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Implementing EU Transboundary Security Policy: Challenges and Requirements for the ESDP and the Solidarity Clause¹

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ABSTRACT

The challenges for the implementation of the ESDP and the Solidarity Clause in the draft Treaty are great. The main difficulty being that the efficiency of these policies to a large extent depends on the Union's ability to transcend the deep-rooted division between 'internal' and 'external' security manifested in the EU pillar structure and a long tradition of national security thinking. Today the EU's objective is to extend stability beyond Union borders through international conflict prevention, peace keeping and 'soft security' cooperation and at same time create a capacity to meet transnational threats such as terrorism on the European continent. Union and national institutions have had a hard time to keep up with the demands stemming from these new global and transboundary security goals. This paper offers an in-depth analysis of the policy and institutional implications for the ESDP and the Solidarity Clause. The requirements for an efficient implementation of these policies are examined in terms of a need to bridge the pillar structure, overcome traditional demarcation lines between policy areas such as trade, aid, diplomacy, external and internal crisis management, and, strategically engage new levels of national security actors including the ones of states neighbouring the EU.

KEY WORDS EU transboundary security, European Security and Defence Policy, EU Solidarity Clause, internal-external security interface.

INTRODUCTION

The European Union (EU) has always essentially been a project of transboundary security governance. For the first forty years of the Union's existence, it promoted inter-state security through an institutionalised system of networks that crossed state borders. External security relations among states were turned into 'domestic' European politics. Now - in an era of post-cold war and new transboundary threats - the task is to create a secure wider Europe and an EU defence through the management of similar networks beyond the internal-external divide. In these circumstances it is perhaps only natural that EU governance and security over and beyond Union borders have gained increasing theoretical attention in recent years (Schimmelfenning and Wagner 2004; Webber *et al.* 2004; Kirchner 2006).

The more specific reason that can explain today's growing theoretical interest in the creation of security beyond Union borders is two-fold. Firstly, the question concerned to what extent the Union extended 'soft-security' through the enlargement process when the EU candidate states were woven into the European fabric (Friis and Murphy 1999; Filtenborg *et al.* 2002). This focus was only strengthened after 2004 when the Union no longer offers a membership perspective to its neighbours at the same time as security and good governance in 'the near abroad' remain a strong goal. The issue is here in what way the Union can compensate for the weaker institutional embeddedness and reform incentives in wider Europe through new policies (Schimmelfennig and Sedelmeier 2004). Through the European Neighbourhood policy (2004) and the extension of the *acquis communautaire* to non-member states in areas such as justice and home affairs, energy and environment, the EU tries to minimize the soft-

security risks and the difference between insiders and outsiders (Lavenex 2004). The Union is said to externalize its internal security success through the exercise of normative powers in the world (Manners 2002) and the creation of an 'enlarged European security space' (Lenzi 1998) or 'security area' (Wæver 2000).

Secondly, the projection of EU security has been increasingly debated also as a result of the development of 'hard security' instruments within the European security and defence policy (ESDP), which in large parts is aimed at strengthening Union security in its near abroad (Deighton 2002; Missiroli 2004; Spence and Fluri 2007). The consequences are today discussed in terms of whether the Union still could be seen as a civilian power given the new military means. Is its internal 'civilized' way of creating security a guarantee for 'peaceful' security projection externally? (Sjursen, 2007). Moreover, it is currently questioned to what extent the Union in reality is the benevolent world power it purports to be through the European Security Strategy of 2003 (Council of the European Union 2003; Biscop 2005). The Solidarity Clause in the draft Treaty² - perhaps the most clear example of transboundary security policy - has mainly be analysed from a constitutional perspective including issues such as to what degree the Clause is legally binding for the member states (de Wijk 2004; Ekengren and Larsson 2003).

Thus, there is a growing literature on the philosophical, normative and legal consequences of the EU's new transboundary security ambitions. Unfortunately, the more concrete implications and requirements for the EU institutions and national administration have not been given the same attention. This is very surprising when considering how the question of

how to rethink security policy and design institutions in an era of transboundary threats (terrorism, natural disasters, transnational breakdowns) and without further enlargement (in the near future) has placed policymakers within the Union at perhaps the same fundamental crossroads they faced fifty years ago. EU security today probably puts just as great demands on visionary leadership, new thinking and scientific analysis, as did the formation of the Union. Some examples of the magnitude of the challenges: Lavenex has pointed to the basic tension between the expansion of the 'legal boundary' to neighbouring states without extension of the 'institutional boundary' which risks the 'politics of exclusion'. In turn this could lead to instability and aversion vis-à-vis the Union due to unpopular national adaptation to the conditional EU export of norms, rules and resources. There is also a great risk of conflicting strategic interests with both the closest neighbours and Russia (Lavenex 2004). Moreover, there is an urgent need for the Union to place its security sector reform efforts in the neighbourhood in the broader framework of development cooperation, democracy and human rights promotion (Hänggi and Tanner 2005). Duke and Ojanen have explained the need for fundamentally new institutional links between the EU pillars for a more efficient transboundary ESDP capacity (Duke and Ojanen 2006). Kirchner has emphasised the great coordination needs between EU institutions and member states and between security functions such as conflict resolution and development cooperation for efficient transboundary security governance. He calls for more in-depth empirical studies of EU security policy and management problems (Kirchner 2006: 963-65).

