainly by aid for regional security capacity building.

The second challenge concerned the build-up of potent organised crime OC networks in the region, and the so-called ‘state elite-crime nexus’, the increasingly intimate relations of crime with state

²⁰ Sarah WOLFF, *The Mediterranean Dimension of the European Union's Internal Security* (Houndmills, Basingstoke: Palgrave, 2012). P. 139 ff.. For Morocco this involved a very strong component of border management cooperation with Spain and the EU.

²¹ This is the information which the author was able to find at the end of the year 2015. It may be that other countries have to be added to the list.

²² Cf. the rich overview over the different kinds of OC and terrorist challenges in West Africa and the Sahel in EU, Frontex (2015), *Africa-Frontex Intelligence Community Joint Report 2015*

²³ An Opportunity for Guinea Bissau?, Blog on <http://www.cocaineroute.eu/flows/opportunity-guinea-bissau/>, the website of the EU's Cocaine Route Programme, accessed on 18.10.2015

²⁴ United Nations Office on Drugs and Crime: <http://www.unodc.org/unodc/de/drug-trafficking/>, ‘Drug Trafficking’; European Monitoring Centre for Drugs and Drug Addiction : *European Drug Report 2015*, p.43, and the EU's Cocaine Route Programme, <http://www.cocaineroute.eu>

elites, of corruption and direct participation of government officials in the trades. This collusion also affected the military and law enforcement sector, rendering external aid to capacity building for these sectors a precarious enterprise. Opponents and insurgents could and did profit from collusion with and funding by OC as well, constituting supplementary important elements of instability and of (potential) violence in the political structures of fragile states, a violence which drives thousands of people from their homes in the affected countries, turning them into refugees and possibly migrants towards Europe. These were reasons enough for West European law enforcement authorities to try to help West African authorities neutralise these newly emerged criminal challenges.

Terrorism

A third challenge became more evident since 9/11: extremist Islamist terrorism and the role which extra-European terrorist organisations on the Arabian Peninsula and North Africa could play in planning or preparing attacks on EU territory. Such a link was established for the bloody Madrid bombings of 21st March 2004²⁵, and is asserted with as yet less convincing evidence for the London bombings of 7th July 2005²⁶. Counterterrorism authorities in the EU had to count with new direct extra-EU challenges. For the attacks of 2015 and 2016, that link has been clearly established.

Is there also a significant 'crime-terror nexus', often evoked by political actors and media, in analogy to the 'state elite-crime nexus'? It is asserted that organisations like Boko Haram, AQIM or MUJAO directly and decisively profit from organised crime to finance their activities. And in 1998, the United Nations General Assembly Special Session on drugs expressed 'deep concern' about links between illicit drug production, trafficking and involvement of terrorist groups, criminals and transnational organised crime.²⁷ Certain analysts object that that nexus is much less evident than the former because OC and terrorism are so different and share much fewer interests.²⁸

In summary, African internationally-linked OC is a direct criminal threat to EU internal security by virtue of its illicit 'imports'. Indirectly it is a threat because it contributes to political volatility and violence in its region and to state failure, via its intimate relationship with certain parts of especially West African states' elites, and with terrorist groups which in their turn facilitate OC activities. EMCDDA has recently reported that "the heroin trade also seems to have destabilising effects in east Africa, with drug profits reportedly funding armed groups in the area".²⁹

This sum-up of 2013 will be concluded with a closer look at EU-policies and the so-called enablers.

In the next three steps we will:

²⁵ REINARES, Fernando, The Evidence of Al-Qaida's Role in the 2004 Madrid Attack, in : CTC Sentinel 22.03.2012, West Point, <https://www.ctc.usma.edu/posts/the-evidence-of-al-qaidas-role-in-the-2004-madrid-attack>

²⁶ Report of the Official Account of the Bombings in London on 7th July 2005, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228837/1087.pdf. The London bombers were considered 'home-grown', even though being Muslims and having good contacts with Pakistan. In September 2005 al-Qaeda deputy leader Ayman al-Zawahiri claimed partial responsibility for the bombings, but the extent and nature of al-Qaeda's true role in the attacks remained murky.

²⁷ As cited in EU document EU(2011), D01509302-en, Action Fiche 6 for Supporting the fight against trafficking from/to Afghanistan – Phase II (HEROIN ROUTE II) under the Priority 2 "Counteracting Global and Trans-regional Threats" of the Long-Term Component of the Instrument for Stability, p.1

²⁸ VORRATH, Judith (2014) Transnationale Sicherheitsfragen in Westafrika, Reader Sicherheitspolitik > I. Faktoren erweiterter Sicherheit > Regionalanalysen > Ausgabe 10/2014, accessed 17.10.2015

²⁹ <http://www.emcdda.europa.eu/topics/pods/opioid-trafficking-routes>

- First look at ‘enablers’ which constitute the tools and frameworks of policies, and of ‘operational linking’;
- Secondly at our notions about what are and how to differentiate between internal and external security policies;
- Thirdly at the nature of their interrelationship, in overlap and operational linking;
- And fourth at the question how to organise the different types of cases in that category.

Sum-up in 2014 – Inward-oriented operational linking

In EU Justice and Home Affairs Diplomacy, the inward-oriented operational linking takes place in transmitting legal and operational initiatives from extra-EU actors and in implementing them in the EU’s internal security policy. Those external actors clearly constrain the EU’s autonomous legal and operative decision-making.

UN level

The foremost treaty-based international organisation dealing with security issues is the United Nations, formally enabled by its Member States to set new international law, and to impose it, in principle via resolutions of The UN General Assembly, the global rule-setting instance, and the Security Council.

The UN counterterrorism legislation is a good example for the difficulties and successes at that level. The General Assembly was not able to find sufficient consensus about a convention on international terrorism. Only since the end of the 1990s, the UN Security Council UNSC has established a quasi-legislative role for itself, changing the UN-approach “from international treaties outlawing specific acts of terrorism, to a broader prevention policy progressively led by the Security Council (UNSC) adopting binding resolutions on the basis of Chapter VII of the UN Charter”³⁰. The first in a row of UNSC resolutions came already on 28 September 2001: resolution 1373 (2001), which has become a cornerstone in the UN’s concept of terrorism and in its anti-terrorist actions.³¹

In addition, to support the “implementation of the UN global CT strategy around the globe”³² i.e. including in the EU, a Global Counterterrorism Forum (GCTF) was launched in 2011. It assembles thirty founding members, among them the biggest developed countries, the EU and its four biggest Member States: Germany, Italy, France and the UK, plus Denmark, Netherlands and Spain. Principal GCTF members do in their turn appear to feed strategic concepts of their own into the UNSC where they flow into this institution’s resolutions. In this manner a certain number of EUMS and EU institutions can perceptibly influence the UNSC’s mandatory counter-terrorist ‘legislation’ which the EUMS are later supposed to implement.³³

³⁰ CAPITANI (2015), Emilio de, “Foreign Fighters” and Eu Implementation of the Unsc Resolution 2178. Another Case of “Legislate in Haste, Repent at Leisure...” ? (1), FREE Group, European Area of Freedom Security & Justice (2015 04 06), <http://free-group.eu/2015/04/06/foreign-fighters-and-eu-implementation-of-the-unsc-resolution-2178-another-case-of-legislate-in-haste-repent-at-leisure-1/>.

³¹ {RUPÉREZ, 2006, 09 06 #221} the author was Executive Director of the Counter-Terrorism Executive Directorate at the Assistant Secretary-General level, United Nations. <http://www.un.org/en/terrorism/ruperez-article.shtml> (last accessed 17.08.2015)

³² Global Counterterrorism Forum, launched in 2011, NYC, at ministerial level, under chair of USA and Turkish foreign ministers (<https://www.thegctf.org/web/guest/related-activities>, accessed last 01 08 2015)

³³ CAPITANI (2015), Foreign Fighters, “several high-level officials from Western states and the EU anti-terrorist Coordinator meeting since 2011 in the Global Counterterrorism Forum have elaborated a specific strategy which has inspired UNSC resolutions 2170 and 2178 in 2014”. Cf. also the coordinator Gilles de KERCHOVE, in an interview to http://eeas.europa.eu/delegations/tunisia/documents/newsletters/lettre_3_ue_oct2015_fr.pdf#page=3 where he underlines the importance of the EU proposals for resolution 2178.

This global context makes the legislative part of the EU's CT policy an executor of consensus decisions taken at the global level, with four of its MS (two permanent) present in the sitting UNSC, and with the four biggest MS plus three smaller ones, plus the 'EU' as members in the key implementing body GCTF. Thus, as concerns counterterrorism, the legislative task is strongly pre-empted by operational inward linking via JHA diplomacy, from the UN and the GCTF, and the EU task consists of fitting the solutions found at that level into the European ISP context.

Seen from the EU it is important to note that two of the UNSC's five permanent members and veto-powers are France and the UK. No UNSC resolution can pass without the assent of these two important Member States of the EU. Once they represent an EU position, this amplifies the Union's voice at the global level.

Internal Security and Global Operational Cooperation

In fact, it is only via this inward linking from global legislators by JHA diplomacy that EUMS legislation on important questions of counterterrorism and organised crime could be harmonised at EU level, and within a reasonable time.

In addition, at the operational end of outward operational linking, the UN constitutes at once a constraint and a certain role model for the EU. To begin with, all EU peace operations vis-à-vis/in a third country, if they are not invited by the legitimate government of that country, need a mandate by the UN Security Council. Secondly, concerning the issues of interest to the intersection between CSDP planning and operations, and law enforcement, the anterior evolution of UN peace operations became highly topical to the EU's own approach.

At the UN, operational cooperation between the two sectors has already moved to the fore, clearly visible in the increasing police and civilian experts' participation in the UN's peacekeeping forces since 1990. The key term is 'security sector reform'. It stands for efforts to strengthen "institutions legitimately entitled to intervene in society, using force if necessary to protect citizens, uphold law and order and state institutions, and protect the borders of the state", declared a UN Security Council Report in 2007. "There is increasing recognition that solutions to complex security sector problems must ... address a broader range of collective security actors and threats"³⁴ beyond military forces and challenges.

International Police Organisation

But beside the United Nations another global incumbent occupies the terrain in which the EU security policy –in this case ISP– is evolving, i.e. the International Criminal Police Organization INTERPOL (or ICPO, founded in 1923, 190 member countries, its General Secretariat located in Lyon, France). Whereas the UN (and UNSC) challenges the EU's security policy altogether, Interpol challenges the European Police Office, Europol. Different from the United Nations, or for that matter from the EU's Europol, Interpol is legally only based on formal agreements between its member polices.³⁵

Like Europol, it has to limit itself to a role of 'facilitator': National police forces are the effective working members also in Interpol, the latter being their joint service hub. Interpol, like Europol, collects criminal intelligence among their member polices and puts them on databases for all law enforce-

³⁴ UN, (2007), 2007 02 14 p.1; cf. also KÜHNE, Winrich (2007), Interessen, Kriterien, Probleme deutscher Beteiligung an Friedenseinsätzen. Wann? Wohin? Warum?, http://www.petrakellystiftung.de/fileadmin/user-upload/newsartikel/PDF_Dokus

³⁵ STALCUP, Meg (2013), Interpol and the Emergence of Global Policing, in: GARRIOTT, William, Ed., Policing and Contemporary Governance, pp 231-261; for a cursory comparison between Interpol and Europol cf. DEFLEM, Mathieu (2007), International Police Cooperation against Terrorism: Interpol and Europol in Comparison, IOS Press; cf. also <http://www.theatlantic.com/international/archive/2014/05/interpol-the-global-police-force-that-isnt/362086/> last accessed on 25 07 2015.

ment authorities to see and use, it analyses this information to produce and distribute criminal information, and it aids national polices in cooperating for international investigations and razzias.

In this important field of traditional law enforcement within national jurisdictions, Interpol thus already plays and continues to play a highly important role and cooperates closely with the EU.³⁶

For the operational linking between CSDP planning and operations, and law enforcement, outward-oriented in this case, this cooperation is sure to become still more intense, as planning within the EEAS demonstrates.³⁷ The farther afield CSDP and Home Affairs missions move, mainly in Africa, the more evident will the EU's need become to access Interpol's world-wide crime-related data-bases, border management and other information exchange systems.³⁸

Individual States and Law Enforcement Authorities, inward and outward operational linking

Beside the inter-organisational relationships of the EU ISP (UN and Interpol), operational linking also takes place vis-à-vis individual states or groups of states, be it third states or MS of the EU. Here, the largest outward linking potential for EUMS can be expected. Exceptional state power can reverse that expectation. The one uniquely outstanding partner state here is the United States of America, the single most important source of inward operational linking in ISP/ESP, for the EU and its Member States. On the one hand, it has since 9/11 in 2001 set the tone for much international norm-setting and operational cooperation in counter-terrorism, at UN level but also within the North Atlantic Alliance. On the other it has, unilaterally and in cooperation with foreign intelligence organisations created a global system of communications surveillance without equal³⁹, covering suspects of international crime and terrorism, but also political and business elites, at the domestic and international level.

Vis-à-vis this reality, each Member State of the EU, but also all of them together, find themselves at once as objects of pervading and relentless surveillance by the US services. But each Member State, and the EU, find their own services also as partners of their US colleagues and as grateful recipients of highly valued pieces of the information which the latter has gleaned from this unilateral, intrusive and unlawful surveillance, often concerning activities on EU MS' own territory and their own citizens.⁴⁰

One cannot but feel that this reality puts all modest advances of the EU's ISP at the counterterrorism front, especially as concerns the collection and sharing of information by and between MS' polices and services, strongly into perspective. As long as the EU Member States appear technically and politically unable to regain on this one-sided American dominance, they need to maintain good communication with the US agencies. Putting it at risk by an effective cooperation refusal could do more harm than good for the EUMS' separate and collective counter-terrorism and -OC efforts. If it were to

³⁶ For a summary of this cooperation cf. <http://www.interpol.int/About-INTERPOL/International-partners/European-Union>. "The power of the network community that Interpol and Europol represent, ... everywhere you see Interpol and Europol working together ... to serve the police community of this world". Video of Rob Wainwright, director of Europol, in 2013 Interpol General Assembly, [http://www.interpol.int/News-and-media/Videos/\(video_id\)/21958](http://www.interpol.int/News-and-media/Videos/(video_id)/21958) (both accessed on 07 18 2015).

