

# RECENT DEVELOPMENTS IN EUROPEAN UNION CRISIS MANAGEMENT OPERATIONS

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## I. INTRODUCTION

The European Union (EU) has the possibility to plan, establish, and launch crisis management operations on the basis of Articles 42(4) and 43(2) of the Treaty on European Union (TEU).<sup>1</sup> The EU currently deploys five military operations in Bosnia and Herzegovina, Somalia, Mali, Central African Republic, and off the coast of Somalia, with a total of around three thousand persons,<sup>2</sup> and ten civilian missions in Libya, Niger, Djibouti, Democratic Republic of Congo, Palestinian Territories, Afghanistan,

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1. Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community, Dec. 13, 2007, 2007 O.J. (C 306) 1 [hereinafter Treaty of Lisbon]. Article 42(4) of the Treaty of Lisbon provides:

Decisions relating to the common security and defense policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council [of the European Union] acting unanimously on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy or an initiative from a Member State. The High Representative may propose the use of both national resources and Union instruments, together with the Commission where appropriate.

Article 43(2) of the Treaty of Lisbon provides:

The Council shall adopt decisions relating to the tasks referred to in paragraph 1, defining their objectives and scope and the general conditions for their implementation. The High Representative of the Union for Foreign Affairs and Security Policy, acting under the authority of the Council and in close and constant contact with the Political and Security Committee, shall ensure coordination of the civilian and military aspects of such tasks.

2. *Ongoing Mission and Operations*, EUROPEAN UNION EXTERNAL ACTION [http://eeas.europa.eu/csdp/missions-and-operations/index\\_en.htm](http://eeas.europa.eu/csdp/missions-and-operations/index_en.htm) (last visited May 5, 2014).

Kosovo, and Georgia.<sup>3</sup> The total amount of personnel for these ten civilian missions is around 4000.<sup>4</sup>

In her report on the Common Security and Defence Policy (CSDP) issued on October 15, 2013, the European Union High Representative, Mrs. Catherine Ashton, noted that the European Council will offer the opportunity to provide strategic direction for the further development of CSDP.<sup>5</sup> The report also mentions some important achievements, two of which deserve particular attention, namely 1) The rapid deployment of civilian CSDP Missions and 2) The participation of non-EU States in EU crisis management operations.<sup>6</sup>