This paper answers this call by taking a closer look at the challenges and requirements for the implementation of two of today's most central security instruments: the ESDP and the

Solidarity Clause, including two key sub-areas for their realisation - EU civil protection and national armed forces. First, as a background, the paper shows how the security objectives of the Union have changed ad hoc and incrementally over the years. The most striking result being that internal and external security aims have converged towards the protection of individuals and their rights - be they EU citizens or humans in grave crisis in any part of the world. The development is seen as an important explanation behind today's challenges for EU security policies and institutions. This is followed by a short recapitulation of the shortcomings of the Union's handling of the internal-external security interface so far. After analysing the four policy areas and pointing out reform needs, the paper ends by discussing whether a successful Union management of transboundary security in the long run also would foster a new type of security community.

THE CONVERGENCE OF EU SECURITY OBJECTIVES

Over the years, the security referent objects have evolved and converged incrementally within the Union as a result of its growing field of competences. Since the 1950s the Union has provided for inter-state security, i.e. external security for its member states.³ But, owing to the gradual expansion of tasks of EU institutions, namely the Commission, those institutions have also been forced to take on a growing responsibility for safeguarding and protecting the EU functions and 'systems' when new policy competences have been created. In the 1970s and 1980s, economic welfare and stability came to be perceived as a critically important object for EU members to secure jointly. A crisis for the functioning of the common market and the institutional and legal measures taken to uphold the "four freedoms"

of intra-European exchange became an EU crisis (Boin *et al.* 2006a). By focusing on safeguarding the vital flow of resources for the welfare and identity of EU member states, the Union in effect took steps towards transnational *societal* security (Buzan *et al.* 1998; Møller 2001). In the 1990s, the outbreak of war and violence in the Balkans also forced EU leaders to define this crisis as a crisis for the Union. The value of peace and stability in the neighbourhood – the ‘near abroad’ – was added to the EU’s security goals. The aim of protecting civilians was no longer limited to EU member states. Consequently, the reference object for the Union’s endeavours became the same within and outside its borders: to secure states or individuals (or groups) against each other. Today, the new capacities of the ESDP have meant that a threat or event that undermines peace and stability not only in wider Europe but globally presents a potential crisis for the EU. In this way the concept of *human security* (Paris 2001) could be added as a label for characterizing the aim of European security. This development was further underlined in subsequent years when natural disasters increasingly became defined as EU crises. The Commission and its Directorate-General (DG) for Humanitarian Aid (ECHO) gave a high priority to helping Turkey when the country was hit by two earthquakes in 1999 (Ekengren and Ramberg 2003). EU security has increasingly come to refer to all humans in grave international crises.⁴

The 1990s saw further developments towards the EU aim of securing citizens and individuals. The so called ‘Mad Cow Disease’ crisis in 1996 was a serious threat to the common market but at the same time to the safety of European consumers (Grönvall 2000: 89; 2001). The events of 11 September 2001 started a chain of policy responses that have clearly expressed ‘EU citizens’ as an object of EU security. The Solidarity Clause constitutes

the next step by declaring that the EU aims should be to ‘protect democratic institutions and the civilian population’ not only from terrorist attack but also in the event of natural or man-made disasters (Article 188r of the draft Treaty). Therefore, the referent object of security is not just a matter of individuals, but also concerns their ability to govern society and to articulate political goals – the vital functions of society. The security aim of the Union has been characterised as functional rather than territorial integrity, which traditionally was the basis for the distinction between ‘internal’ and ‘external’ security (Sundelius 2005).

The historical overview shows how the Union has developed its security objectives in a way that they are now transcending the external-internal divide. In sum, today the Union’s more or less explicit aim is to protect certain fundamental values such as peace and stability (both within the EU and outside), the European economy (in a globalised world) and the safety of people and society (wherever under threat). In other words, the Union has developed security objectives for the 21st century which it is currently attempting to achieve with paradigms and institutions that were basically created for inter-state peace of the last century (Boin *et al.* 2006c).

REACTIVE POLICIES WITHIN THE TRADITIONAL DIVISION

The Union’s policies and instruments have had a hard time to keep up with the demands stemming from the convergence of security objectives beyond the internal-external distinction. (Boin *et al.* 2006c). One explanation is that the many tragic events since the

beginning of the 1990s early forced the EU onto the defensive. The development of the EU's security policies has so far been a reaction triggered by conspicuous events.