³⁷ EEAS Crisis Management and Planning Directorate (to Committee for Civilian Aspects of Crisis Management CIVCOM) EU, "Strengthening Ties between Csdp and Fsj: Road Map Implementation. Second Annual Progress Report," (2013 11 14).. The intensification of CSDP cooperation with Interpol plays a crucial role in this project, pp. 3, 7f., also pp.14 ff.

³⁸ For the important contribution which Interpol-cooperation is to make to the EU internal security cooperation in Africa, cf. the VALLETTA (2015) Valletta EU-Africa Summit on Migration - Action Plan, p.13

³⁹ Cf. the reporting of The Guardian from 2013, and other international media in the context of the Wikileaks revelations. Cf. [https://en.wikipedia.org/wiki/Global_surveillance_disclosures_\(2013–present\)](https://en.wikipedia.org/wiki/Global_surveillance_disclosures_(2013–present))

⁴⁰ Ibid. about the frequent reporting f.i. about the cooperation of the German secret services with the US surveillance activities, the highly valued contacts of the EU Counterterrorism Coordinator, the close and valued cooperation with Europol, to name only these three levels

succeed, the result could well be a less informed Brussels, Paris, Berlin (etc.) situational awareness picture on sensitive security issues inside the Union and its Member States than the one which NSA and CIA can together assemble in their US headquarters.⁴¹

Vis-à-vis the large majority of its less powerful other external partners on the other hand, one would expect a clearly outward-oriented operational linking of EUMS ISP.

Accordingly the degree of unity in the EU's external posture depends on (a) the share of integrated Schengen-elements it can put into the bargain, (b) for the intergovernmental policy issues - on the internal interest differentiation between the MS and the EU's ability to neutralise them, and (c) the EU's external policy objective, whether it is rule-setting, capacity building or operational cooperation.⁴²

In outward linking with international rule-setting the EU is likely to deliver a (quantitatively and qualitatively) weak contribution at the global level, perhaps somewhat more important in the Schengen-issue area. An important variable determining the measure in which the EU could impose its collective preferences in those relationships appears to be its degree of internal unity, i.e. an EU actor speaking with one voice could be expected to impose more of its collective preferences vis-à-vis its external partners than each of the 28 MS.

But in security issues the EU is no united actor, with the exception of the Schengen-Dublin system and its rule-setting since 1997 integrated into the first pillar, and since Lisbon subjected to the community legislation method⁴³. For the rest, its internal security policy is based on levels of closer or looser intergovernmental cooperation of MS which retain high levels of national autonomy in their Home affairs-related issue areas. Vis-à-vis individual partner countries the EU's position in these same areas is likely to be strong. For the rest though, its weight in international cooperation is smaller than that of many medium-sized developed states.

In fact, the larger MS particularly are more likely to enter into bilateral agreements with third countries on such topics than to address them collectively under the EU flag. And as to capacity building for its partners it is in-between: The EU can mobilise money and provide concepts, but has no credible 'European builders' to translate them into internal security capacities for external partners; only MS' authorities can do that, possibly in group coalition.⁴⁴

How to Differentiate between Internal (FSJ) and External (CSDP) Security Policies?

For our analysis, this differentiation proved to be difficult. To see more clearly, we have tested four often-used criteria against two military naval CSDP missions, Atalanta and Sophia, the first counter-piracy, the second counter-migrant smuggling, for their utility in achieving that differentiation.

A first criterion is the officially declared **objective** of an EU security policy measure. But must a coercive measure of an EU security policy actually be considered to serve the officially designated

⁴¹ It remains to be seen if and how the ECJ's judgment against US internet companies' transatlantic data-sharing, of October 6 2015 will affect the US security authorities' right to access the data of EU clients stored on US service providers' computers even if these are located inside the EU, and US willingness to share sensitive information of the kind mentioned above with their EUMS partners. Cf. Financial Times reporting of May 4, 2016 in: <http://www.ft.com/intl/cms/s/2/34d27d1c-ef4c-11e5-9f20-c3a047354386.html>, and also Financial Times reporting "EU court suspends Safe Harbour transatlantic data-sharing deal" of that day

⁴² These facts already indicate the importance of this achievement of European integration which is currently in grave crisis due to the EU's disunity over migration – see further down.

⁴³ EU Treaty on the Functioning of the European Union (gone into effect 2009), Art.78§2; PRIOLLAUD, Francois-Xavier & SIRITZKY, David (2008), *Le Traité de Lisbonne. Texte et Commentaire Article par Article des Nouveaux Traités Européens (TUE – TFUE)*, Paris, La Documentation Française, p.210

⁴⁴ Theoretically, the EU could buy and outsource capacity building know-how – if MS agreed

end? Does a military measure of CSDP actually serve the EU's External Security?

The answer may often be that in the last account it serves an EU Internal Security objective, as can be seen for Atalanta and Sophia (further down).

Then perhaps the proper criterion is **geography**? Would an internal security measure be one which takes place inside EU territory or on its borders? Would everything taking place outside, in a foreign "crisis area", belong to an external security policy? For instance the military 'Atalanta' mission, supposed to protect European shipping against pirates in the Horn of Africa seas, would serve external security objectives. But the equally military 'Sophia' mission, explicitly supposed to protect the European border system, and African refugees, against Libyan criminal migrant smugglers, also takes place in international waters and threatens deadly violence against perceived foreign law breakers. By this reasoning it would also be considered an act of external security policy, as is Atalanta.

Nevertheless, for certain experts it is an act of EU internal security because operating on the Mediterranean its "primary purpose is to reinforce security *in Europe*" as ZANDEE asserts in a recent article.⁴⁵ Here too, contradictions reduce the analytical usefulness of the criterion.

Perhaps a supporting criterion could be **legal**? If the EU considers a UN Security Council (UNSC) mandate necessary for a mission, could it be seen to demonstrate *eo ipso* that it plans to engage in an external security mission?

A third option could be the **instruments** used by a given security policy measure. Only the instruments of security policies, understood in a narrow sense, appear still to permit a relatively clear attribution, the police and judicial system being clearly considered an instrument of internal, and the military one of external security policy. But even at that level, things have become ever more ambiguous, as for instance with military personnel taking up internal security tasks like patrolling, and guarding sensitive institutions, and the civilian missions conducted under the roof, and serving the ends of a CSDP strategy, or even alongside of a military CSDP mission⁴⁶ and vice versa – with an external military CSDP mission serving primarily an internal security objective. Again, in looking at Atalanta and Sophia, outlined in the preceding paragraph, the weakness of this criterion becomes evident.

A fourth criterion comes in when choosing between EU – law enforcement logic (ISP) or EU – military logic (ESP) in a crisis situation, which could concern the **nature of the adversaries**:

- Whether the adversaries/challengers of lawful conduct are criminals – irrespective whether they are terrorists or not (law enforcement logic, referring to internal security),
- Or whether they are a state's armed forces, or armed agents of a hostile foreign state (war logic, referring to external security),
- 'Hybrid' style attacks seemingly emerge out of the midst of a target society. The choice may then not be as clear-cut as in the first two cases, but that does not discharge from the obligation of choice. There can be an appropriate combination of the two logics, to tackle the domestic and the foreign-state component of the challenge, for example.

⁴⁵ ZANDEE, Dick, Ed.(2015),The EU as a security actor in Africa. In-depth study Clingendael Monitor 2016, Clingendael, p.33

⁴⁶ Cf. (2015) EU Missions and Operations, in: Impetus, Magazine of the EEAS Military Staff, no 19, spring-summer 2015, p.10-13

One can illustrate the importance of this issue in looking at terrorism, with the big attacks since 9/11 being considered examples of a hybrid strategy: Armed agents of a foreign adversary strike inside one's own country. But the adversary is not a state. The option chosen by the US administration at 9/11 was to apply the 'nature of the adversary' criterion and consider them agents of a hostile organization located in a foreign state which aided and abetted them, justifying in that manner its 'War on Terror'.

How do the EUMS and the EU deal with this dilemma? We will come back to that in the conclusion.

And what exactly is the Nature of their Interrelationship?

This interrelationship becomes manifest in the category of 'overlap and operational linking'.

International terrorism and organised international crime were since the turn of the century considered exemplary for the close mutual involvement of internal (FSJ) and external security issues and for the need to find a comprehensive vision for security policy taking this into account.⁴⁷ The migrant smuggler challenge to the EU's external border system can be subsumed under Organised International Crime.⁴⁸

In this same period, FSJ involvement in the foreign activities of the European Union and vice versa has strongly expanded. But these foreign activities rarely concern explicit external security, and even less explicit defence issues. Insofar there is no explicit and immediate link of the internal and the external side of security policy in most of these cases. They concern 'neighbourhood', 'cooperation' or 'partnership' policy missions. And they mostly seem to intend to prevent foreign challenges to EU internal security from arriving on the borders, or inside, of EU territory.

This happens under the roof of CFSP, the Common Foreign and Security Policy, in what BRADY&PARKES have recently called "EU Home Affairs Diplomacy".⁴⁹ It is here that the largest number of such links and overlap between internal security and foreign policies materialise, and they do so in the successor states of the former Soviet Union in the east and developing countries in the south because CFSP contains the major part of those policies and funding options fit to propose those partner states tangible assistance, for instance in capacity building. It also offers policies like the 'EU Neighbourhood Policy' the proper institutional platform and the financial instruments to utilise in its implementation.

This report will therefore adopt BRADY&PARKES' well-taken title for the first part of this chapter: **EU Home Affairs diplomacy**, in which belong the largest number of cases. Civilian CSDP missions frequently have objectives which are hardly discernible from those of 'HA Diplomacy'. In consequence, they will also be included in that category.

The second part of this chapter concerns the important cases where military common security and defence policy does indeed directly overlap and interlink with EU internal security policy. Its title will be: **Common Security and Defence Policy and Internal Security Policy**.

⁴⁷ KÜHNE, Winrich (2007), Criteria, Interests and Problems of German Participation in International Peace Operations. When? Where? Why? (Article in German, title translated), Die Friedens-Warte, Journal of International Peace and Organization, 82 (2007) 1: Peacekeeping Operations Put to Test, p.5f. and 12

⁴⁸ Immigration itself being an important topic of the EU's foreign relations already since the 1990ies.

⁴⁹ BRADY, Hugo & PARKES, Roderick (2015), EU Home Affairs Diplomacy: Why, What, Where and How, Chaillot Paper 135, July 2015, EU Institute for Security Studies

EU Home Affairs Diplomacy

Three general points must be made at the outset:

EU Home Affairs diplomacy –as dealt with in the following– consists of the EU and its Member States reacting to challenges from outside, and themselves acting on external actors. Transnational and purely nongovernmental –level links will not be taken into account.

Justice and Home Affairs diplomacy has also been the principal vehicle to transmit the inward-oriented operational linking originating from the United Nations, and from the United States, into the EU's evolving internal security policy, and insofar also at the origin of legal and policy EU(MS) preferences later transmitted to external partners.

All initiatives of EU outward linking, aiming for directly influencing external actors presuppose an 'entry ticket' authorising the EU(MS) to enter into a foreign sovereign state with a design of governance change. That 'ticket' can only come from the recipient state itself. That is not always as simple as it may sound: that 'ticket', to be valid, must be given by a legitimate government (ideally supported by a broad majority). A country without government or with a heavily contested one, as Libya for instance, cannot give it, even if the EU wants it badly.

If the EU wanted to enter without that 'ticket', it would need a mandate from the UNSC. In practice, writes Thierry TARDY, "all civilian missions (with the exception of EULEX Kosovo) have been established on the basis of an invitation of the recipient state ... some civilian missions, are still referred to in UNSC resolutions." A point which applies to the neighbourhood-based missions as well.⁵⁰

The last introductory point underlines the importance of JHA enablers for the civilian CSDP missions which do, in certain cases, underpin HA diplomacy: 'CSDP missions rely on personnel seconded by member states, in particular police officers, judges, prosecutors, customs officers etc. National FSJ actors are thus the chief providers of personnel for civilian CSDP missions.'⁵¹

[EU Home Affairs Diplomacy vis-à-vis East and South-Eastern Europe, and Africa](#)

The challenges to the EU's internal security, from the EU's east and south-east front, emerging since the disappearance of the Iron Curtain together with the expansion of the European Union (and Schengen zone) eastwards, have been set out further up, as has the EU's reaction with a sustained effort of EU Home Affairs diplomacy in the framework of ENP, supported by the principal EU-MS⁵².

Bilateral Action Plans detail the planned reforms agreed between the EU and these partner countries (except Belarus for the time being).

Supplementing these bilateral elements, there are the already mentioned EU initiatives of 'capacity building'.

⁵⁰ TARDY, Thierry (2015), CSDP in action – What contribution to international security?, ISS: Chaillot Paper 134, May 2015

⁵¹ BRADY&PARKES p.40f., (European Commission/High Representative of the Union for Foreign and Security Affairs, SEC(2011) 560 final, 5 May 2011: Joint Staff Working Paper: Strengthening ties between CSDP and FSJ actors: Proposals for a way ahead (pdf))

⁵² Cf. for the EU's cooperation efforts against drug commerce and trafficking of human beings on the Heroin Route: EU(2011), D01509302-en, Action Fiche 6 for Supporting the fight against trafficking from/to Afghanistan – Phase II (HEROIN ROUTE II) under the Priority 2 "Counteracting Global and Trans-regional Threats" of the Long-Term Component of the Instrument for Stability ; Bundesregierung Deutschland (2014), "Positionspapier Der Deutschen Bundesregierung Zur Künftigen Entwicklung der Eu-Politik Im Bereich Justiz Und Inneres," Berlin: 21.01.2014

Borders

EU Border Assistance Missions (EUBAM) are a typical EU instrument in that sense. They demonstrate the heavy emphasis of this kind of EU capacity building policy on constructing external barriers preventing migration and on other security related issues. The EU will also give needed equipment.⁵³

By the end of 2014, EU Home Affairs Diplomacy had resulted in a ring of “Migration and Mobility Partnerships” surrounding the European Union in the east, with the majority of the partner countries belonging to the eastern partnership (namely Armenia, Azerbaijan, Georgia and the Republic of Moldova) and on the south of the Mediterranean, with Morocco (6/2013), Tunisia (3/2014) and Jordan (10/2014). With Egypt, Libya and Algeria, security-related talks continue. But ENP policy progress with them stalled in 2015, including the migration and mobility partnership projects.