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3. *Id.*

4. *Common Security and Defence Policy: EU Integrated Border Assistance Mission in Libya*, EUROPEAN UNION EXTERNAL ACTION, available at [http://www.eeas.europa.eu/csdp/missions-and-operations/eubam-libya/pdf/factsheet\\_eubam\\_libya\\_en.pdf](http://www.eeas.europa.eu/csdp/missions-and-operations/eubam-libya/pdf/factsheet_eubam_libya_en.pdf) (last visited May 6, 2014); *Common Security and Defence Policy: EUCAP Sahel Niger Civilian Mission*, EUROPEAN UNION EXTERNAL ACTION, available at [http://www.eeas.europa.eu/csdp/missions-and-operations/eucap-sahel-niger/pdf/factsheet\\_eucap\\_sahel\\_niger\\_en.pdf](http://www.eeas.europa.eu/csdp/missions-and-operations/eucap-sahel-niger/pdf/factsheet_eucap_sahel_niger_en.pdf) (last visited May 6, 2014); *Common Security and Defence Policy: EU Security Sector Reform Advisory Mission to the DR Congo Armed Forces (EUSEC RD Congo)*, EUROPEAN UNION EXTERNAL ACTION, available at [http://www.eeas.europa.eu/csdp/missions-and-operations/eusec-rd-congo/pdf/factsheet\\_eusec\\_rd\\_congo\\_en.pdf](http://www.eeas.europa.eu/csdp/missions-and-operations/eusec-rd-congo/pdf/factsheet_eusec_rd_congo_en.pdf) (last visited May 6, 2014); *Common Security and Defence Policy: EUPOL COPPS—Police and Rule of Law Mission for the Palestinian Territories*, EUROPEAN UNION EXTERNAL ACTION, available at [http://www.eeas.europa.eu/csdp/missions-and-operations/eupol-copps-palestinian-territories/pdf/factsheet\\_eupol\\_copps\\_en.pdf](http://www.eeas.europa.eu/csdp/missions-and-operations/eupol-copps-palestinian-territories/pdf/factsheet_eupol_copps_en.pdf) (last visited May 6, 2014); *Common Security and Defence Policy: EU Police Mission in Afghanistan—EUPOL Afghanistan*, EUROPEAN UNION EXTERNAL ACTION, available at [http://www.eeas.europa.eu/csdp/missions-and-operations/eupol-afghanistan/pdf/factsheet\\_eupol\\_afghanistan\\_en.pdf](http://www.eeas.europa.eu/csdp/missions-and-operations/eupol-afghanistan/pdf/factsheet_eupol_afghanistan_en.pdf) (last visited May 6, 2014); *Common Security and Defence Policy: EULEX KOSOVO EU Rule of Law Mission in Kosovo*, EUROPEAN UNION EXTERNAL ACTION, available at [http://www.eeas.europa.eu/csdp/missions-and-operations/eulex-kosovo/pdf/factsheet\\_eulex\\_kosovo\\_en.pdf](http://www.eeas.europa.eu/csdp/missions-and-operations/eulex-kosovo/pdf/factsheet_eulex_kosovo_en.pdf) (last visited May 6, 2014); *Common Security and Defence Policy: EUMM Georgia*, EUROPEAN UNION EXTERNAL ACTION, available at [http://www.eeas.europa.eu/csdp/missions-and-operations/eumm-georgia/pdf/factsheet\\_eumm\\_georgia\\_en.pdf](http://www.eeas.europa.eu/csdp/missions-and-operations/eumm-georgia/pdf/factsheet_eumm_georgia_en.pdf) (last visited May 6, 2014); *Common Security and Defense Policy: EUCAP Nestor (Regional Maritime Capacity Building Mission in the Horn of Africa and the Western Indian Ocean)*, EUROPEAN UNION EXTERNAL ACTION, available at, [http://eeas.europa.eu/csdp/missions-and-operations/eucap-nestor/documents/factsheet\\_eucap\\_nestor\\_en.pdf](http://eeas.europa.eu/csdp/missions-and-operations/eucap-nestor/documents/factsheet_eucap_nestor_en.pdf) (last visited May 6, 2014).

5. *Final Report by the High Representative/Head of the EDA on the Common Security and Defence Policy*, EUROPEAN UNION EXTERNAL ACTION (Oct. 15, 2013), available at [http://eeas.europa.eu/statements/docs/2013/131015\\_02\\_en.pdf](http://eeas.europa.eu/statements/docs/2013/131015_02_en.pdf) (last visited May 6, 2014) [hereinafter *Final Report by the High Representative/Head of the EDA*].

6. *Id.*

## II. INSTITUTIONAL AND LEGAL PARAMETERS RELEVANT FOR CRISIS MANAGEMENT OPERATIONS

Before entering into these considerations, it is necessary to recall a few institutional and legal parameters relevant for Crisis Management Operations. With the entry into force of the Lisbon Treaty on December 1, 2009, there is a clear orientation towards a comprehensive approach to conflict prevention, crisis management, and stabilization in accordance with Article 21, Paragraph 3 of the TEU; the TEU provides that, “[t]he Union shall ensure consistency between the different areas of its external action and between these and its other policies.”<sup>7</sup> In addition, this comprehensive approach also appears in the fact that the High Representative is in accordance with Article 18, Paragraph 4 of the TEU, which ensures the consistency of the Union’s external action.<sup>8</sup>

More practically, the European External Action Service (EEAS), established by a Council Decision of July 26, 2010, supports the High Representative in the areas of common foreign and security policy, including the CSDP; in her capacity as President of the Foreign Affairs Council; and finally, in her capacity as Vice President of the European Commission.<sup>9</sup> This means in particular that the EEAS supervises the political aspects of EU external action, the strategic steps for EU external assistance financial instruments, and EU crisis management operations all at the same time.