- Experiences from the Balkan wars resulted in the formation of ESDP for *external* crises.
- '9/11' led to the intensification of EU *internal* security efforts. Currently almost every area of cooperation in all Union pillars has a security plan, a security committee and a network for rapid communication and reaction.
- The events in Madrid on 11 March 2004 led to the EU adopting the 'Solidarity Declaration' on mutual support for the prevention of terrorism and aid in the event of terrorist attack *on* EU territory.⁵
- The Asian tsunami disaster in 2004 resulted in closer consular EU cooperation and the establishment of civilian teams for *international* rescue missions.
- The bomb attacks in London in the summer of 2005 have led to closer EU cooperation on intelligence and discussions of a Programme for the protection of critical infrastructure *in* Europe.⁶

Thus, despite its innovative and transnational roots the Union has tended to fall into the same traps as the nation states; i.e. basing its policies on the last crisis (or war) and making a strong distinction between internal and external security. This has caused many problems. In fact, most of the recent external actions were forced to be carried out by EU instruments that were initially created for 'internal' crisis management. For instance, due to the lack of a capacity for external civilian crisis, it was the *enlargement* department (and budget line) of the EU Commission that suddenly had to take the lead for Union support to affected candidate states

during the flooding of Central Europe in 2002. For similar reason Union responsibility for the safety of EU citizens abroad was ‘invented’ and developed *during* the acute phases of the tsunami disaster (Ekengren *et al.* 2006).⁷

The 2003 European Security Strategy declares that ‘internal and external aspects are indissolubly linked’⁸. However, the implications of this merger are not (yet) reflected in the analysis and making of Union policies, institutions and operational planning. It is widely acknowledged that there is great potential in a more efficient combination of the EU’s external and internal crisis management capacities (Duke and Ojanen 2006; The Security & Defence Agenda 2006). Indeed, the future development of the ESDP and the implementation of the Solidarity Clause in the draft Treaty constitute a crucial test for the Union’s ability to retake the initiative internationally when it comes to shaping transboundary security in an innovative and strategic manner.

IMPLICATIONS FOR ESDP

EU level

ESDP gives rise to fundamental discussions about how to develop a more global EU concept that would seek to combine external and internal policies more closely. As mentioned, this is thought to be essential if ESDP is to be successfully implemented (Duke and Ojanen 2006; The Security & Defence Agenda 2006).

The EU's security answer to the September 2001 on the United States attacks was non-military in nature. The focus was put on the crisis management capacities that exist in all three EU pillars. In practice, this made the EU responsible for the paradox of 'internal' and 'external' non-territorial security. In general, the events of 9/11 started a process which has led the EU to rethink its previous demarcation lines between trade, aid, diplomacy and the new crisis management capacities created under the ESDP. Discussions on whether or not to include the capacities of the EU's third pillar, Justice and Home Affairs—for example, in the areas of personnel and threat identification—signalled a development towards a broad transboundary security approach to the ESDP. For internal as well as external security reasons, many observers argued that there was an urgent need for better coordination between non-military ESDP activities, work under the Justice and Home Affairs pillar and the European Commission. It was also suggested that security thinking should be 'mainstreamed' into other areas of EU cooperation as well (Dwan 2003). However, most of the issues still remain to be solved as of writing (2007).

It is widely acknowledged that the Union's strength as a crisis manager lies, above all, in the possibility of gathering together the full range of instruments that it has acquired over the years. Just as it will be difficult to separate internal security policy aspects from the external ones, it will probably be difficult to separate non-political aid instruments from protection activities with a security-political dimension. Therefore, to be really successful as a crisis manager, the EU must find ways to bridge the pillar structure, which currently militates against effective coordination of the various resources that the Union has at its disposal. Already, international crisis management instruments have developed within the EU's first

pillar in the form of coordination by the Civilian crisis management committee under the ESDP and the Commission's Rapid Reaction Mechanism (RRM) (Boin *et al.* 2006a). The pillar-crossing coordination that has already begun will help to break down the divisions between external and internal policies of protection. The challenge of different principles for decision making in each pillar will, however, remain. Some analysts, for instance, predict CFSP crisis management in the long run will remain intergovernmental due to weak incentives for member states to delegate to supranational organs (Wagner 2003). Other, in contrast, show how the institutionalization of EU protection policies in some sectors are leading to more supranational solutions (Boin *et al.* 2007).

According to the proposed EU constitution, ESDP missions should be carried out for the purpose of peacekeeping, conflict prevention and the strengthening of international security in accordance with the principles of the United Nations (UN) Charter.⁹ The EU's first independently launched military operation—Operation ARTEMIS in the Democratic Republic of the Congo, in 2003—was carried out at the request of the UN (under a Chapter VII resolution) (Ulriksen *et al.* 2004). If the early practices involving UN requests and mandates have set a precedent for future ESDP operations, EU security policy might increasingly aim at all people who are involved in a grave international crisis, as explained in the previous section on security aims. The evolving security role of the EU might then perhaps best be characterized as that of a regional body for the implementation of UN decisions. In that case, the 'outer' circle of EU security would equal international security, and there would – per definition – exist no external security dimension in relation to which internal security policies could be distinguished.