As conceived in the Commission’s preparatory documents since 2011⁵⁴, these agreements aim at the EU’s partners accepting to improve their security in an EU-defined sense, in exchange for being granted enhanced EU access for their citizens and merchandise, and additional support to their policies of capacity-building. The concerned security issues concentrate on serious organised crime like smuggling illicit merchandise or the trafficking or smuggling of human beings.⁵⁵

In past years the EU had been handling these challenges through relatively discrete processes of internal coordination and external action. Its capacity-building measures involved DGs HOME and NEAR and the close cooperation of southern or eastern EU members. The efforts to tackle illicit routes at source involved the EEAS and EU delegations, DG DEVCO and the CSDP apparatus as well as Member States with close historical relations to source countries such as Eritrea.

These efforts have been supplemented by another important instrument, i.e. the visa facilitation agreements with third countries “of which the EU has been negotiating and concluding an increasing number, starting with Hong Kong in 2001/2002”.⁵⁶

In a separate movement, and in emulating a US-project started after 9/11, the EU created a system of ‘Integrated Border Management’ (IBM) for itself. It consisted of common legislation (in particular the Schengen Borders Code); operational cooperation between Member States (with assistance from Frontex); and security solidarity between Member States, for instance by the establishment of common databases. The EU ‘started to propose this system to neighboring states in the context of its association process for the new states of the region’⁵⁷. A decade later the implementation of the integrated border management for them comprises further improvements of border surveillance, border management capacities and cross-border cooperation, according to directives which aim, among others, for the enhancement of international, inter-service and intra-service coordination and cooperation. Equally, it demands to enhance the security of travel and identity documents and

⁵³ For instance in the EU IBM project in Lebanon, where in the first 20 months equipment and refurbishments for € 1,4 million were handed over to Lebanese security agencies.

⁵⁴ Communication from the Commission to the EP et al, on: A dialogue for migration, mobility and security with the southern Mediterranean countries, COM (2011) 292 final, 24.05.2011, p.7

⁵⁵ The ‘Migration and mobility partnership’ signed between the EU and Morocco (European Commission Press release, 07.06.2013; text in http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130607_declaration_conjointe-maroc_eu_version_3_6_13_en.pdf) was the first of this advanced kind of bilateral agreements between ENP partner countries and the EU, to extend cooperation to migration and the movement of people.

⁵⁶ Monar (2014), p.149

⁵⁷ <http://www.eap-ibm-capacitybuilding.eu/en/about/ibm>

residence permits and to facilitate the authentication of citizens through introduction of fingerprinting systems. Anti-corruption measures at the borders and full cooperation on return and readmission round off the impressive catalogues of measures demanded from third-country partners.

Counterterrorism

Counterterrorism is, for all the media and political excitement about it, comparatively less present in the EU Home Affairs Diplomacy and its outward operational linking. The strong inward link from the global level was already highlighted.

Rather than being treated as a special topic by the EUMS' HA Diplomacy, counterterrorism is a key topic to be mainstreamed into the different principal fields listed above and further down.

Information exchange: The important links with the USA and certain other countries were underlined, exchanges which take place at the level of MS rather than of the EU or its agencies. Europol, Eurojust and Frontex and other EU agencies will only exchange those own informations which they are authorised to by the MS.

Border monitoring agreements and missions: Again, one of their principal objectives was to enable the participating partners to better use information exchange and modern technology to identify and apprehend terrorists illegally crossing borders, and to prevent them from transferring their financial assets. As for capacity building in information exchanges, the individual EUMS do the principal part of operational linking with the partner states.⁵⁸

As to organised international crime, the link with the financing of and cooperation with terrorist organisations remains a concern addressed in multiple ways, with legal harmonisation by inward linking, and information exchange being principal instruments, with Member States again being principal actors.

The EU Counterterrorism Coordinator

The 'Counterterrorism Coordinator' is an important facilitator for Member State cooperation in these inward and outward linking processes, as long as that cooperation takes place on the EU level, in the different Council formations. On behalf of the Council, he monitors and reports on the EU's counterterrorist activities, follows and disseminates the key topics of the international expert debate and maintains extensive contacts with the different extra-European partners with which the Council or its Members engage in operational linking.⁵⁹

But in institutional terms he remains a small actor. In the year 2015 he still has no more than four permanent collaborators. Nevertheless, he has gained in status. The JHA Council avails itself of his expertise to prepare working documents for its sessions,⁶⁰ for which the CTC will also cooperate with the Commission Services, with the EEAS, with Europol and Eurojust.

The importance of his role also confirms the persisting importance of the Member States as the decisive actors in this domain.

⁵⁸ The Commission will also frequently entrust qualified NGO's with working in these partner states.

⁵⁹ Cf. his website <http://www.consilium.europa.eu/en/policies/fight-against-terrorism/συντονιστής-αντιπρομοκρατικής-δράσης/>

⁶⁰ Recent example: CTC in consultation with the Commission services and the EEAS EU, "Foreign Fighters and Returnees: Implementation of the Measures Decided by the Jha Council on 9-10 October 2014," ed. Council of EU, Note to Council (Brussels2014 11 24). COOLSAET, "Eu Counterterrorism Strategy: Value Added or Chimera?."

Intelligence Sharing

Intelligence sharing has become ever more important in EU FSJ cooperation deepening, and accordingly in home affairs diplomacy, including the relationships with third-country authorities. Information sharing is quasi the master-objective of EU Internal Security Policy, for all conceivable areas of security threats. That is an understandable approach. First, bringing together the maximum amount of useful information about a security challenge is indeed often the decisive step towards successful prevention, disruption, apprehension. But secondly there is also a reason specific to the EU: It does not itself dispose of any operative assets of its own, for crime prevention, for instance, and neither does it have competences for operative missions.

The answer is information exchange agreements of the EU with third countries. “Europol, Eurojust, Frontex and the European Asylum Support Office (EASO) conclude agreements with them. ... their numbers steadily increase — Europol alone has already concluded 18 agreements with third countries and three with international organisations.” But Monar, to whom we owe these data, also concedes that “these agreements’ scope is limited to the exchange of certain categories of information, support for operational cooperation involving national authorities, and training.”⁶¹

Beside the issue of IOC and migration, terrorism has from the outset been an important topic of these exchanges.⁶²

The third big Topic is Organised Crime in Drugs Trafficking

Specific responses of the EU to the crime challenges already began in the first decade of the new century, in 2007, with what is still called the MAOC ‘Maritime Analysis and Operations Centre – Narcotics’ (MAOC (N)), an intergovernmental cooperation between police and military actors for intelligence sharing and operational support between seven EUMS, the US and West African actors. The EU MS are France, Ireland, Italy, Spain, Netherlands, Portugal and the UK.⁶³

These responses have intensified since 2008 with the EU’s Heroin Route and Cocaine Route Programs for combating transnational organised crime, the first integrating mainly the Central Asian countries and Balkans countries into a coordinated and cooperative effort, the second one doing the same with the African and certain Latin American countries. All three initiatives continue to exist and develop side by side, MAOC more concentrated on the Atlantic approaches to Europe.

Information exchange, joint training and coordinated investigations are the key activities for the Cocaine and the Heroin Routes Projects. The Cocaine Route Programme (CRP) presents a concerted effort of coordination by the European Union and its partners to staunch the flow of illicit goods and facilitate communication and cooperation of criminal investigators and prosecutors. Its current focus is on transnational organised crime and drug trafficking in Latin America, the Caribbean, Africa, essentially West Africa, and Europe.⁶⁴

From 2008 one of the Heroin Routes Projects was implemented on behalf of the German Federal

⁶¹ Monar (2014), p.162

⁶² A good example being the information given by Moroccan authorities in the counterterrorism cooperation with the EU. Cf. MASBAH, Mohammed (2015), Moroccan Foreign Fighters, SWP-Comments No 46, Berlin: October 2015, 8 pages

⁶³ With financial support from the Prevention against Crime Programme of the European Union, European Commission - Directorate - General Home Affairs. The Centre provides a forum for multi-lateral cooperation to suppress illicit drug trafficking by sea and air. MAOC functions in close cooperation with the US DEA and African countries on the West African Drug Transit Corridor which has been in operation since 2007 (cf. <http://www.maoc.eu/who.php>). Given the increasing concerns about covert terrorist entries into EU territory via sea travel, debates are underway in 2016 to widen the remit of MAOC to cover terrorism and terrorist travel in explicit manner (in: Europe’s ports vulnerable as ships sail without oversight, FT 040216, <http://www.ft.com/intl/cms/s/2/4d71dc5e-c8ec-11e5-be0b-b7ece4e953a0.html#axzz3zHYF6U9n>)

⁶⁴ <http://www.cocaineroute.eu/about-us/>

Home Affairs Ministry by a German NGO, funded by the European Commission's IcPS, cooperating with UNODC, Interpol, the German Federal Criminal Office and others. Beside the principal regional target countries Afghanistan, Iran and Pakistan, a number of Central Asian states and Turkey cooperated. Main objectives are the improvement of information exchange about drug commerce and other trafficking among the law enforcement authorities of the participating countries and their joint Drug and Organized Crime Coordination Unit, DOCCU.

CSDP and Internal Security Policy

The first point is to remind readers that this category will only include military CSDP missions. The civilian ones were included in the 'EU Home Affairs Diplomacy'.

A second point again concerns the 'entry ticket' to the target-country: all of these cases presuppose an authorisation of the EU (MS) to enter into another sovereign state with a design of governance change. Military missions, as opposed to civilian ones, have to be based on a UNSC mandate. Thierry TARDY: "Military operations, for their part, fall into two categories: some were created on the basis of a Chapter VII UNSC resolution (Althea in Bosnia, Atalanta in the Gulf of Aden, EUFOR RCA, as well as in the past the two operations in the DRC [2003 and 2006] or the one launched in Chad [2008-09]); others were created on the basis of an invitation (EUTMs Mali and Somalia, EUMAM RCA).

Quite a few of the latter, as well as some civilian missions, are still referred to in UNSC resolutions."⁶⁵

The third point to make concerns the 'comprehensive approach', which has been made a mandatory cornerstone of CSDP missions. This approach alone already, once fully implemented, must routinely inject a large share of internal security policy linking into CSDP.

Among the 17 CSDP missions of the end of 2015, 10 have border management, internal security sector reform, police training, coast-guard management etc. as their principal objective.

Even so, important cases do remain where internal security efforts directly overlap and attain operative linkage with military CSDP missions. These linkages develop mostly and increasingly in Africa.

These cases are here grouped in four classes, ranked according to increasing intensity of expected armed confrontations. They have increased in number and importance in the recent years.

The first three classes deal with law-breakers in extra-European territories and waters.

1. One concerns a class of cases where CSDP+ISP protect EU legal border-systems and border procedures against people smugglers and other offenders' attacks.

Here a primarily military CSDP mission is the tool of crime prevention on the EU's external borders. One type are missions like EUNAVFOR Med Sophia during phase II. They need a military tool from the CSDP's 'Defence' toolbox to achieve their objective. What is mainly needed is the surveillance and the physical monitoring capacity of the warships; but they also magnify border police's tools of coercive violence tasks in taking on potentially resisting law breakers. Even so, the objective remains clearly civilian Internal Security. The NATO mission sent to assist Greece, Turkey and Frontex in dealing with Aegean people smugglers in March 2016 would fall into the same class were it from the

⁶⁵ TARDY, Thierry (2015)

EU. If the Sophia mission did in the future enter its third phase in Libyan waters and territory, this quality of the mission would have to change.

2. A second type is to protect Europeans and European shipping in extra-European waters against piracy. Again the instruments of war are needed to succeed in a task of coercive law enforcement against law breakers who are in this case equipped for fighting. The part of war logic takes a larger place than in 1.).

EUNAVFOR Atalanta is the case in point. The difference with class 1.): These are truly international missions, already entering into foreign territories and waters, and a more muscled use of the military tools is apparently involved. For this class of cases a strengthened flanking by additional FSJ policy measures was needed to produce sustainable results in the target region and gain political backing inside the EU-MS. But also 'Sophia's' deployment during phase II would fall into that category.

3. A third class could be considered the disruption of other international organised criminals' activities harmful to Internal Security inside the EU, on extra-EU territories.

EU-MS' unilateral military operations and CSDP missions in Africa's Sahel Zone can be considered cases in point, for example the EUCAP Sahel missions in Mali and Niger. They supplement the EU's respective FSJ initiatives.

Key potential additional flashpoints are the cocaine and the heroin routes running from Latin America via South and West Africa, and from Afghanistan via Central Asia, Turkey or the Arabian Peninsula, and the Balkans, into Western Europe. The proceeds from these trafficks also co-finance regional violence or terrorist groups.

4. A last identifiable class of cases deals with 'root causes' of security challenges, be they structural-social-economic-institutional, or intentionally created power and conflict structures, i.e. insurgent or terrorist movements, coups d'état, terrorism, civil wars.⁶⁶

This could be an extension of a (3.)-class case in which the adversaries are criminals. But they are also insurgent or terrorist movements' or armies' attacks and regional take-overs which can as well be considered root causes of massive regional security deterioration, emigration, organised crime which harm the EU's internal security interests and are countered by CSDP missions. Criminal and more political motivations may blend into each other. A case in point was the French military Mali intervention 'Serval' against an Islamist-insurgent take-over attempt in 2013, aided by EU-CSDP (EUTM Mali, substantially strengthened in 2016) plus bilateral EU-MS and UN/ECOWAS (MINUSMA).⁶⁷ These missions may be military-political- or FSJ-centered.

Military flanking of FSJ-centered missions:

Going for 'root causes' of extra-EU JHA challenges of the structural-social-economic-institutional type, especially in the typical post-conflict 'peace-building' or –keeping cases, may only require the deployment of competent NGOs, for instance, concerning agricultural techniques, or national experts

⁶⁶ One could imagine that beside piracy other illegal maritime activities like illegal fishing in partners' territorial waters could also be the object of similar EU action to improve structural preconditions for peaceful development

⁶⁷ <http://www.europarl.europa.eu/EPRS/EPRS-Briefing-573883-Activation-of-article-42-7-FINAL.pdf> with the most recent information on the support to the French Sahel missions

like policemen and judges for EUJUST LEX missions, or border guards for border management, and financial support.

But missions of that kind may also meet local armed resistance of traditionalists or disempowered national elites. Then they will need a securitisation of their environment with military means.

FSJ-flanking of military-centred missions (in addition to mandatory mainstreaming the comprehensive approach):

The cases of class 4.) but certain ones of class 3.) may also assume a character, where the dominant objective of a CSDP mission is to impose by military force a solution which reflects political EU-preferences for the country or region concerned. EU FSJ objectives may then find themselves implicitly favored by that solution, in the target country.