According to the Review of the Balance of Competences between the United Kingdom and the European Union Foreign Policy issued in July 2013, “the EU has made progress towards developing a more comprehensive approach.”<sup>10</sup> Through the consistent exercise of the full spectrum of its competences, in particular with diplomatic development, and defense-related measures, the EU has improved the impact of its actions. The comprehensive strategy for the Horn of Africa, which encompasses three CSDP missions, EUNAVFOR Atlanta, the EU training mission for Somalia, and a regional maritime capacity-building mission, illustrate this kind of approach.

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7. Treaty of Lisbon art. 21(3).

8. *Id.* art. 18(4).

9. See Council Decision 2010/427/EU, Establishing the Organisation and Functioning of the European External Action Service, 2010 O.J. (L201) 30, available at [http://www.eeas.europa.eu/background/docs/eeas\\_decision\\_en.pdf](http://www.eeas.europa.eu/background/docs/eeas_decision_en.pdf) (last visited Feb. 21, 2014).

10. FOREIGN AND COMMONWEALTH OFFICE, REVIEW OF THE BALANCES OF COMPETENCES BETWEEN THE UNITED KINGDOM AND THE EUROPEAN UNION: FOREIGN POLICY, 2013, at 76 (U.K.), available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/227437/2901086\\_Foreign\\_Policy\\_acc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/227437/2901086_Foreign_Policy_acc.pdf) (last visited Feb. 20, 2014).

In its conclusions of the December 17, 2013 review on the EEAS, the Council of the European Union stated:

[It] recognises the need to further strengthen integrated approaches in CSDP and in crisis management within the EEAS, aiming, notably through ensuring a clear chain of command, at improving the effectiveness and efficiency of CSDP missions and operations, as well as promoting civil-military synergies and closer coordination with other policy departments of the EEAS, while bearing in mind the specificities of the crisis management structures. Work on further streamlining planning and decision making procedures related to CSDP missions and operations should continue, in cooperation with Member States, and be guided by the November 2013 Council conclusions on CSDP and the December 2013 European Council conclusions.<sup>11</sup>

It is important to remember that the first CSDP missions were established in 2003, over ten years ago. Since then, planning structures have been set up, funding mechanisms devised, and command and control arrangements implemented. Rapid deployment and Third States' participation indeed constitute two important aspects of those efforts.

### III. THE RAPID DEPLOYMENT OF CIVILIAN CSDP MISSIONS

Why only address civilian missions in this article when it comes to rapid deployment? Because the EU military operations are manned by formed, well-structured entities deployed with their equipment and logistics, which certainly represents a facilitating element for rapid deployment. It may be different for civilian missions, however, when individuals are oftentimes deployed and operational expenditure is charged to the Union budget in accordance with Article 41 of the TEU.<sup>12</sup>

In the case of the EU Mission in Georgia, which was established in 2008, the EU planned the Mission and deployed more than 200 monitors in

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11. Council of the European Union, *Council Conclusions on the EEAS Review*, Doc. ST 17973 2013 INIT of 17 December 2013, ¶ 3, available at [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/genaff/140141.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/140141.pdf) (last visited May 6, 2014).

12. Treaty of Lisbon art. 41(2), providing specifically:

Operating expenditure to which the implementation of this Chapter [containing specific provisions on the common foreign and security policy] gives rise shall also be charged to the Union budget, except for such expenditure arising from operations having military or defense implications and cases where the Council acting unanimously decides otherwise.

two weeks coming from twenty-two Member States.<sup>13</sup> This was possible due to the outstanding efforts by the EU Member States in ensuring the availability of their personnel. Such a swift deployment for civilian CSDP Missions has not always been achievable, and therefore it was necessary to devise new solutions in order to alleviate those difficulties.