National level

To a greater degree than EU level coordination, perhaps, effective transboundary capability depends on EU member states being prepared to break up or redefine corresponding barriers on the home front: barriers between internal vulnerability and external defence, between defence and police forces, military and civilian intelligence agencies, between defence, justice and foreign ministries, and between defence policy, emergency planning and rescue agencies (Sundelius 2004). All of these barriers originate from a strong distinction between internal and external security. Many observers conclude that the future structure of EU institutions and their relationships with member states is the key dimension for efficient ESDP instruments (Smith 2004).

Ability is not just about having material resources to hand; it is also – as in the 1950s – about being ready to think in new ways and with new priorities. Current ESDP capability will most likely not be greater than the contributions by member states. For example, to what extent EU security policy is intertwined with national security is largely a national question. Nowhere is this more clearly illustrated than in the current EUFOR operation in Bosnia-Herzegovina, which replaced NATO's SFOR in December 2004. One reason that the EU Police Mission (EUPM) in Bosnia (starting 2003) received such a strong response to its request for national experts in organised crime was the great interest in the issue amongst justice ministries and police forces in member states. It was understood at an early stage that drug smuggling and crime syndicates, which threaten the EU's major cities, are best

countered by being on the spot in the Balkans (Dwan 2003). The question was how much security the member states achieve at home for money invested in the Balkans through the EU.

Member states have differing views about certain issues in joint operations, which are of central importance to the breaking up of divisions between policy areas and competences and thus the internal-external distinction. For example, there are ongoing discussions about to what extent there should be strict demarcation between military and police tasks in EUFOR operations. Member states have emphasised that in Bosnia, the EU will be seen as an actor only with a well-coordinated contribution. Certain countries have made moves seeking to place the EU Commission under the authority of ESDP in the form of the EU Special Representative. Others have maintained that the objective of the Union has always been to turn European security policy into a matter of EU domestic policy; therefore, they have resisted any attempts to subordinate what they see as the engine for the whole process – the EU Commission – under the infrastructure for Union foreign policy in the second pillar.

IMPLICATIONS FOR THE SOLIDARITY CLAUSE

As mentioned previously, the Solidarity Clause was adopted in March 2004 after the Madrid bombings in the form of a political declaration (de Wijk 2004). The Clause builds on the transboundary character of the Union and contains a range of forward-looking elements, which can help in the removal of boundaries between EU internal and external security and between crisis management and defence. The Clause was initially developed in the European

Convention's Defence Working Group 2002-2003 (Ekengren and Larsson 2003). The Clause states that 'The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:

- prevent the terrorist threat in the territory of the Member States;
- protect democratic institutions and the civilian population from any terrorist attack;
- assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack,
- assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.¹⁰

The Clause brings to the fore several central issues addressed by this article: Whose security? What will the EU secure? What constitutes a crisis for the EU? What is the EU providing security against? Does EU security apply to democracy and institutions in member states and/or at the EU level? To the member states' or the EU's population? Were the bomb attacks in Madrid an EU crisis? If so, what made them an EU crisis? Why was the Clause not invoked in the case of the London Underground bombings in the summer of 2005? (Boin *et al.* 2006a). This adds up to a number of 'when', 'where' and 'how' questions.

When? What should be the deciding factor in mobilising EU instruments? Could a request for help come from EU institutions? Does one EU state have the right to decide that another member state is going to be attacked, or is at risk of being attacked, and invoke the Clause? Bearing in mind that the Clause is already in force, in the form of a political declaration, to

what extent is an attack on one member state an attack on all? Is it possible to envisage the Clause being put into effect, if a member state considers itself *threatened* by terrorists? Could such a state demand mobilisation of ‘all’ EU instruments to counter the threat?

Where? The Clause applies to efforts within the Union’s territory, not beyond. Territorial integrity was the goal of nation states. Will the integrity of societal functions be the goal of EU defence? The Solidarity Clause can take the EU a step closer to a new sort of transnational societal defence of the civilian population and democratic institutions. This ‘total’ EU defence could be seen as distinct from collective territorial defence as well as traditional EU conflict prevention. The EU as defence union rather than defence alliance? A successful defence union would probably be of great importance in consolidating a European identity.

How? The Clause emphasises the need for capabilities embracing all sectors – including military resources. The thinking is that, in the long term, member states should move in the same direction in their defence policy in order to meet the new terrorist threat. The assumption is that, today, member states are converging in terms of values and have reached a sufficient degree of integration in terms of cooperative networks. Another condition for the Clause to be successful is that preventive measures and national infrastructures are coordinated to the point that member states can act jointly at times of crisis. This readiness to act can, to a limited extent, be legislated for through the EU, but must be based on a long-term common viewpoint and, perhaps, on the development of new forms of cooperation within the EU. Practical requirements for the Clause include a new transnational, cross-sector

EU infrastructure of ‘working networks’ between member states in the security and safety field. This should include national public administrations as well as the civilian community, private business and voluntary organisations, the military, police forces, the judiciary and intelligence agencies. Discussions are currently taking place about how such cooperation can best be achieved. Thinking in this area has included the idea of ‘EU preparedness guidelines’ as a basis for an all-encompassing European societal defence (Ekengren 2006). Other far-reaching questions are how EU candidate countries and neighbouring countries can best be involved in this process, and what links there should be between the EU and the USA and Russia in these matters.