Strengthened flanking by FSJ components and by capacity building of local security sectors is considered necessary for the longer-term success of military-centered types of intervention.

In these cases it would be JHA components or separate missions which supplement and flank the primary military CSDP missions and render their results more sustainable in the longer run, or at least offer an exit scenario to the military. Home affairs tools have proved useful for instance by offering witness protection schemes for defectors from Boko Haram or forensic analysis of border incursions in Eastern Europe.⁶⁸ It is also like that, for instance, that one can read the EUCAP Sahel missions.

This provisional register of case classes (1.) to (4.) also allows us to establish the list of the three principal kinds of supplement which military CSDP missions can give to FSJ missions in target countries:

- Re-enforced 'arm', or 'ears/eyes' of ISP-law enforcement forces abroad, with a 'muscling' of the coercive and defensive tools utilised in implementing the mission, and/or with much enhanced surveillance and monitoring capacities. Used in case classes (1.), (2.), (3).
- Facilitator of ISP-law enforcement/forces actions abroad, by contributing to a stabilisation of the regional environment, to SSR and institutional reform. Used in case classes (1.) and (2.).
- Coercive enforcement of an EU-preferred outcome, against resistance, abroad, (war logic), by deployment of CSDP military forces to counter competing political actors, in coalition with UN and US forces. Used in case classes (3.) and (4.). Here indeed, the immediate result of the military-political effort is the dominant element of the mission.

Conversely, FSJ missions can give supplement to military missions in target countries, especially in case classes (3.) and (4.):

- Supplementing the military tool by techniques of law-enforcement which permit more targeted operations,
- Or improving the possibilities of conflict exit and sustainable post-exit scenarios.

⁶⁸ BRADY&PARKES p.40f., (European Commission/High Representative of the Union for Foreign and Security Affairs, SEC(2011) 560 final, 5 May 2011: Joint Staff Working Paper: Strengthening ties between CSDP and FSJ actors: Proposals for a way ahead (pdf))

Given this not infrequent joint employment of the two EU security policies including defence, it is important for EU decision-makers to have criteria for guiding the choice of the appropriate logic in responding to a security policy challenge, between **a law enforcement logic, or a military logic**. As far as the author is concerned, for this chapter of the report he tried to work with a type-of-adversary criterion plus geography criterion as laid out earlier in this text.

Remaining Limitations at the Level of EU-Enablers and Developments in 2014-15

Limitations and weaknesses at the level of EU-enablers seriously curtail the prospects of operational linking.

Lack of 'EU'-operational Capabilities and shared Competence:

Under the EU Treaty, responsibility for their internal security and their defence, and the competence for the respective policies, lies with the Member States. Bilateral police cooperation with 3rd countries, therefore, remains in MS' hands.

Substantial differences of interest, of local/regional presence, of judgment also prevail between EU-MS, concerning these activities, in spite of the EU's common regional guidelines or positions.⁶⁹

Weaknesses of Coordination between the EU and the Member States

EU Home Affairs Diplomacy has not succeeded to coordinate these national efforts in a broader and more sustained manner. MS are engaged –for the largest ones of them– in sometimes world-wide initiatives of bilateral operational linking to cooperate with foreign governments and law enforcement authorities, help them with training, instruction and equipment, seek intelligence from them, in the battle against the threat of serious organised crime, and especially of terrorism, and in monitoring and controlling migratory movements originating in or transiting via their countries. Interviews with German top BKA sources and with French officials confirm the widespread and important role of these bilateral agreements for the larger MS.⁷⁰

In consequence, EU-MS are engaged differently in EU JHA policies abroad. For properly calibrating their own interventions vis-a-vis 3rd countries, EU institutions would need to know the extent and type of the respective national activities. In fact, national capitals could also profit from better intelligence about what their peers from other capitals are up to in sometimes the same target country. Unfortunately there is only little, punctual information, about certain Member States; comparative overviews lack.

Therefore any assessment of the EU's own missions, informative and valuable as it may be, remains insufficient in judging its necessity and adequacy in a given region or country.

Border Management and Mobility Partnerships

A foreboding of the difficulties of imposing integrated border management with its ENP partners could already be seen inside the EU's own institutional system. Already between Member States this IBM has never been fully implemented, because governments did not want to cede full control of this security-linked sovereign competence.⁷¹

⁶⁹ In the 'CSDP&ISP' domain the same kind of assertions can be made even more forcefully about the pre-eminent and often discordant positions of individual Member States' policies. Rik COOLSAET, "Eu Counterterrorism Strategy: Value Added or Chimera?," *International Affairs* 86, no. 4 (2010). p.871, doubted the soundness of the "early emphasis on including counterterrorism in the EU's second pillar, the CFSP, did not, ... lead to substantial results. ... Member states remain genuinely divided over whether the EU should engage ESDP resources in direct military intervention against terrorist activity" abroad. ... "Alongside the close interaction between the pertinent UN agencies and the EU (in particular the Counter-Terrorism Coordinator), the international dimension is essentially made up of two parallel lines of action: collaboration with the US and aid to specific countries."

⁷⁰ Author's interviews in 2014

⁷¹ IPPOLITO&TREVISANUT,(2015), Introduction p.7 : "Their legal regime is the product of competition between the domestic and supranational spheres of governance. While EU institutions strive for an integrated border management IBM, Member States tend to resist such ambitions and seek to stay in charge of decision-making processes. At the same time they need mechanisms at the European level ... This tension pervades the politics, law and legal practice on the EU's external borders."

Keeping the division of competences in mind, between the EU and national levels, it seems evident that a substantial component of practical ISP-cooperation in the Mobility Partnerships can only be contributed by the Member States. In the context of this report, we have to ask whether the implementation of these national contributions under the roof of the Mobility Partnerships, could lead to closer cooperation and coordination of national ISP within the CFSP frame.

The answer is negative: a closer look at the structure and procedure of these Mobility Partnerships suggests no advances in that direction. Our example is the Morocco-EU partnership, to be briefly presented under the 'Africa front'. Intelligence Sharing

As to intelligence sharing, considerable efforts have been made since the creation of the EEAS, the most signal step perhaps being the combination of Intelligence from civilian services [EU INTCEN](#) and military services (EUMS) within one single monitoring and assessment procedure called *Single Intelligence Analysis Capacity (SIAC)*. How well that functions is difficult to judge from the outside. But even here, national governments and embassies' information about bilateral in-country operations are still considered to have room for improvement, one key deficiency concerning counterterrorist intelligence.

EU Internal Coordination Weaknesses

The EU also has to bridge not only a gulf between its home and foreign affairs officials, but the quest for comprehensiveness of CSDP missions also imposes much more coordination with other EU policy chiefs as well. In a revealing paragraph, a bilateral MS' 'food-for-thought'-paper (on the place of CSDP in the field of migration) of as late as November 2015 deplored the MS' council representatives' "lack of proper understanding who is doing what by which means aiming at which specific objective....Furthermore, the EU's toolbox is vast".⁷² "As a result," wrote BRADY&PARKES, "decision-makers in Brussels find themselves having to pull together ever more of the EU's various policy communities at short notice. A jumbo Council meeting between interior and foreign ministers held in April 2015 was typical of the new drive for 'horizontal' coordination between the home affairs branch and the EU's diplomatic, CSDP and development branches."⁷³

Inconsistencies of Time and Scope

But more meetings alone are hardly sufficient. The coordination difficulties for CSDP and the external policies of the Community – from commercial policy to development and cooperation, also result from the important differences between these two types of policy. They are subject to different principles of direction, the Commission that typically works within legally fixed longer-term programs, the Council-based institutions which –in CSDP– normally have to work in time- and topic-frames set by crisis-management requirements. In many cases like that "CSDP is an important element and, at the same time, only one part of an overall and comprehensive approach".⁷⁴ How to render the first longer-term pre-defined program policies sometimes running in the same region as a CSDP mission, useful and helpful to the second often contingency-defined shorter-term operations in making Commission officials work closely and flexibly together with national officials in Council, that

⁷² DE/NL Food for Thought-Paper. Tapping the full potential of CSDP in the field of migration. 13 November 2015, reported by Statewatch

⁷³ B&P 50f.; for the intensified efforts of EU institutions see also European Commission/High Representative of the Union for Foreign and Security Affairs, SEC(2011) 560 final, 5 May 2011: Joint Staff Working Paper: Strengthening ties between CSDP and FSJ actors: Proposals for a way ahead (pdf)

⁷⁴ CHAUVEAU/GAYMARD (2015), p.70-71; citation from the 'food for thought' paper of November 2015

appears to be a challenging task not yet mastered to the satisfaction of Security Policy officials in the field, and experts.

Funding

Funding of Military CSDP missions also remains a problem. They only receive meagre 'Athena'-funding from the EU budget, whereas right next to them the civilian CSDP missions or mission components which are most all of them internal security-oriented are financed to 100% out of the EU budget. This difference is liable to create difficulties for putting linked missions together where both elements are used.

What are the Developments since 2014-15?

Have the Weaknesses been Addressed?

Whereas a very few years ago there was still cause to complain that in spite of ever more evident need in that direction, there was not enough involvement of FSJ policy in CSDP, and –perhaps– vice versa, this is no longer the case, argue BRADY&PARKES. Those complaints, they assert, “are for the most part, hangovers: legacies of the previous neglect of CSDP missions by EU home affairs agencies”

Since 2013/4, in their opinion, there are rather “questions ... about how far coordination between home affairs and CSDP should go.”⁷⁵ But the real question for the EU is “how to coordinate these two fields with broader trade, aid and diplomatic tools”.

The conclusions of the report will show that it agrees, to a large measure, with this judgment.

The Commission's 'New Internal Security Strategy 2015-20'

Have the institutional difficulties in the communication and cooperation between CSDP and JHA agencies really been largely overcome since 2013/4, as BRADY&PARKES maintain?

That can be verified in the year 2015 in looking at the Commission's attempt to formulate a successor text to the last formally adopted internal security agenda (the Stockholm Program, 2010-2014⁷⁶), and have it established as the new “Internal Security Strategy 2015-20”.

The Commission submitted a new Communication of 28 April 2015 on a “European Agenda on Security”⁷⁷. Its positions on the relationship between internal and external security policy are of special interest for this report.

The Agenda text speaks (p.4) in its fifth 'key principle' of “internal and external dimensions of security”.

It insists that “the EU response must ... be comprehensive and based on a coherent set of actions combining the internal and external dimensions” and “reinforce the links between JHA and CSDP”. As to the main challenges to prioritise, the Agenda chooses “terrorism, organised crime and cybercrime as interlinked areas with a strong cross-border dimension” (p.2). These are also fields which this re-

⁷⁵ BRADY&PARKES (2015), p.40

⁷⁶ EU(2010), “The Stockholm Programme — an Open and Secure Europe Serving and Protecting Citizens.” 2010 05 04

⁷⁷ Communication from the Commission – the European Agenda on Security, Strasbourg, 28.4.2015, COM(2015) 185 final http://ec.europa.eu/dgs/home-affairs/e-library/documents/basic-documents/docs/eu_agenda_on_security_en.pdf

port has identified as constitutive for the emergence of an important intersection between ISP and ESP, which is to be closer examined further on. The threat to the EU border system in consequence of criminal migrant smuggling is not (yet?) present.

Does the Agenda propose solutions for the important questions which these three priorities evoke? It does not do so explicitly. Only implicitly certain orientations are visible. It holds on to the separation between the two security policies with their respective rationales and with different sets of tools, which take care of the two dimensions or aspects of the (one) security of the EU. But it aims to do away with the administrative and institutional barriers between them.

In spite of the growing difficulty of making the difference between contingencies which require the employment of one or the other of the two approaches, the Commission (or all of the EUMS for that matter) does not appear to consider that as an issue of concern. There is no explicit effort to address that dilemma, and to decide on if and how to define the types of contingencies which would require a response by instruments and policies of internal or of external security, and especially the place of the military component of the latter.

Over and beyond this statement it pleads –in its fifth ‘key principle’– for maximising “the added value of existing policy dialogues on security conducted by the EU – and the linked EU financial instruments and activities”, especially in the European neighbourhood. And it demands an even more intensive collaboration with international organisations such as the UN, Council of Europe and Interpol, and to use the GCTF even “more actively” (p.5).

But it is true that all these suggestions and proposals only take up and push for the reinforcement of anterior and already ongoing policy developments. No political or institutional innovations are submitted. It is also true that the Commission has taken MS governments’ reticence against further integration steps in these fields into consideration and refrained from excessive ambition.⁷⁸

This is not different from the Agenda’s suggestions for the other fields of internal security policy, agency cooperation, information exchange and other operational cooperation: A better and more consequential implementation of existing tools and operational cooperation models, completion of ongoing political initiatives, punctual improvements in one or the other field.

An analogous kind of judgment can be taken away from the VALLETTA (2015) EU-Africa Action Plan. For all the ‘priority actions’ listed up in it and ordered under five ‘priority domains’, the overriding impression is that the EU’s proposals for linking development and migration issues in a manner apt to overcome the root causes of migration remain un-concrete and vague. Certain issues like the determinants of demography are not even discussed in that context. The only ‘domains’ where EU proposals are clearer concern the deepening of operational linking of security policies and the role of the EU’s security agencies.

The Council and the Parliament:

The Commission ended its communication by inviting the European Parliament and the Council to endorse this modest Agenda as the ‘renewed Internal Security Strategy’, with a view to the forthcoming European Council of June 2015 (p.21). That wish was not fulfilled. By mid-July –after the JHA-

⁷⁸ Interviews of the author, in the Commission in 2014-5

Council and European Council statements– the European Parliament in its turn passed its resolution of 9 July 2015 on the European Agenda on Security.⁷⁹ Instead of becoming the ‘renewed Internal Security Strategy’, the Agenda would only be considered as one important element beside Council- and EP- contributions, all together adding up to a composite ‘Strategy’.

The Council of ministers, in adopting the ‘Agenda’, invited “the European External Action Service and the Commission to take into account the renewed European Union Internal Security Strategy 2015-2020 and other policy documents relevant to the field of the European Union internal security in the external relations, humanitarian and development policies.”

General

Even though the Member States have shown reservations vis-à-vis a simple endorsement of the Commission’s ‘Agenda’ as their renewed strategy of internal security, they remain conscious of the link between the internal and external security issues which the Commission underlined and support the proposal it made in consequence: even more explicit mainstreaming of internal security issues into the EU’s handling of its foreign, security and defence issues.