A permanent CSDP warehouse was established in November 2012 and it became operational in June 2013.<sup>14</sup> It has the capacity to store strategic equipment primarily for the rapid deployment of 200 personnel within thirty days of approval of the crisis management concept by the relevant Council body.<sup>15</sup> This warehouse was used for providing equipment to the EU Mission in Libya.<sup>16</sup>

While the High Representative is responsible for the implementation of the warehouse, it is for the European Commission to conclude a contract with a warehouse operator selected in accordance with the EU procurement procedures.<sup>17</sup> This is a very substantial achievement. In the pre-Lisbon treaty period, difficult discussions took place in certain Council preparatory bodies on how to timely provide computers, armored cars, and bulletproof jackets to our civilian missions. The situation has improved in this regard. Furthermore, supplementary efforts have been made for revising our crisis management procedures and procurement procedures in order to speed up the deployment process.

#### IV. THE PARTICIPATION OF THIRD STATES IN EU CRISIS MANAGEMENT OPERATIONS

Third States may be invited to participate in CSDP missions. This is subject to case-by-case decisions by the Council in accordance with the decision-making autonomy of the Union. This choice is, where relevant,

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13. *European Security and Defence Policy: European Union Monitoring Mission (EUMM) in Georgia* (Oct. 16, 2008), [http://consilium.europa.eu/uedocs/cmsUpload/081023-EUMM\\_in\\_Georgia-version3\\_EN.pdf](http://consilium.europa.eu/uedocs/cmsUpload/081023-EUMM_in_Georgia-version3_EN.pdf) (last visited Feb. 20, 2014).

14. See Council Decision 2012/698/CFSP, of 13 November 2012 on the Establishment of a Warehouse for Civilian Crisis Management Missions, 2012 O.J. (L314) 25, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:314:FULL:EN:PDF> (last visited May 6, 2014) [hereinafter Council Decision 2012/698/CFSP]; *Final Report by the High Representative/Head of the EDA*, *supra* note 5, at 10.

15. *Final Report by the High Representative/Head of the EDA*, *supra* note 5, at 10 (According to the European Union Crisis Management Procedures, “the crisis management concept (CMC), based on advance planning, is the conceptual framework describing CSDP activity to address a particular crisis within the EU comprehensive approach. The CMC defines the political strategic objectives for CSDP engagement, and provides CSDP option(s) to meet the EU objectives.”).

16. *Id.*

17. Council Decision 2012/698/CFSP, *supra* note 14, arts. 2–3.

reflected in the decision establishing the Mission. Such decisions provide that the Third States concerned will conclude an agreement with the Union to determine the conditions of their participation, thereby associating themselves with the said decisions.

For instance, Article 10 of the above-mentioned Council Decision of May 22, 2013, establishing the EU Integrated Border Management Assistance Mission in Libya, provides that Third States contributing to this Mission shall have the same day-to-day management rights and obligations as the EU Member States taking part in it.<sup>18</sup> For certain Third States, it has been deemed appropriate for the Union to create the framework for permanent participation agreements. This has the effect of not allowing for automatic participation of the concerned Third State to every EU CSDP mission, but provides a permanent legal framework for such participation, should the Council so decide. This reduces the administrative burden on both sides, as well as the delays for deployment.

The Union has signed an increasing number of these Framework Participation Agreements with Third States. Twelve are in force and two more are ready for signature, one with Australia and the other with Bosnia and Herzegovina.<sup>19</sup> Negotiations are ongoing and have reached an advanced stage with South Korea, Chile, and Georgia.<sup>20</sup> For instance, in the May 17, 2011 Framework Agreement between the United States and the EU, Article 5, Paragraph 1 provides that the United States, “shall seek to ensure, by means of specific instructions, that personnel made available as part of its contribution to EU crisis management operations . . . undertake their mission in a manner consistent with, and fully supportive of the Council Decision” establishing a given operation.<sup>21</sup> In turn, Article 6, Paragraph 1 provides that, “during the period of deployment, the EU Commander or Head of Mission shall exercise supervisory authority and direct the activities of [United States] assigned personnel and units.”<sup>22</sup>

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18. Council Decision 2013/233/CFSP, of 22 May 2013 on the European Union Integrated Border Management Assistance Mission in Libya (EUBAM Libya), 2013 O.J. (L 138) 15, 17, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:138:0015:0018:EN:PDF> (last visited May 6, 2014).