More than perhaps any other EU instrument, the Clause has the potential to be an instrument that contributes to the dissolution of the boundary between internal civil protection for emergencies and external crisis management for security (de Wijk 2004). It could be interpreted as bridging the two main views that have coexisted so far on the *finalité* of EU defence: collective defence through military alliance, on the one hand, and security through networks on the other. An EU defence *within* expanding European security governance is more easily reconciled with European integration’s traditional role of creating a long-term zone of peace (security community), in contrast to the defence *of* territory for its own sake. The latter is more closely associated with traditional military instruments of power, which could be detrimental to relations with certain third countries and to the image of the EU as a security model. The EU could thus develop a defence while simultaneously avoiding a new and potentially destabilizing clash of strategic interests and balance-of-power relationship with neighbouring regions. The EU candidate states could be involved at an early stage of the

accession process, and neighbouring and other states would be allowed to participate as far as possible. The Clause could be a step that, with time, might be a model also for other parts of the world. Perhaps Europe could be linked together with similar regional systems into a global defence network for the combating of today's network-based global terrorism.

The Clause legally codifies EU transboundary security by formally recognizing the new object of EU security discussed in the previous section: the functions of democratic institutions are to be safeguarded and populations are to be protected. Compared to the case of the traditional nation state, functional specification is given a relatively stronger position than territorial delimitation as a basis of EU security and defence. This weakens the rationale for a dividing line between internal and external EU security policies.

IMPLICATIONS FOR EU CIVIL PROTECTION

The EU civil protection cooperation demonstrates the Union's expanding concern for protecting 'people', 'property' and 'democratic institutions'. Civil protection cooperation first began in the mid-1980s largely as the result of a Commission push for more coordination to manage natural disasters internal to the Union. The then-commissioner for environment argued strongly that his directorate-general should do more in the wake of forest fires and heat waves in Southern Europe. Several Council resolutions adopted since 1985 approved the move toward joint training and an exploration of resource sharing. A legal basis for the actual deployment of such resources, however, would not come until 2001. The 11

September attacks led to the creation of a Community ‘mechanism’ for the compilation and use of member state resources, not only for natural disasters but also terrorist attacks (Ekengren *et al.* 2006). Moreover, with the rise of the EU’s external role in the ESDP, member states ensured that the mechanism could be used to coordinate events both inside and outside the EU (Duke and Ojanen 2006). However, the elaboration of a capacity able to transcend this boundary has in practice shown to be more cumbersome than expected. This section tries to explain why.

The Community civil protection mechanism concerns the response phase of a disaster, and involves the pooling of civil protection resources amongst the 25 EU member states plus 5 non-EU states.¹¹ Member states are obliged to ‘identify in advance intervention teams which might be available for such intervention’ (Council of the European Union 2001, Article 2). Moreover, the ‘member state in which the emergency has occurred shall notify those member states which may be affected by the emergency’ along with the European Commission. Member states have committed themselves to make available civil protection intervention teams of up to 2000 persons at short notice by 2003.¹² Community civil protection activities are managed by the directorate-general for environment, in the unit for civil protection. Monitoring and coordination of disasters takes place through the Monitoring and Information Centre (MIC), which operates a 24/7 communication and rapid alert network between member states called the Common Emergency Communication and Information System (CECIS).¹³

The mechanism has been employed several times since its establishment. After the 11 September 2001 events more than 1,000 rescue workers from the member states were coordinated through the mechanism for missions across the Atlantic (de Wijk 2004). The MIC has launched requests for assistance in connection with the oil accident caused by the *Prestige* tanker outside the Spanish coast in the autumn of 2002.¹⁴ This resulted in ships, aircraft, equipment and experts from different participating countries put at the disposal of the Spanish, Portuguese and French authorities. The mechanism was also used for a request for high capacity pumps during the floods in France in December 2003 and in February 2004, when Morocco was hit by an earthquake. In 2006 the mechanism for the first time was used in a war situation when it helped member states to evacuate their citizens from Lebanon and coordinated European experts for the education of locals to clean up the oil spill caused by Israeli bombing. Several capacities have been tested in these first EU interventions. The added value by the mechanism over the system of bilateral requests for assistance is its provision for more consolidated and theoretically quicker and more precise response. The mechanism performed well as a clearing house for assistance. A number of technical problems have, however, been highlighted. These had mainly to do with communication problems between the various national teams (Woodbridge 2002). Many of the problems, however, seem to originate in a mind set still strongly shaped by a distinction between internal and external security. Although the formal mandate to use civil protection tools outside Union territory now exists, implications for operational planning seem to have been largely ignored.