But many of the important weaknesses of ISP institutions and procedures that were discussed further up continue to hamper effective linking between EU internal and external security policies. Advances appear to be only planned for few selected points.

For instance the information exchange issue concerning MS’ individual international cooperation efforts is considered an important lacuna. In the EEAS and in the Commission this lacuna is known and options for improvement are debated. One such option is to have an intelligence officer in every EEAS embassy in third countries with the explicit competence of finding out about the different MS activities in the respective country and setting up an up-to-date list of them as a base for designing the EU approach⁸⁰.

But this step has not yet been taken. And as the preceding paragraphs have already said, these are no tangible improvements in a broader sense. The EU-MS utilise their cooperation in Council to remind each other of new priorities, they admonish each other to pay more attention to certain issues. Implementation of UNSC resolutions, linked inward from the global level, appears to be the only kind of action by which they regularly succeed in creating new binding legal texts.⁸¹

As to the important issue of time and scope inconsistencies between CSDP and the external policies of the Community, no tangible further advance has been achieved since the end of 2015.

Operational Linking and Leveraged Policies

The often demanded “mainstreaming of the objectives of internal security policy into the EU’s relations with third countries”, i.e. EU operational linking with the objective of its partner states helping to keep organised crime, terrorists or migrants away from the EU, is carried out in leveraging other

⁷⁹ Commission ‘Agenda’ 28.4.2015, COM(2015) 185 final; JHA Council 16.6.2015, PR CO 32.; European Parliament resolution 9.7.2015 2015/2697(RSP) ; European Council, EUCO 22/15, 26 June 2015

⁸⁰ Interviews of author in EEAS December 2015

⁸¹ One old example: “the first international regulation of migrant smuggling came in the form of a protocol to the UN Convention on Transnational Organized Crime (CATOC) in 2000”. Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the UN Convention on Transnational Organized Crime (Palermo, 15.November 2000, entered into force 28 January 2004, cited in IPPOLITO&TREVISANUT, Eds.(2015),Migration in the Mediterranean : Mechanisms of Cooperation, Cambridge University Press, Introduction, p.9

policies vis-à-vis these states, principally concerning their relations of trade, development aid and legal mobility with the Union.

Effective as this leveraging has proved to be, there is a “real question for the EU” in trying to ‘main-stream’ its understanding and its demands concerning the security issue ever more frequently and urgently, into all negotiations about “broader trade and aid”⁸², especially with weaker partners in the south.

The first obvious risk of that kind of dealing is that in the end the EU’s policies of aid, trade and mobility in the south could in a certain measure become –to put it perhaps too bluntly– adapted to the partner countries’ elites’ political preferences, in exchange for them to adapt their internal security policies to the EU’s preferences. Those EU policies might then be seen, by local opposition elites and beyond, to be partisan and more destined to support the incumbent rulers than the development or economic growth of their country. The EU’s credibility and the effectiveness of its development policy would suffer, resistance against this kind of aid could grow in the recipient country.

Equally, the Non-Governmental Organisations NGO which very regularly assume the implementation of the EU/MS’ specific development and aid projects⁸³ and which depend for their safety and the effectiveness of their work on a non-partisan reputation among the local population and elites, may thus be cast as de-facto partisan actors and exposed to political risks, or worse. This, together with their concern about an increasing security bias of the development and aid projects themselves, often feeds NGOs’ reserves against these leveraging strategies.⁸⁴

This is one reason more which constrains the EU to walk a fine line in instrumentalising its Home Affairs diplomacy for more security, and preserving its credibility as international development and aid actor at the same time.

Terrorism, and Challenges to the EU Border System, and EU Reactions in 2014-15

The two major developments of 2015 encompassing security risks to EU Member States at the internal and simultaneously at the external front were the terrorist challenge of foreign fighters brought home by the January and the November attacks in Paris, and the challenge to border security and the EU’s border regime constituted by the smuggler-fed, irregular mass immigration from the south and the south-east.

While the EU’s and its MS’ security chiefs were still trying to improve the safeguards vis-à-vis future foreign-fighters attacks on EU territory in spring 2015, developments at the second front of external/internal security affairs started to accelerate: The trans-Mediterranean inflow of African and Arab migrants to Europe, with its sinister collateral of deadly accidents at sea, resulting over the months in thousands of deaths by drowning.

One aspect of this development is of special interest to this report, i.e. the differences and similarities between the EU’s (and MS’) reactions to the border challenge, at the western route, between

⁸² BRADY&PARKES (2015), p.40

⁸³ ABIEW&KEATING (2006), Defining a Role for Civil Society: Humanitarian NGOs and Peacebuilding Operations, p.101

⁸⁴ For Humanitarian aid of the German NGOs’ association Venro, in a position paper of May 2003 : Armed Forces as Humanitarian Aid Workers ? http://www.venro.org/fileadmin/Publikationen/Einzelveroeffentlichungen/Humanitaere_Hilfe/Position%20Paper%20Armed%20Forces%20and%20Humanitarian%20A.PDF. Cf. also <https://dansmithsblog.com/2013/03/22/development-aid-and-peacekeeping-what-can-the-money-be-spent-on/> by SMITH, Dan; cf. also ABIEW&KEATING (2006), Defining a Role for Civil Society: Humanitarian NGOs and Peacebuilding Operations, p.109

Libya-Tunisia and Italy, and on to the north, and at the eastern route, between Turkey and Greece, and on to the north-west, via the Balkans.

Do the evolving political and institutional reactions of the EU and its MS demonstrate an evolution towards a more coordinated or more integrated handling of this border challenge, in the frame of a new immigration policy of the EU?

Counterterrorism: Post-Charlie Hebdo Accents Set by Foreign Ministers

The external Aspects of terrorism – Foreign Affairs Council (19 January and 9 February 2015)

The Ministers of Foreign Affairs discussed the issue of counterterrorism at the Foreign Affairs Council meeting on 19 January and agreed on the following priority actions: ⁸⁵

1. strengthening engagement with third countries, in particular with Arab and Mediterranean countries, on security and counterterrorism;
2. swift implementation of the counterterrorism/ foreign terrorist fighters strategy to have security attachés in the EU delegations in the relevant countries and the possibility for the High Representative to have an Arabic speaking spokesperson in her team.

These points were to be deepened by the Ministers of Foreign Affairs on 9 February.

The hesitant Quest for additional Enablers

When the EU Foreign Affairs Council in 2015 reacted to terrorist events, once in February and again in November, the distribution of competences deplored by MONAR and BRADY&PARKES had thus not changed. But the additional tasks which the Council gave the Union appeared to presuppose additional competences –enablers– as well. Would the Union make an effort in that sense? In fact it did not: all in recalling attention to this external–internal link, the Council even took pains to re-confirm the EU-MS' national responsibility for counterterrorism.

For their common effort of external engagement and outreach the EU-MS accepted only a certain geographic extension of the priority regions, especially to countries in the Middle East, North Africa, the Sahel and the Gulf. And they admonished each other to improve their “coordination between internal and external action on the one hand, and between relevant EU actors and EU Member States on the other”. MS must “put more emphasis on the prevention of terrorism” at home, “in particular countering radicalisation, on recruitment, equipment and financing of terrorism, and address underlying factors” abroad, “such as conflict, poverty, proliferation of arms and state fragility that provide opportunities for terrorist groups to flourish.”⁸⁶

And even in April 2016, an EU-MS like Germany could still officially declare its continued refusal to share sensitive counterterrorism information among the EU-MS, specifically citing the new Europol Counterterrorism Center⁸⁷.

⁸⁵ Council of EU JHA presidency EU, "Strategic Agenda - Union of Freedom, Security and Justice - Fight against Terrorism = Stock Taking of Actions and Way Forward. Presidency to Coreper and Council," (2015 02 03), p.5.

⁸⁶ EU, "Outcome of the Council Meeting." 09.02.2015, p.6

⁸⁷ Deutschlandfunk April 4, 2016, citing the German federal minister of the Interior

The increasing Importance of Internal Security Issues in CSDP

Meanwhile, the biggest military CSDP missions are conducted not with a military (or hybrid) adversary, but with extra-European criminal gangs in mind, as Somalian pirates (Atalanta) or Libyan people smugglers (Sophia), whom the EU Member States want to apprehend, the business model of whom they want to destroy, by the action of their navies. Many other missions are initiated with the argument that they ostensibly protect the EU Member States' internal security, by tackling—for instance—the root causes of terrorism or of migration in Africa's Mediterranean coastal states, Sahel Zone or further south.

In the past this may have been done to better 'sell' these missions to participating EU Member States' decision-makers or the reticent public.⁸⁸ But in fact, in 2014/15 the majority of the ongoing missions already have exactly that as their principal or secondary objective. Germany strongly supports these types of CSDP-missions.⁸⁹ And they are likely to increase in number.

Operational Linking of EU and EUMS' Internal Security Policy: Migration and Security Challenges in the Central Mediterranean

The challenges to the EU's external border system from 2014, marked by a transition of the principal pressure from the western Mediterranean migrant smuggling route between Libya and Italy to the eastern Mediterranean one serving the rapidly swelling refugee movement from Syria's and Iraq's civil wars, between Turkey and Greece, also constituted a major development of the security policies' *dynamic interdependence*, larger and more consequential than any other since 1989.

The first principal jumping-off point for Africans' travel to Europe by sea had been Libya. Libya's emergence in that role dates from the late 1990s⁹⁰. Then, in a first bout of intensive operational linking by EUMS and later the EU, "during the 2000s, Libya started to cooperate with European countries over irregular migration" and simultaneously to expulse large numbers of Africans each year. "After years of an open door policy, in 2007 Libya imposed visas on both Arabs and Africans and" turned "an unknown number of immigrants into 'irregulars' overnight".⁹¹

The main bilateral partner from the EU became Italy—in 2008, it signed a "Friendship Pact" with Libya—followed by France, both MS concluding agreements with Gaddafi, in the first decade after the turn of the century, on cooperation against irregular migration. Italy added a readmission agreement and joint patrolling of maritime borders in order to reduce irregular migration. That cooperation already included the return of boats intercepted on international waters (or so-called 'pushed-backs'), declared illegal by the European Court of Human Rights in February 2012 and since discontinued⁹². As for the EU, it did not have formal legal relations with Libya, but had begun technical ad-hoc cooperation with Libya from 2005, a cooperation which Frontex joined in 2007. Its MS began to sell equipment for border surveillance to Libya and give financial support mainly for measures in migra-

⁸⁸ Interview with a high official of the EEAS' CMPD in June 2015; cf. also very explicitly GNESOTTO, in: FRANCE, Assemblée Nationale (2015), p.14

⁸⁹ By the count of this author, among the 17 CSDP missions of the end of 2015, 10 have border management, internal security sector reform, police training, coast-guard management etc. as their principal objective. Cf. also KEMPIN, Ronja(2015), From reluctance to policy, who underlines the increasing proportion of this kind of missions.

⁹⁰ Cf. for the citation AMOOD, Sara (2008), EU-Libya Cooperation on Migration: A Raw Deal for Refugees and Migrants? In: Journal of Refugee Studies (2008) 21 (1): 19-42, p.19; and for the early years of transit migration via Libya cf. MIGRATION POLICY CENTRE (2013), MPC - Migration Profile : Libya, European University Institute, Robert Schuman Centre for Advanced Studies, June 2013, p.1, http://www.migrationpolicycentre.eu/docs/migration_profiles/Libya.pdf

⁹¹ Ibid.

⁹² MIGRATION POLICY CENTRE (2013), p.1 and 7-8

tion control. For Italy and for the EU, Gaddafi's Libya had proved to be a very willing and effective partner to staunch the migration flow from its shores to Italy.⁹³

"Libya's Transitional National Council, the ruling entity after the overthrow of Gaddafi, reaffirmed the Pact (with Italy) in December 2011".and "in April 2012 Italy-Libya migration cooperation was reinforced with an agreement on training programs, the detention of migrants, and voluntary return programs."⁹⁴

Two years later, the country had descended into protracted civil war and there was no longer any governmental partner who was competent and able to engage and take action in these issues.

In 2014-15 the border surveillance and control issue on the EU's whole Mediterranean coastline has gained very large additional security relevance due to the further increasing irregular immigration pressure upon the EU external border regime, of civil war refugees from Eritrea, Iraq and Afghanistan, but most of all from Syria. This pressure continues to be greatly augmented by organised crime: criminal smugglers. In addition, there is also the threat of returning foreign fighters.

The EU external border regime forces the external-border states to assume the border control on behalf of the entire EU, including a costly and potentially long-term obligation to give protection to all asylum-seekers by virtue of 'Dublin'. And it obliges all 'Schengen' Member States⁹⁵ to grant control-free travel across their borders.

The participating states retain the legal competence and material assets to control and even block border crossings, and they are not bound by a common and mandatory immigration policy.

When faced with an *externally* determined immigration wave, especially one coming only from one direction and affecting only one or two external border-states, these remaining competences and capacities permit the MS to take potentially very divisive measures.

EUFORNAVMed

The key importance of the Libya-Italy migration route has been highlighted previously. Since Gaddafi's demise and given the absence of an effective successor government, the EU has since spring 2015 already considered utilising military instruments of CSDP to repress the activity of Libyan migrant smugglers.. After renewed Italian initiatives in that direction and following up on the European Council's statement of April 23⁹⁶, Operation EUNAVFORMed "was established by the EU Council on 18 May 2015⁹⁷..... The operation's mandate is to contribute to the 'disruption of the business model of human smuggling and trafficking networks in the Southern Central Mediterranean" by "efforts to identify, capture and dispose of vessels used or suspected of being used by smugglers" and to arrest the smugglers themselves. Given that the concept involved the search of and use of force against hypothetical law-breakers on the High Seas, a mandate of the UNSC was needed.

The operation is supposed to last one year after having reached its full operational capability, i.e. until July 2016, and may well continue longer. It is composed of approximately eight warships,

⁹³ BOSSE, G. (2013), p.92

⁹⁴ Ibid.