19. *Final Report by the High Representative/Head of the EDA*, *supra* note 5, at 6.

20. *Id.*

21. Council Decision 2011/318/CFSP, of 31 March 2011 on the Signing and Conclusion of the Framework Agreement Between the United States of America and the European Union on the Participation of the United States of America in European Union Crisis Management Operations, 2011 O.J. (L134) 1, 3, available at [http://eur-lex.europa.eu/resource.html?uri=cellar:4084873e-e178-4010-9a83-962858d6c90c.0005.02/DOC\\_2&format=PDF](http://eur-lex.europa.eu/resource.html?uri=cellar:4084873e-e178-4010-9a83-962858d6c90c.0005.02/DOC_2&format=PDF) (last visited May 6, 2014).

22. *Id.*

## V. CONCLUSION

To conclude, it is probably beneficial to add a few considerations on the scope of the EU crisis management operations. For example Article 43 of the TEU explicitly mentions certain tasks that did not appear in Article 17 of the TEU before entry of the Lisbon Treaty: Joint disarmament operations, military advice and assistance tasks, and post-conflict stabilization.<sup>23</sup> There is also a provision to the effect that these tasks may contribute to the fight against terrorism.<sup>24</sup> This does not mean from a legal standpoint that the scope of CSDP actions is any broader under present treaties. Before entry of the Lisbon Treaty, Article 17 of the TEU included certain tasks, meaning that the list provided for in this article was not limitative.

Similarly, Article 42, Paragraph 1 of the TEU provides the CSDP missions may be established for conflict prevention purposes.<sup>25</sup> This explicit mention is new; however, CSDP was encompassing this conflict prevention dimension before the entry of the Lisbon Treaty.

During recent years and within the framework of treaties, the EU has deployed new types of CSDP missions dealing with implementation of ceasefire agreements, aviation security strengthening, capacity building, and the prevention and repression of acts of piracy. The EU extended its expertise in these areas, and it appears that the EU Member States continue to have the willingness to establish CSDP missions when they have added value.

When it comes to improving these operations, the EU has to work with principles such as its decision-making autonomy, the open nature of CSDP operations, the respect for procedures, and the necessity to deploy swiftly. The setting up of the warehouse, even if it appears as a modest achievement, constitutes evidence that within EU institutional and legal parameters, there is room for innovative solutions when it comes to complex issues linked to the CSDP.

On December 19, 2013, the European Council, which consists of Heads of State or Government of the EU Member States, together with its President, and the President of the European Commission (the High Representative taking part in the work of the European Council), adopted important conclusions on CSDP.<sup>26</sup> Those conclusions provide in particular that:

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23. Treaty of Lisbon art. 43.

24. *Id.*

25. *Id.* art. 42.

26. See generally Summary: 19 December 2013, Brussels—Part I ¶¶ 1–22 of the European Council Conclusions on Common Security and Defence Policy (already adopted), available at

The EU and its Member States need to be able to plan and deploy the right civilian and military assets rapidly and effectively. The European Council emphasizes the need to improve the EU rapid response capabilities, including through more flexible and deployable EU Battle groups as Member States so decide. The financial aspects of EU missions and operations should be rapidly examined, including in the context of the Athena mechanism review, with a view to improving the system of their financing, based on a report from the High Representative. The European Council invites the Commission, the High Representative and the Member States to ensure that the procedures and rules for civilian missions enable the Union to be more flexible and speed up the deployment of EU civilian missions.<sup>27</sup>

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[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/140214.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/140214.pdf) (last visited May 6, 2014).

27. *Id.* ¶ 8.