FLOODINGS 2002. On 14 August 2002, Czech president Vaclav Havel phoned Commission president Romano Prodi – at that time on vacation in his home town Bologna – to explain the acute flooding situation in Central Europe.¹⁵ Prodi travelled immediately to Prague and promised that the Union would assist the Czech Republic. Contacting most of the high-level civil servants in the Commission (largely from directorate-general for environment and directorate-general for enlargement), Prodi urged them back from vacation to lead the work of coordinating the assistance of the EU member states and putting together an EU aid package for the affected areas. One of the first to be contacted was the head of unit for the Czech Republic team at directorate-general for enlargement at the European Commission.¹⁶ Later that same day, Czech Republic authorities made a formal request to the MIC of the directorate-general for environment to activate the Community mechanism. The request prioritised portable dryers, floating pumps, and electric submersible pumps. The request was notified from the MIC to the competent national authorities.

Some EU states used other mechanisms for assistance in addition to the MIC. Others went ahead with bilateral contacts even while the MIC was trying to coordinate activities. This led to confusion at the European level, ‘rather than better coordination’ (Woodbridge 2002). Member states were free to send whatever resources they had available, rather than the ones targeted by the requesting country.¹⁷ That too led to problems, including the provision of assistance that could not be used by the Czech Republic. Czech foreign minister Stanislav Gross announced on 14 August that, while grateful for the aid, some of it was unnecessary. He emphasised that assistance with reconstruction was, by that point, a higher priority (Radio Free Europe, 15 August 2002). Throughout the disaster, Commission president Romano

Prodi kept a close watch over developments and reiterated the wider Europe's 'solidarity with the victims of the flooding' (Commission 2002). After several days, a Commission delegation that included commissioners Margot Wallström, Gunther Veurheugen, and Michel Barnier visited Prague and Germany to assess the damage. This was the largest visit by a Commission delegation at this level for a civil protection incident, displaying a concern, in the words of one Commission official, for an EU response to disasters '*wherever they happen*' (italics added).¹⁸

TSUNAMI 2004. Within hours of the tsunami 2004, the Commission's directorate-general for environment began collecting information and critical intelligence for dissemination through the MIC. After several days the Union was forced to take on a new responsibility that had never been included in its crisis preparation. This was the need to support and evacuate EU citizens affected by the tsunami. The Dutch presidency focused considerable attention on this task (Commission 2004b). The MIC took part in the inter-consular telephone conferences organised by the presidency, which aimed at coordinating the evacuation efforts in Thailand. The result of these conferences was a new request by the MIC to member states, stipulating the need for medical assistance and search and rescue teams for European citizens (Commission 2005a). In the aftermath of the crisis, the Union admitted its shortcomings and lack of imagination. The Union had had a preparedness for assisting its own citizens in its territory and for aiding third country nationals hit by catastrophes. However, there had been no operational planning for helping EU citizens abroad.

In the aftermath of the tsunami in 2004, the Commission attempted to remedy these shortcomings. It launched a consultation process with the member states on the development of the existing civil protection tools into a broader instrument addressing prevention of, preparedness for and response to disasters (Commission 2005b). The Commission proposed that member states in some form should declare their ‘firm commitment’ to cooperate with each other in delivering civil protection assistance and the reinforcement of EU coordination capacities, such as an ‘operational planning capacity’ of the MIC of the Commission and a common function on site with the formal authority to coordinate the assistance. The idea was to make the MIC more capable to mobilize military means, hire equipment that cannot be obtained by member states, and promote a system of specialized national modules for European use. These standby modules should, according to the Commission, be deployed ‘quasi-automatically’ on the request of ‘appropriate European authority’ (Commission 2005b: 11).

In their response, many member state authorities emphasized the need to respect national sovereignty and the principles of subsidiarity, and warned against any reform that did not strengthen the added value of the EU capacity. According to many member states, the role of the EU was first and foremost to provide coordination support to national interventions. For this reason, many were in favour of the proposals to improve the MIC. There was also a broad consensus on the need to strengthen the Union’s capacity in the area of prevention, preparedness and information to the public. In contrast, most member states hesitated to adopt the idea of creating a standby capacity for mutual European assistance, not least because they thought the composition of national and European teams needed to be as

flexible as possible in a situation where future disasters were ‘unknown’. Different compositions were according to members needed for different interventions and teams should be composed of personnel working with emergencies on a daily basis. The idea of a flexible modular system could, according to some member states, be further discussed (Commission 2005c). The so-called Barnier report of Spring 2006 suggested the establishment of a standing European civil protection force – ‘Europe aid’ supported by an EU Council for civil protection and permanent cites around the globe for the quick provision of assistance (Barnier Report 2006). Yet, according to interviews with national officials, this proposal has not been favorably received by national ministries.