⁹⁵ Not to mention those arriving by air

⁹⁶ EU, European Council, Special Meeting, Statement, <http://www.consilium.europa.eu/en/press/press-releases/2015/04/23-special-euco-statement/>

⁹⁷ TARDY, Thierry (2015), Operation Sophia; Tackling the refugee crisis with military means, in: ISS Brief 30(September)2015, http://www.iss.europa.eu/uploads/media/Brief_30_Operation_Sophia.pdf, p.1

together with air and intelligence gathering assets. After a first phase consisting of gathering information on the human trafficking networks, in October 2015 EUNAVFORMed entered its second and operational phase called 'Sophia', aimed at actions against the smugglers - boarding and seizing the high seas vessels suspected of being used for human smuggling and trafficking. The thousands of migrants rescued in the course of the operation are transported to Southern Italy and registered. They await their re-location there, in Italian hot-spots. A flanking project was agreed by France, Italy and the UK to set up an intelligence cell in Sicily to probe people-smuggling networks.⁹⁸

A third phase is planned for extending these actions to Libya's waters and territory. But its start will be conditional on another UNSC resolution or on Libyan consent. And it is liable to provoke a much more controversial debate.

Transition between phases is decided by the Political and Security Committee following a request by the Operation Commander. The Operational Headquarters – in charge of both planning and command – are located in Rome, under the lead of Italian Rear Admiral Enrico Credendino.⁹⁹

National interests in EUNAVFORMed

A Leader-Member State was necessary for assembling the coalition to get EUNAVFORMed going. Given Italy's vital persisting interest in limiting the migrant movement from Libya, and its naval assets, it assumed that role and the leadership of the required naval force. The two European UNSC veto powers France and the UK shared the Italian interest in reducing the flow on the Central Mediterranean Route. The fact that the HR/VP succeeded in getting the EU MS' agreement to this kind of project is testimony to the pressure under which policymakers of certain MS see themselves to be.

Italy

Cooperation between Italy and Libya continues.¹⁰⁰ In spring 2015, with refugee numbers having multiplied and search and rescue operations between Libya and Italy not leading to any reduction, and with the EU refusing to aid Italy financially to feed, house and integrate the refugees, Italy started asking for a military solution to the problem.

By early 2016, the Italian government had again grown extremely concerned by the short/medium term perspectives of migrant smuggling to Italian shores after the closure of the Western Balkans Route. It wants the EU to help find a solution to the violent chaos now gripping Libya. One of the options is a joint intervention in Libya under Italian leadership. Another one perhaps connected to the first would be the conclusion of an agreement with the new national unity government to take up Gaddafi's role as effective gate-keeper against the migrant stream transiting across Libya.¹⁰¹

The UK

"Britain drafted the UN security council resolution that would authorise the mission, It would come under Italian command, have the participation of around 10 EU countries, including Britain,

⁹⁸ <http://migrantreport.org/eu-launches-naval-operation-to-stop-traffickers-off-libya/>. Ibid., It is this second phase only which the UNSC resolution S/RES/2240 (2015) of 9 October authorised with the votes of all members except Venezuela.

⁹⁹ TARDY (2015), Operation Sophia

¹⁰⁰ <http://news.nationalgeographic.com/news/special-features/2014/10/141031-italy-immigration-crisis-human-trafficking/>, accessed on 10.10.2015.

¹⁰¹ <http://www.ft.com/intl/cms/s/0/9d8c629ee22911e596b79f778349aba2.html#axzz44xod8D6V>

France, Spain, and Italy.”¹⁰² London is massively opposed to accepting a more balanced distribution of asylum seekers among the EU MS which would mean a larger share for the UK. The conservative government has made a prominent election promise of the prevention of additional immigration.

France and Spain

France and Spain, being among the first destinations in their turn, share this objective which is after all supported by official non-military EU cooperation policy with North African and Arab countries in the context of the so-called migration and mobility partnerships. In these bilateral partnerships different EU MS will be interested differently in cooperation (for Morocco these were, for instance, the Netherlands, France and Spain)¹⁰³. Greece is in an analogous situation for another large part of the Arab and of African asylum seekers.

Practically, this nexus also implies closer cooperation between the military operation and FSJ agencies such as EUROPOL or FRONTEX (including the latter’s own operation Triton which is active off the Italian coast). In other words, the internal/external security nexus also generates civilian-military interaction.

Migrations and Security Challenges in the Eastern Mediterranean

In 2015 the EU border-related external-internal nexus of EU security was dramatically underlined by the migration surge on a new front: in the Eastern Mediterranean. Syrian war refugees and other migrants, having fled and travelled to Turkey prior to this, now started to depart in very large numbers towards Western Europe via the Aegean Sea and Greece, and then the West Balkans route. Immigration into the EU reached well over one million in 2015, after 627000 in 2014, with almost 80% now entering on the Aegean route and only the rest taking the Central Mediterranean route via Italy.

The MS-of-first-arrival, Greece and Italy, unwilling and unable to assume their obligation

In consequence, Greece joined Italy in the role of concerned external border-state. Both did manage to escape their obligation of giving protection by passing the major part of the migrants on to their EU/Schengen-neighbours across the open borders. And these to prevent the stream from entering, or remaining on their own territory, are tempted to violate Schengen or Dublin, i.e. erect new barriers or to wave it through. The EU being in its turn deeply engaged in its MS’ border control via the Schengen system and the Dublin rules, this amounts to a grave challenge to the Union’s internal-external security policy as well.

In spite of initial warnings from the European Court of Human Rights ECHR and from UNHCR more than seven years ago, Greece did not adapt its international protection capacities to the norms of the UN or the Common European Asylum System (CEAS)¹⁰⁴, and the Union proved unable to enforce compliance. Greece thus remained unprepared for the immigration surge of 2015 and, weakly developed in its eastern part, and since 2010 in the throes of its financial and fiscal crisis and under the fiscal control of the troika, was unable to establish the necessary administrative and material

¹⁰² Cf. The Guardian 10.05.2015 <http://www.theguardian.com/world/2015/may/10/eu-considers-military-attacks-on-targets-in-libya-to-stop-migrant-boats>

¹⁰³ “Emigration from Morocco was mainly directed towards France, Belgium and the Netherlands”, in: eu neighbourhood migration report 2013 - morocco, http://www.migrationpolicycentre.eu/docs/migration_profiles/Morocco.pdf.

¹⁰⁴ The CEAS comprised several legislative measures harmonising common minimum standards for asylum, adopted between 1999 and 2005,

structures on short notice.

On the West Balkan route the next EU-Schengen-MS for the new arrivals –after they passed through Macedonia and Serbia– were Hungary in the north, and Slovenia in the north-west. Given the ECHR interdiction to re-transfer to Greece and the Greek praxis to wave migrants quickly through, they could certainly feel unfairly pushed into the role of first Schengen arrival state and accused the non-compliance of Greece with Schengen-Dublin standards of asylum admission.

In addition the overwhelming majority of these refugees/migrants does not want to remain and enter into lengthy procedures in Greece, neither do they want to be redistributed from Greek ‘hot-spots’ to destinations not of their own choice.

In sum, these facts show that the Syrian refugee drama has aggravated the situation on the Schengen borders and of the Schengen/Dublin system. But grave deficiencies had existed and already been permitted to persist years before.

The continued functioning of the EU’s Schengen/Dublin system depends on all Member States accepting the common norms of entry to Schengen-Land and of claims to protection, and their implementation at the external border. Only then will they keep internal borders open for free movement. Since autumn 2015 this condition is no longer fulfilled in the EU.

Hungary, Croatia, Slovenia, Austria and other EU-MS have meanwhile erected fences to channel and stanch further refugee inflow from the preceding countries on the refugee route, or have re-introduced border controls, like for instance Germany and France.

In consequence, in winter 2015-16, the freedom of movement of people across internal borders inside the EU, one of the four freedoms at the basis of European integration, ended for the time being. It will only recommence when all MS once again accept the immigration policy practiced at the EU’s external border vis-à-vis entry and immigration of third-country nationals into the Schengen space.

Up to spring 2016, Member States have not been able to attain a consensus on that, due to their inability to decide on clearly more restrictive entry norms to the EU for all comers to reduce their numbers, says one group of governments, or because of their inability to decide on an equitable and reliable distribution of the recognised protection claimants arriving in the EU at status-quo norms, say the others.

This has been the **internal part** of irregular mass migration’s challenge to the EU’s external border system. Can operational linking with an external partner once again help to de-block this EU-internal deadlock?

The Crisis of a Policy of Overlap and Operational Linking

The EU-Turkey Compromise of 2016:

Finally, far from the level of intended policy-linking by decision-makers, there is the level of unintended and powerful ‘functional’ linkage of the internal and the external security issues by virtue of the EU-policies’ intrinsic legal-institutional rationale.

The Schengen/Dublin external border regime constitutes an example for how powerfully that link can actually function in stress situations. The irregular migration push of 2014-15 constituted the external challenge leading in direct consequence to grave internal malfunctions of that EU security regime, and to the risk of its complete collapse.

The link between challenge and malfunctions is that regime's internal legal-institutional setup - a setup that delivers highly attractive results in terms of internal freedom of movement for all, but which is not sufficiently safeguarded against external shocks. In consequence many MS governments oppose what they call excessive openness of the EU to protection seekers, and even more do not accept their fair share in an equitable distribution of those who arrive within the EU.

It is in this situation of deadlock among EUMS that the compromise with Turkey became a possible solution for both sides in the EU. The more permissive governments could officially uphold their approach. But the more restrictive governments could also accept a more permissive EU discourse, given that 'excessive' immigration promised to come to an end. Internal borders might even open again.

The agreement with Turkey promised to function in four principal steps:¹⁰⁵

- First, Turkey promises to deprive migrants of the option of smuggler services by exercising more effective repression against the latter on its western shores.
- Second, it promises to take back in an expedient and regular manner those migrants who still find irregular passage from Turkey to Greece. In effect, it thus forces them into formal protection-seeking procedures in Turkey.¹⁰⁶
- Third, Turkey promises to assume the first registration, accommodation and monitoring of protection seekers and the resulting financial, bureaucratic and political 'handling'-cost, for which the EU compensates it with three billion euros (=3000 millions) annually.
- And fourth, Turkey may regularly relocate to the EU a number of Syrian protection-seekers equivalent to the number of Syrians re-accepted from Greece and provides the necessary administrative facilities for this ordered emigration to the EU. In addition to that number, a maximum of approximately 70000 could eventually be taken from Turkey in the year 2016.

Even with these expected advantages in the end for the scheme to function, EUMS must reach a consensus about the accepted levels of future immigration of protection seekers, and about distributing them and the cost of welcoming them among themselves. The resulting scheme must combine expediency and credibility, given the concentration of arrivals and the resulting social tensions in very few southern European venues.

Seen in a positive vein, this scheme could ease the learning process for the new immigration consensus with all EUMS in the end accepting more immigration and dealing with it in equitable and constructive manner. Thus, a functioning EU-immigration scheme could after all be reached.

In a negative vein, this scheme would rather enable many EUMS to hold on to their restrictive positions at once in their national entry rules for refugees and concerning the EU's openness for protection seekers, all in agreeing to the removal of some of the new internal border barriers.

On the one hand, this compromise confirms the failure of the EU's Home Affairs diplomacy in one of its two most important objectives, namely disrupt migrant smuggling and keep irregular migration at a distance of the EU's borders (the other one is to avert Islamist terror). A failure confirmed by the smuggler-led onslaught of over one million irregular migrants on EU borders in just the one year of

¹⁰⁵ <https://www.theguardian.com/world/2016/mar/08/eu-turkey-refugee-deal-qa>, cf. also <http://www.zeit.de/politik/2015-11/europaeische-union-gipfel-tuerkei-zusammenarbeit-fluechtlinge>; <http://www.zeit.de/politik/ausland/2016-03/fluechtlingsgipfel-bruessel-fluechtlinge-tuerkei-eu-abkommen>,

¹⁰⁶ Cf. EU European Commission (2015), EU-Turkey Joint Action Plan – Fact Sheet, October 15, 2015, http://europa.eu/rapid/press-release_MEMO-15-5860_en.htm; EU, European Council (2016), EU-Turkey statement, 18 March 2016 <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/>; also EU Council (2016), Timeline - response to migratory pressures, <http://www.consilium.europa.eu/en/policies/migratory-presses/history-migratory-presses/>

2015 after dramatic increases already since 2013. More than a decade of Border Management Agreements and Mobility Partnerships has possibly reduced the pressure of migration somewhat, but certainly not mitigated its root causes nor blocked its transmission belts.

On the other hand, this compromise has appeared to open the door to a new and more ambitious project of Home Affairs Diplomacy, i.e. a re-edition of the EU-Italy-Gaddafi deal with Turkey as an external partner. This deal would in its turn serve as a model for a new system of dealing with the **external part** of the challenge which the large-scale and long-term criminal smuggling of irregular migrants across the Mediterranean constitutes for the EU's external border system. Sustained and further-reaching cooperation with countries of origin and transit would permit the regulation and reduction of that kind of challenge in one comprehensive approach. Again there has been a principal interested Member State actor pushing for this solution and preparing it with the Turkish government: Germany. Its government stood under enormous pressure –internally and externally– to make the effort for finding this solution and the EU-consensus for it: Hold on to a permissive discourse, cut down smuggler's business activity, and the deadly risk for migrants, and simultaneously and perceptibly reduce the size of their entry door to the EU. The Italian government has already asked the Union to consider similar agreements with the countries on the Adriatic Route¹⁰⁷, but also on the African emigration route feeding the Central Mediterranean Route from Libya to Italy.

Dimensions of the Challenge

The migration issue, dramatically augmented by very large-scale organised criminal smuggling in 2014-15, does give a massive impetus to the security policies of the EU-MS and the EU itself, on each one of the three fronts which this report addresses: internal security, external security and the overlap of the two in an ever-expanding field of external-internal security policy. How the political content of this impetus will look and in which direction it will push the EU's security policies, (and with which consequences for the future EU), whether it be an internal EU-solution or rather one of searching external Gaddafi- and Turkey-compromise type solutions, remains as yet to be seen. Probably it will have to be a combination.

On the one side the migration inflow will continue to push. How long will it push? How many? Where from? One short/medium-term part of the answer is given by the perspectives of war and peace on the Arabian Peninsula and in North Africa. But the longer-term part of the answer is given by the demographics and the labour markets of Europe's southern neighbours. From 360 million in 2010 the population of Arab countries is set to grow to around 650 million by 2050, more than the entire EU's population. Given the dramatic lack of employment in those countries¹⁰⁸ the emigration of young people will increase and the first destination for most of them is bound to be Europe.

But central and sub-Saharan Africa holds still higher migration potential. It has a higher fertility rate, in fact the highest in the world,¹⁰⁹ and the fewest jobs to offer to its fast growing young population.

¹⁰⁷ RENZI, Matteo (2016), cf. La Repubblica of March 18, 2016

¹⁰⁸ Cf. CLAWSON, Patrick (2009), Demography in the Middle East, in : The Washington Institute For Near East Policy, March 2009, <http://www.washingtoninstitute.org/policy-analysis/view/demography-in-the-middle-east-population-growth-slowing-womens-situation-un>

¹⁰⁹ SIPPEL, Lilli & Tanja Kiziak, Franziska Woellert, Reiner Klingholz (2011), Africa's Demographic Challenges, Berlin Institute for Population and Development, http://www.berlin-institut.org/fileadmin/user_upload/Afrika/Africas_demographic_challenges.pdf

“Of the 48 least developed countries in the world, 33 are located in this part of Africa”.¹¹⁰ “In projections to 2030, the African population is expected to peak at 1.6 billion”¹¹¹ of which approximately 430 million will be between 15 and 29 years of age, over-proportionately concentrated in those same least developed countries.

This scenario does not yet include projections on the issue of water supply and the consequences of climate change. Even if only a fraction of these numbers chooses emigration to Europe because most will migrate to neighbouring states, these data taken together are an excellent recipe for rapidly growing Arab and African emigration pressure on Europe in the coming years.

No doubt that these developments will challenge the resilience of the EU’s external border system – an important pillar of its internal security– even more than in recent years. The large role of organised crime networks of migrant smugglers who facilitate this flow will exacerbate the challenge. The political demand for proper responses will strongly increase in the coming decade.

The dynamic *interdependence of the* EU’s external and internal security policies is therefore bound to be further challenged in future, with agonising choices to be made.

Then the only manner of definitely reducing the persisting internal tensions could well be –in the opinion of the concerned EUMS decision-makers– an open and effective increase of EU entry-restrictions against protection-seekers. Seen from the perspective of spring 2016, the onset of that turnaround could come when Italian authorities will not any more accept the EU’s unkept promise of redistributing the migrants filling the country’s hotspots, and try to wave them on to France and Austria. But with Ventimiglia quasi-closed to migrants already, and the Austrians explicitly set to close the Brenner at the first sign of a re-newed migrant inflow, Italy might even renounce to that attempt. Its government could then see itself pushed to take new and dramatic steps to prevent refugees from reaching its territory by way of the Central Mediterranean route. Given the geographic realities, many thousands of additional deaths in the Mediterranean could well be the precondition for that strategy to succeed.

¹¹⁰ Ibid, p.6

¹¹¹ MUBILA, Maurice (2012), Africa’s Demographic Trends, Briefing Note 4, African Development Bank Group, Briefing Notes for AfDB’s Long-Term Strategy, pp. 1 and 6

Conclusions

The Dynamic Interdependence of the EU's External and Internal Security Policies

Interdependence of external and internal security policies has rapidly developed under the pressure of liberalisation and globalisation in the EU's open societies. EU internal security governance failures vis-à-vis challenges from outside have contributed to operational linking, in effect strengthening the external security policy.

That kind of internal security governance insufficiency has made itself felt in an especially dramatic manner during the recent terrorist attacks of 2015-16. In another field, the security of the EU's external borders, a similar insufficiency has become very evident during the migrant crisis since 2014, to the point of seriously damaging a central achievement of integration: the free movement of persons within the Union. In both cases, EUMS have not permitted EU internal security policy cooperation to realise its full potential.

The less the Union is able and willing to adapt its internal security policy structures to the changing character of the foreign challenges, the more interdependence pushes it to employ operational linking by its foreign and security policy to search adaptation from its external partners to keep those challenges at a distance.

This effect of interdependence is bound to increase further since 2015 driven most of all by the wish of holding potential irregular migrants from the Arabian Peninsula and from Africa inside their regions of origin and preventing them from challenging the EU's border system. Helping to end the civil wars in Syria, Iraq, Yemen and Libya with the instruments of CSDP may be useful, but does as yet not appear feasible. Capacity building does move ahead, with insufficient results. The vastly more important longer-term root causes in large parts of Africa have indeed been in the political focus for years already. The Valletta EU-Africa summit of November 2015 was a result. But the concepts it proposed remained vague and incomplete and first implementation measures still remain very preliminary.

The Development of Overlap and Operational Linking

Operational linking has begun since the ENP's creation in 2005, with EU intervention in the context of ENP and Home Affairs Diplomacy including civilian CSDP missions, and in EU international law-enforcement cooperation, with a heavy emphasis on modern methods of information management, exchange, exploitation for law enforcement. Action on the drug routes, border security and security forces training vis-à-vis Organised Crime stood in the foreground.

EU security agencies Europol, Frontex and Eurojust, together with MS authorities, are the principal actors within these formats. In linking CSDP and internal security policy, EU military missions have as well been used for instance to prevent causes of population displacements by civil wars.

A striking tendency has been that military CSDP missions with that objective are mainly and increasingly deployed in or vis-à-vis weak or failing states in Africa, whereas the civilian format was mainly used vis-à-vis functioning states in Europe, the Near Eastern region and beyond.

With the massed challenge of organised migrant smuggling against the EU's external border system from 2014 and the EU's persisting inability to find a common response, and its disunity starting to break up its freedom of movement inside the EU, operational linking concentrating on border control and police cooperation in the EU neighbourhood has run into crisis. More complex cooperation, strategies involving more political fields, with a broader array of incentives and creating more interdependencies became necessary. A new level of diplomatic and military intensity has been

reached, new institutional instruments as the Turkey-EU agreement were created, but primarily concentrating on organised migrant smuggling.

In comparison, anti-terror operational linking seems to remain an affair of national actors.

That is what we have been witnessing since 2015. In the longer term, the EU's pressure on external partners to accept a new and more complex kind of operational linking will probably still increase further, compensating for EU internal governance insufficiencies or failures, or for structural divergence driven by demography and economic crisis.

That pressure may well lead to tensions with those partners who see the EU threatening their own internal balance of power and their security, and their resistance may well increase. That resistance need not go as far as Al Qaeda or Da'esh or other radical Islamist sponsored terror against targets inside the EU, even though that scenario is not hypothetical. Recent examples are at hand for cases linked to the US-led interventions in Iraq and Syria, and the participation of certain EUMS like the UK, Spain and France (to which Islamist and Da'esh attackers have explicitly referred in the last years).

But already a number of blatant setbacks of complex operational linking projects like the older Gaddafi, or the Turkish one would suffice to provoke the question whether the EUMS should further increase their pressure on external partners or rather accept to 'link back'. Negative experiences with CFSP/CSDP cooperation on extra-EU territory could thus give the EUMS more cause to come to terms with the issue of how to strengthen EU internal security policy Europeanisation after all.

The Rapprochement of Internal and External Security Policy

The very concept of 'comprehensive approach' does prescribe an increasing element of FSJ operational linking even for the CSDP's military missions. When looking at interdependence and operational linking between Internal and External Security Policy, do we for all that witness a dissolution of specific internal and external security policies with their respective rationales in one new and comprehensive security policy with a comprehensive rationale, a comprehensive decision-making and implementation structure?

Or is it the preservation of these separate internal and external security policies with their respective rationales, but doing away, at EU level, with the administrative and institutional barriers between them? And advancing toward an EU security policies structure, where EU decision-makers can turn to the one or the other according to the changing challenge they confront, for instance in operational linking vis-à-vis extra-European partner states, to better reach the respective main objective?

Research and documents dealing with this issue and seen by the author seem to point to the second option, i.e. that Member States and EU institutions tend towards the preservation of two different policies, while further reducing the institutional barriers between the two which hinder an effective and efficient cooperation of the one with the other.¹¹²

Finally, concerning the instruments: Here too, there is apparently no merging of police/judicial/crime related instruments on the one hand, and military/war related ones on the other to be expected in the foreseeable future. With one important exception, the instruments giving information and intelligence about the security issue in question, and permitting its exchange: A strong current runs in favour, among practitioners and analysts, of creating a unified EU-wide communications architec-

¹¹² Cf. among others, the discussion in ZANDEE, "Europe's Security Upside Down."

ture for the respective existing databases and networks, and of giving the EU's law enforcement authorities and CDFP actors unified access. The privileged place of that field of cooperation is evident also in operational linking in external partner countries.

Evidently, this access needs to be scaled, according to the protection rights due to the data proprietors, and the need to know conceded to the respective types of authority/ institution. But within a unified architecture with less vertical segmentation the potential utility of these data for security policies would clearly be substantially improved. Even so, until 2016 national intelligence authorities have kept their most sensitive information about the national terrorist threat secret even vis-à-vis their peers in other Member States, except for certain trusted partners. But in spite of those lacunae, a tangible contribution to deeper security cooperation can be expected from that development.

The Treaty art.43§1, (six years after 9/11) itself constitutes part of this confluence in stating that CS-DP 'may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories'. That can also be said of numerous recent security policy initiatives originating in internal or external security issues, and it poses a number of important deontological, institutional and organisational questions and challenges to the EUMS' established structures.

How Do EUMS differentiate between the two security policies and their application?

Further up a number of criteria was suggested which might permit the attribution of a given contingency to one of the two security policies: (1) the declared objective of an EU security policy measure, (2) Geography: is the security contingency located inside an EUMS or outside the EU?, (3) which instruments are used in a given contingency, those of warfare or of law enforcement?, (4) the nature of the adversary one confronts, is it a criminal or the armed agent of a foreign state?

This question would be unnecessary if the EU were already on its way towards just one single security policy¹¹³. But having ascertained that EUMS and EU retain two security policies for the foreseeable time, it is all the more important to be able to choose the fitting policy for a given contingency. After all, the two policies do not only differ in their instruments, police/judicial/crime related on the one, and military/war related ones on the other hand. Internal and external security policy also work according to very different rationales. Let us just mention one point. In internal security policy there is the state, possessor of the monopoly of legitimate coercion within its territory to enforce the law – mainly vis-à-vis its own citizens as it were– but in doing so obliged to respect constitutional rights and due process rules, and using a police which investigates and brings to justice according to law.

In external security policy on the other hand there is the same state confronted to an adversary's military aggression. In responding with military force of its own, there are no limits except the laws of war and the aims of the war.

Between the two, there exist different degrees of 'hybrid' challenges, with differing combinations of the two approaches.

Clearly, in looking at this dichotomy governments do not want ISP to function according to ESP rationale, nor the other way around. But temptations and first steps in that direction are very present, as shown by the terminology and practice of the "War on Terror" officially initiated by the

¹¹³ The following two papers present cogent arguments for that change of perspective: Dick ZANDEE, "Europe's Security Upside Down," *Nação e Defesa* 2014, no. N.º 137 (2014).cf. also DRENT, M., LANDMAN, L., ZANDEE, D. (2014); Clingendael (2014), *The EU as a Security Provider*, Position Paper, Clingendael Netherlands Institute of International Relations, The Hague, October 2014

United States since 9/11, and taken up very officially by the French president after 11/13 2015.¹¹⁴ This is an ambivalence in states' response to terrorism which BRADY&PARKES as well, seem to find difficult to accept when they ask "how far coordination between home affairs and CSDP should go"¹¹⁵. Vis-à-vis that ambivalence manifesting itself by military in the streets or declarations of emergency state, one can nevertheless assert that terrorism 'at home' within the EU-MS continues to be considered an internal security challenge to be tackled by law enforcement authorities and the judicial system, according to the rule of law. With that approach the operational and legal modus operandi of the military is seen as incompatible.

Only outside is it permitted to consider 'war' against terror¹¹⁶ and to use the instruments of warfare.

The preceding overview has shown that in the EU there is not one simple analytical criterion that permits to establish the attribution of measures or missions to external or internal security policy.

Referring to the preceding list of criteria, the declared objective (1) is a criterion to test in ex-post analysis. It can help to understand the decisive driving forces of former security policy action, but is hardly apt to clarify the issues in confronting a present challenge.

Geography (2) and the nature of the adversary (4) appear to be the two criteria permitting to decide on attribution, used in combination: Inside an EUMS' territory the use of internal security policy is mandatory, outside the EU the government or CSDP decision-makers choose according to the nature of the task at hand and the adversary, between an internal security (civilian) or an external security policy (military) solution. The choice of the instruments (3) follows from that of the policy. Again, strictly limited use of military tools within an internal security policy mission is accepted.

Finally in operational linking, there is a clear risk for leveraged policies, and for the NGOs frequently charged with their implementation. Leveraged trade, aid and mobility policies may become 'corrupted' by also having to serve as negotiating matter for making partner states' elites accept the EU's security policy preferences. And the NGOs themselves run the risk of losing their non-partisan reputation within the recipient country when their project is seen to serve the security interests of the incumbent elites.

This is one reason more which constrains the EU to walk a fine line in instrumentalising its Home Affairs diplomacy for more security, and preserving its credibility as international development and aid actor at the same time.

Operational Linking and Integration Deepening

This report was also to verify the assumption that overlap and operational linking between Member States' and EU FSJ and CFSP authorities could deepen EU integration in the two security policy domains.

At its end stands a sobering conclusion: operational linking between the EU's security policies has in effect strengthened the external security policy. That appears indeed to be the key aspect in which

¹¹⁴ Cf. for instance the discussion in ENGLISH, Richard (2009), *Terrorism, How to Respond*, Oxford, pp. 99-101, 136; BRIANCON, Pierre (2015), *Hollande declared 'war' – now what?*, in :Politico, 15.11.2015, <http://www.politico.eu/article/hollande-declared-war-now-what-france-paris-attacks-isil-terrorism/>

¹¹⁵ BRADY&PARKES (2015), p.40

¹¹⁶ DANJEAN, in FRANCE (2015) *Assemblée Nationale*

operational linking has a –very limited– influence on the level of European integration. We sum up what this report has to say on that issue, in the following points.