As for the ESDP, the basic challenge of transboundary EU security governance is an expression of the tensions between the need for common action, national sovereignty concerns and practical sector specific needs (Ekengren *et al.* 2006).

IMPLICATIONS FOR NATIONAL ARMED FORCES

The ability of the EU member states to provide for capacities such as military assistance to internal protection will be decisive for the EU’s possibilities to transcend the internal–external security boundary. In order to illustrate an important case of national policy adaptation, this section investigates the positions of the three Nordic EU countries – Finland, Sweden, Denmark - with regard to the use of military assistance in domestic counter-terrorism activities. The emerging new internal role of the Nordic armed forces is a

significant example of the national reforms needed for the implementation of the EU's Solidarity Clause. The national and Union levels are closely linked because national military assistance for internal EU use is of great importance for the effective implementation of the Solidarity Clause, which calls upon the member states to make available 'military resources'. Again, demands of security governance make the implementation of the EU's security policies increasingly dependent on the contributions of the member states. In order to put the national resources requested at the disposal of the EU, governments must fundamentally rethink the traditional division of roles between the *police* and the *military*.

Traditionally, the EU member states have adopted many different solutions for providing and regulating these functions.¹⁹ In all of the Nordic countries there has historically been a strict division between the military's defence of the state border and national security and the maintenance of order by the police. In the aftermath of September 2001, however, the Nordic governments have begun to re-examine their legal frameworks with regard to the use of military assistance to combat terrorist attacks on their territory.

Finland's 1980 act on the provision of assistance by the defence forces to the police allows military assistance to be given only in cases where the resources of the police are inadequate. After September 2001, a commission established to consider the act proposed amendments in areas related to the combating of terrorism. Under the proposal, the police can ask the Ministry of the Interior to request assistance from the Ministry of Defence. The two ministers together decide whether this type of assistance ought to be provided. The naval and air force units of the defence forces can be put at the disposal of the police if the nature of the terrorist

threat calls for these resources (Finnish Prime Minister's Office 2004: 127-128). The 2004 amendment to the 1980 act also specifies the conditions for military assistance. The police may receive assistance from the armed forces in order to prevent or avert certain criminal acts as specified in the Finnish Criminal Code. In emergency situations when there is a 'serious' and 'direct' threat to 'particularly important' functions of society, the police force's request for assistance can be made directly to the top military command (Republic of Finland, Government proposition 2004). In the Finnish Government's strategy for national preparedness, the basic functions of society are defined as 'state leadership, external capacity to act, the nation's military defence, internal security, functioning of the economy and society, securing the livelihood of the population and its capacity to act, and their ability to tolerate a crisis' (Finnish Ministry of Defence 2003: 5).

Military assistance by the Swedish Armed Forces to the police has not been permitted since 1931, when the military opened fire on a strike demonstration in Ådalen and several participants were killed. In 2003 the Swedish Ministry of Justice published the report of a government commission on the implications of the attacks of 11 September 2001, suggesting legal reforms to enable military assistance (Swedish 11 September Commission). The report proposed that, on the request of the police or coastguard, the armed forces could intervene against non-state actors with the degree of force necessary to avert immediate danger to the safety of the state or to human life or to prevent extensive destruction of property. The commission suggested that the government could deploy the armed forces to combat an armed attack against the Swedish state even if the attack did not emanate from a foreign state. This opened a new field in which the armed forces could be used: military assistance

would be allowed in cases of large-scale terrorist attacks threatening the security of the state. Less serious terrorist attacks that could be classified as armed attacks against the security of the state would continue to be a matter for the police. Currently, Swedish armed forces may respond to surprise attacks against the Swedish state by a foreign state without awaiting a decision by the government. The report suggested that this condition should also apply in the event of threats from terrorists (Swedish 11 September Commission: 24-25). In the framework of the EU Solidarity Clause on terrorism, the Swedish Government predicts that military support for civilian crisis management, including the police, will most likely concern the provision of nuclear, biological and chemical expertise, logistics and command resources (Bjurner 2004: 10).

One of the tasks for the Danish Armed Forces, according to the 2001 defence forces act, is assistance to the civilian authorities, including both assistance in rescue operations and assistance to the police (Kingdom of Denmark, Act on the defence 2001). The guiding principle is that military units providing assistance are subordinated to the command of the requesting authority and should obey the latter's rules of engagement. There are no particular statutory limitations concerning the character of the assistance. According to the act, among the assets that could be provided by the armed forces are helicopters and boarding expertise (Mäkelä 2003).

TOWARDS A NEW TYPE OF SECURITY COMMUNITY?

This article investigates some central European policy implications of EU transboundary security. By analysing the ESDP, the Solidarity Clause, EU civil protection and national armed forces through the lense of security beyond the internal-external divide it is able to put new emphasis on key implementation questions for European security policy.