- Integration deepening effects of *operational linking* might be expected at the level of the EU in fields where the Union holds a competence for legislating or coordination, and where linking
 - serves to compensate for lack, or for break-up, of EU common action or of integration, at the level of internal security,
 - be it by linking in, via ESP, more EU-wide harmonisation of MS' national internal security legislation,
 - >the *result being* an effective plus of legal harmonisation in *ISP*, and a strengthening of the interface-function of the *ESP (JHA Diplomacy)*, vis-à-vis especially global partner organisations;
 - or by linking out to neighbouring states, via ESP, the task of first registration, taking-in-charge, and transmitting the demands for protection, of migrants or refugees heading for the EU, with contradictory results,
 - >*one result being* to reduce the internal strain on *ISP* resulting from MS disunity (and i.e. defer the reform or demise of Schengen/Dublin), and again to consolidate the role of *ESP (JHA Diplomacy)* as the EUMS' indispensable and unique interface with African or Asian partner states;
 - >and a *second result* being to transfer part of the political blame for concluding this type of agreements with autocratic or dictatorial regimes to the EU level (cf. the EU's migrant agreement of 2015 with Turkey, the pre-2011 EU agreements with Gaddafi, or in 2016 the proposed agreements with other North-African states), and shield MS governments from criticism by human rights organisations and media, but discrediting the EU.
 - In sum, this appears to strengthen EU ESP-integration, as a consequence either of lacking, or failing ISP-integration, and to restrict somewhat the strong unilateral role of MS in bilateral operational linking –for instance, in mobility partnerships– as compared to the EU (cf. p.16 u.a.).
- On the other hand, the results of the report do not justify an expectation of integration deepening effects from operational linking where national competences fully prevail and governments do not see pressing and overriding interests in favour of Europeanisation.
 - Operational inward linking appears to pass mainly via bilateral channels between MS' and external actors like the US services, as for instance for US-held information on terrorism and on organised crime active in or against European countries,
 - >the *result* being rather to confirm the continuing predominance of the MS in that domain. EU security agencies' US contacts, as Europol's for instance, appear not to change that result in perceptible manner.

EU citizen-data-protection is also likely to suffer from these exchanges.

One clear indicator of these limitations and the persisting role of the Member States as the decisive actors is the already mentioned EU Counterterrorism Coordinator. He plays an important facilitator and idea feeder role for the Council but lacks any formal place in the decision-making process. With no more than four permanent collaborators he remains a small actor in bureaucratic terms in the year 2015 and has to struggle to hold his own in the evolving cooperation with the Commission Services, with the EEAS with Europol and Eurojust in which he is also engaged ¹¹⁷.

¹¹⁷ Recent example: CTC in consultation with the Commission services and the EEAS EU, "Foreign Fighters and Returnees: Implementation of the Measures Decided by the Jha Council on 9-10 October 2014," ed. Council of EU, Note to Council (Brussels2014 11 24). Cf. also COOLSAET, "Eu Counterterrorism Strategy: Value Added or Chimera?."

Bibliography

- ABIEW, Francis Kofi & KEATING, Tom (2006), Defining a Role for Civil Society: Humanitarian NGOs and Peacebuilding Operations, in: KEATING, Tom & KNIGHT, W. Andy, Eds. (2006), Building Sustainable Peace
- AMOOD, Sara (2008), EU–Libya Cooperation on Migration: A Raw Deal for Refugees and Migrants? In: Journal of Refugee Studies (2008) 21 (1): 19-42
- BOSSE, Giselle (2013), From Villains to the New Guardians of Security in Europe? Paradigm shifts in EU foreign policy towards Libya and Belarus, in: KAUNERT, Christian & LEONARD, Sarah WOLFF Ed., European Security Governance and the European Neighborhood after the Lisbon Treaty, pp. 80 – 102.
- BRADY, Hugo & PARKES, Roderick (2015), EU Home Affairs Diplomacy: Why, What, Where and How, Chaillot Paper 135, July 2015, EU Institute for Security Studies
- BRIANCON, Pierre (2015), Hollande declared ‘war’ – now what?, in :Politico, 15.11.2015, <http://www.politico.eu/article/hollande-declared-war-now-what-france-paris-attacks-isil-terrorism/>
- BÜGER, Christian (2014), NATO at sea: deeper role for alliance in maritime security, September 4, 2014, <http://theconversation.com/nato-at-sea-deeper-role-for-alliance-in-maritime-security-31093>
- CAPITANI (2015), Emilio de, ““Foreign Fighters” and Eu Implementation of the Unsc Resolution 2178. Another Case of “Legislate in Haste, Repent at Leisure...” ? (1),” FREE Group, European Area of Freedom Security & Justice (2015 04 06), <http://free-group.eu/2015/04/06/foreign-fighters-and-eu-implementation-of-the-unsc-resolution-2178-another-case-of-legislate-in-haste-repent-at-leisure-1/>.
- CLAWSON, Patrick (2009), Demography in the Middle East, in : The Washington Institute For Near East Policy, March 2009, <http://www.washingtoninstitute.org/policy-analysis/view/demography-in-the-middle-east-population-growth-slowing-womens-situation-un>
- COOLSAET, Rik (2010), “Eu Counterterrorism Strategy: Value Added or Chimera?”, International Affairs 86, no. 4 .
- DEFLEM, Mathieu (2007), International Police Cooperation against Terrorism: Interpol and Europol in Comparison, IOS Press
- Deutschland, Bundesregierung. „Positionspapier der Deutschen Bundesregierung zur künftigen Entwicklung der Eu-Politik im Bereich Justiz und Inneres.“ 31. Berlin: Deutsche Bundesregierung, 2014 01 21.
- DRENT, M., LANDMAN, L., ZANDEE, D. (2014); Clingendael (2014), The EU as a Security Provider, Position Paper, Clingendael Netherlands Institute of International Relations, The Hague, October 2014
- ENGLISH, Richard (2009), Terrorism, How to Respond, Oxford
- EU, Council of EU. “Report on the Implementation of the European Security Strategy - Providing Security in a Changing World -.” Brussels: EU - Council, 2008 12 11.
- EU, Council of EU FAC. “Outcome of the Council Meeting.” 2015 02 09.
- EU, Council of EU JHA presidency. “Strategic Agenda - Union of Freedom, Security and Justice - Fight against Terrorism = Stock Taking of Actions and Way Forward. Presidency to Coreper and Council.” 2015 02 03.
- (2015), EU Council (2016), Timeline - response to migratory pressures, <http://www.consilium.europa.eu/en/policies/migratory-pressure/history-migratory-pressure/>

EU, EEAS (2013), 'Revised draft EU Concept on CSDP Support to Integrated Border Management', document 10.12.2013, 02471/2/1/13 REV 2 COR 1

EU, European Commission (2015), Communication from the Commission – the European Agenda on Security, Strasbourg, 28.4.2015, COM(2015) 185 final

—— (2014). “The Final Implementation Report of the Eu Internal Security Strategy 2010-2014.” Communication from the Commission to the European Parliament and the Council, 2014 06 20.

—— (2014), “An Open and Secure Europe: Making It Happen “. Brussels, 11.3.2014, 2014 03 11.

—— (2011), 'A dialogue for migration, mobility and security with the southern Mediterranean countries', Communication from the Commission to the EP et al :COM 292 final, 24.05.2011

——/High Representative of the Union for Foreign and Security Affairs, SEC(2011) 560 final, 5 May 2011: Joint Staff Working Paper: Strengthening ties between CSDP and FSJ actors: Proposals for a way ahead

—— (2013), Press release on the 'Migration and mobility partnership' signed between the EU and Morocco, 07.06.2013; text in http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130607_declaration_conjointe-maroc_eu_version_3_6_13_en.pdf

—— (2015), EU-Turkey Joint Action Plan – Fact Sheet, October 15, 2015, http://europa.eu/rapid/press-release_MEMO-15-5860_en.htm; EU, European Council (2016), EU-Turkey statement, 18 March 2016 <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/>

EU, European Council (2010), Internal Security Strategy for the European Union, March 25 and 26, 2010

——.(2010), “The Stockholm Programme — an Open and Secure Europe Serving and Protecting Citizens.” 2010 05 04.

EU, European Monitoring Centre for Drugs and Drug Addiction (2015), European Drug Report 2015

EU, European Monitoring Centre for Drugs and Drug Addiction, Opioid Trafficking Routes, <http://www.emcdda.europa.eu/topics/pods/opioid-trafficking-routes>

EU, Europol (2013), The EU Serious and Organised Crime Threat Assessment (SOCTA) 2013

EU, Frontex (2015), Africa-Frontex Intelligence Community Joint Report 2015 http://frontex.europa.eu/assets/Publications/Risk_Analysis/AFIC/AFIC_report_2015.pdf

EU, High Representative of the (2003). “A Secure Europe in a Better World. European Security Strategy” (Solana Report). Brussels: EU, 2003 12 12.

EU, High Representative/Vice-President of the (2015), MOGHERINI, Federica. “Speech by High Representative/Vice-President Federica Mogherini at the Summit on Countering Violent Extremism, Washington, 19 February 2015.” Washington DC: European Union - EEAS (European External Action Service), 2015 02 19.

EU's Cocaine Route Programme, <http://www.cocaineroute.eu>

EU document EU(2011), D01509302-en, Action Fiche 6 for Supporting the fight against trafficking from/to Afghanistan – Phase II (HEROIN ROUTE II) under the Priority 2 "Counteracting Global and Trans-regional Threats" of the Long-Term Component of the Instrument for Stability

FRANCE, Assemblée Nationale (2015), Commission de la défense nationale et des forces armées, Table ronde, conjointe avec la commission des Affaires européennes, 'Etat des lieux de la politique de défense européenne et perspective ouvertes par le traité de Lisbonne', 01.07.2015, Compte rendu no.74

- FRANCE (2013), *Livre Blanc Défense et Sécurité Nationale*, Paris
- Global Counterterrorism Forum, GCTF, <https://www.thegctf.org/web/guest/related-activities>
- IMPETUS (2015), *EU Missions and Operations*, in: *Impetus*, Magazine of the EEAS Military Staff, no 19, spring-summer 2015, p.10-13
- IPPOLITO, Francesca & TREVISANUT, Seline, Eds.(2015), *Migration in the Mediterranean : Mechanisms of Cooperation*, Cambridge University Press
- KAUNERT, Christian&LÉONARD, Sarah, Ed. (2013), *European Security Governance and the European Neighborhood after the Lisbon Treaty*, Milton Park (Routledge)
- KAUNERT, Christian, OCCHIPINTI, John, LÉONARD, Sarah, Eds.(2015), *Supranational Governance of Europe's Area of Freedom, Security and Justice*, Milton Park (Routledge)
- KAUNERT, Christian (2010), "The External Dimension of EU Counter-Terrorism Relations: Competences, Interests, and Institutions", *Terrorism and Political Violence* 22: 1, 2010
- KEATING, Tom & KNIGHT, W. Andy, Eds. (2006), *Building Sustainable Peace*, Academic Foundation, New Delhi
- KEMPIN, Ronja (2015), 'From reluctance to policy – A new German stance on CSDP ?', in: FIOTT, Daniel (2015)
- KÜHNE, Winrich (2007), *Criteria, Interests and Problems of German Participation in International Peace Operations. When? Where? Why?* (Article in German, title translated), *Die Friedens-Warte, Journal of International Peace and Organization*, 82 (2007)
- MASBAH, Mohammed (2015), *Moroccan Foreign Fighters*, SWP-Comments No 46, Berlin: October 2015
- MIGRATION POLICY CENTRE (2013), *MPC - Migration Profile : Libya*, European University Institute, Robert Schuman Centre for Advanced Studies, June 2013
- MONAR, Jörg & NILSSON, Hans (2009), "Enhancing the EU's effectiveness in response to international criminality and terrorism: current deficits and elements of a realist post-2009 agenda" in: CRAMME, Olaf ed. (2009), *Rescuing the European project: EU legitimacy, governance and security* (London: Policy Network), 109–122
- MONAR, Jörg. "The Eu's Growing External Role in the Afsj Domain: Factors, Framework and Forms of Action." in: *Cambridge Review of International Affairs*, Special Issue *Supranational Governance and European internal security* 27, no. 1, 2014 (2014): 147 - 66.
- MUBILA, Maurice (2012), *Africa's Demographic Trends*, Briefing Note 4, African Development Bank Group, Briefing Notes for AfDB's Long-Term Strategy
- PRIOLLAUD, Francois-Xavier & SIRITZKY, David (2008), *Le Traité de Lisbonne. Texte et Commentaire Article par Article des Nouveaux Traités Européens (TUE – TFUE)*, Paris, La Documentation Française
- REINARES, Fernando (2012), "The Evidence of Al-Qaida's Role in the 2004 Madrid Attack", in : *CTC Sentinel* 22.03.2012, West Point, <https://www.ctc.usma.edu/posts/the-evidence-of-al-qaidas-role-in-the-2004-madrid-attack>
- RUPÉREZ (2006), 2006 09 06. The author was Executive Director of the Counter-Terrorism Executive Directorate at the Assistant Secretary-General level, United Nations. <http://www.un.org/en/terrorism/ruperez-article.shtml>
- SIPPEL, Lilli & Tanja Kiziak, Franziska Woellert, Reiner Klingholz (2011), *Africa's Demographic Challenges*, Berlin Institute for Population and Development, http://www.berlin-institut.org/fileadmin/user_upload/Afrika/Africas_demographic_challenges.pdf

- STALCUP, Meg, "Interpol and the Emergence of Global Policing", in: GARRIOTT, William, Ed. (2013), *Policing and Contemporary Governance*, pp 231-261
- TARDY, Thierry (2015), *Operation Sophia; Tackling the refugee crisis with military means*, ISS Brief 30(September)2015, http://www.iss.europa.eu/uploads/media/Brief_30_Operation_Sophia.pdf
- TARDY, Thierry (2015), *CSDP in action – What contribution to international security?*, ISS: Chaillot Paper 134, May 2015
- UK Government (2005), Report of the Official Account of the Bombings in London on 7th July 2005, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228837/1087.pdf
- UK Government (2015), National Security Strategy and Strategic Defence and Security Review, London
- United Nations Office on Drugs and Crime: <http://www.unodc.org/unodc/de/drug-trafficking/>, 'Drug Trafficking'
- VALLETTA EU-Africa Summit on Migration (2015), Valletta 11-12 November 2015, Action Plan
- VORRATH, Judith (2014) "Transnationale Sicherheitsfragen in Westafrika", Reader Sicherheitspolitik > I. Faktoren erweiterter Sicherheit > Regionalanalysen > Ausgabe 10/2014, accessed 17.10.2015
- WOLFF, Sarah. *The Mediterranean Dimension of the European Union's Internal Security*. Houndmills, Basingstoke: Palgrave, 2012.
- ZANDEE, Dick, Ed.(2015),*The EU as a security actor in Africa*. In-depth study Clingendael Monitor 2016, Clingendael Africa
- ZANDEE, Dick. "Europe's Security Upside Down." *Nação e Defesa* 2014, no. N.º 137 (2014).