Viewed over the last five decades, the transformation of European security into increasingly wider governance circles is nothing new. In the 1950s the European Community helped the West European states to think ahead in terms of common security through transnational cooperation. With the EU's transcending of national internal-external boundaries, Western Europe emerged as a security community: defined by Karl Deutsch as a group of people integrated to the point where there is a 'real assurance that the members of that community will not fight each other physically, but will settle their disputes in some other ways' (Deutsch *et al.* 1957: 6). For the policies promoting the European security community, there was no sharp division between 'internal' and 'external' security.

The current challenge is to try again to make the most of European innovative thinking on security. In the 1950s the European Union was able to provide for security by generating cooperation and community through transnational networking and common institutions for its member states. Fifty years later, it has begun to expand its security policy and governance structures to neighbouring areas and 'export' it globally. This article examines some of the clearest and most visible signs of this development. It also shows that much remain to be

done to make these policies successful. However, the transgovernmental security and safety cooperation that has evolved since September 2001, and that has been codified by the ESDP and Solidarity Clause on terrorism, might provide the EU with an opportunity to take the lead again in the provision of security for post-national security communities.

As in the case of the security community, today's EU security governance does not imply the transformation of Europe into a state. It is also unlikely to be based on a military defence alliance. Instead, the new policies – if implemented in a forward-looking manner - point to a Union fostering a new type of regional security identity. The question is whether the EU will manage to deepen the European security community into a secure European community—a homeland or perhaps better societal defence *à la* Europe. In the light of the evolving EU security objectives a secure community could tentatively be defined as 'a group of people that is integrated to the point where there is real assurance that the members of that community will assist each other to protect their democratic institutions and civilian populations—the basic functions of their societies and governments' (Ekengren 2007). It is in the perspective of this emerging new European secure community that European policy implications of EU transboundary security could be assessed.

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² Conference of the Representatives of the Governments of the Member States (2007) ‘Draft Treaty amending the treaty on European Union and the treaty establishing the European Community: Articles 1-7 of the Reform Treaty, Title VIII Solidarity Clause, Article 188r’, Brussels, 23 July 2007, CIG 1/07, p. 106. Adopted as a political declaration in the aftermath of the Madrid train bombings in 2004. See more on the Clause in section five.

³ Technically speaking, the European Union only exists since 1992. We take the history of the EEC (which began in the late 1950s) into account as well.

⁴ It is perhaps significant that “A Human Security Doctrine for Europe” recently was proposed as a doctrine for Europe’s security capabilities (Kaldor 2003).

⁵ European Council, ‘Declaration on combating terrorism’, Brussels, 25 Mar. 2004, URL <<http://ue.eu.int/ueDocs/cmsUpload/79635.pdf>>.

⁶ *Commission Green Paper on a European Programme for Critical Infrastructure Protection*, COM (2005) 576 final, Brussels, 17.11.2005.

⁷ In this regard, however, the EU displayed a similar pattern as some member states.

⁸ Council of the European Union, ‘A secure Europe in a better world: European Security Strategy’, Brussels, 12 Dec. 2003, URL <http://ue.eu.int/cms3_fo/showPage.ASP?id=266>, p. 2.

⁹ United Nations, ‘Charter of the United Nations’, URL <<http://www.un.org/aboutun/charter/>>.

¹⁰ Conference of the Representatives of the Governments of the Member States (2007) ‘Draft Treaty...

¹¹ The non-EU states participating in the mechanism include Bulgaria, Romania, Iceland, Liechtenstein, and Norway.

¹² These commitments were made at the European Council meeting in Göteborg in June 2001.

¹³ CECIS is linked with a number of other networks operating in different sectors, including those dealing with radiological, health, and biological-chemical disasters. See Commission 2004a, 11-12.

¹⁴ Personal interview with an official from the Commission's civil protection unit, directorate-general for environment, 13 February 2003a.

¹⁵ Personal interview with an official from the Commission's directorate-general for enlargement, 13 February 2003b.

¹⁶ Personal interview with an official from the Commission's directorate-general for enlargement, 13 February 2003b.

¹⁷ Personal interview with a member of the Commission's civil protection unit, directorate-general for environment, 11 February 2003a.

¹⁸ Personal interview with a member of the Commission's civil protection unit, directorate-general for environment, 11 February 2003a.

¹⁹ The French Gendarmerie Nationale is made up of paramilitary forces and is organized under the Ministry of the Interior. Austria, Belgium, Greece (to a certain extent), Italy and Luxembourg have similar forces. All these forces are specialized in terms of training, equipment (often comprising heavy weaponry, armed vehicles, etc.) and lines of command for tasks that straddle the border between internal order and security and external security. E.g., the Italian Arma dei Carabinieri is responsible for certain military operations as well as for 'internal' civilian tasks, such as maintaining order. In some countries the forces are under the control of the defence ministry, in others, of the interior ministry. In some states (e.g., Italy) the authority, chain of command and rules of engagement change depending on the particular task. (Benyon 1994; Stålvant 2004).

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