

Antonio Missiroli

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There must have been a reason for the relatively late appearance of the European Security and Defence Policy (ESDP) on the Union's radar screen. In fact, after the failure of the European Defence Community in the early 1950s, the 'defence' option disappeared from the menu of European integration for a long time. While the six founding members decided to proceed along a different path, namely the Common Market and the EEC, NATO became the main actor and guarantor in security and defence policy, with the Western European Union (WEU) playing a marginal role. These two separate 'boxes' have remained in place for decades, in spite of occasional shifts such as France's leaving the Alliance's integrated military command in 1966, Britain's joining the Community in 1973 and successive waves of enlargement in both organisations. Recurrent attempts to revitalise the WEU hit the political wall represented by this clear-cut and ultimately effective division of labour and expectations.

As a result, after the end of the Cold War, the member states of the fledgling European Union (EU) still had very different, sometimes opposite views and visions of 'defence'. To some of them, the so-called 'Atlanticists' led by Britain, defence was an exclusively NATO business: within this framework, however, there was room for a stronger 'European pillar' to be built in cooperation, not in competition, with the United States. To some other EU countries, instead, European integration – especially since it was anchored in the project of a political 'union' – had also to include a defence component: yet within this 'Europeanist' front, traditionally led by France, differences could be spotted as to how autonomous from NATO such a component could be. Finally, since the mid-1990s, the Union also included a sizeable group of 'non-allied' countries that conceived of defence as a purely national prerogative, to be taken care of outside NATO or any other international organisation.

This has long been the main cleavage among Europeans, and also the main reason for the disappearance of ‘defence’ from the EC/EU menu. Yet it has not been the only one. An additional source of divergence has been, for instance, the actual propensity of member states to ‘integrate’ in foreign and defence policy, i.e. to make it part and parcel of a supranational/federalist structure: in this respect, France and Britain have long found themselves on the same side of the argument – possibly with the ‘non-allied’ countries – in opposing qualified majority voting (QMV) and/or a direct role for the Commission and the European Parliament in this domain.

Similarly, France and Britain could be found at the same end of the European spectrum concerning their readiness to act militarily and take casualties for reasons not related to territorial defence. A minority of such ‘extrovert’ countries (which could include the non-allied countries in so far as UN-mandated ‘blue-helmet’ operations were concerned) was outnumbered by a large majority of rather ‘introvert’ ones, although the degree of potential engagement varied according to the nature and location of each crisis.

At times, such cleavages could also cut across the same country and its political and bureaucratic structures. Most foreign ministries, for instance, were ‘socialised’ in the EC/EU environment and were mainly integrationist-minded, while most defence ministries were ‘socialised’ in NATO and were mainly Atlanticist. The Federal Republic of Germany, Italy and to a lesser extent the Netherlands can be considered cases in point: their overall foreign policy orientations reflected the willingness to combine these two distinct cultures without pitting one against the other. As a result, the two ‘boxes’ had to remain separate.

Another major cleavage is that of the ‘haves’ and ‘have-nots’: those who are nuclear powers (France and Britain) and those who are not; those who are permanent members of the UN Security Council (France and Britain again), with the bearing that has on conduct over strategic issues, and those who are not; those who have a significant national defence industry (basically, the larger countries plus Sweden) and those who do not and, therefore,

depend on imports from abroad for defence procurement.

Over time, these internal cleavages have created differences in approaches and interests that have long undermined the possibility of overcoming the separation between the two 'boxes'. They also influenced the institutional birth and the first practical steps of the Common Foreign and Security Policy (CFSP) in the early 1990s, and conditioned the launch of ESDP at the end of the decade. To a large extent, the same separation has taken root in most of the countries that have recently joined both the Union and the Alliance. The two 'boxes', in other words, are still alive and kicking in Central and Eastern Europe. Nevertheless, their separation now looks much less rigid and, especially in the older member states, has given way to a certain amount of convergence on common policy goals and a narrowing of strategic divergences – of which ESDP is at the same time cause and effect.

Differences, however, still exist and affect its scope and *modus operandi*. ESDP is a purely intergovernmental policy based on consensus: unanimity is required, there are no margins whatsoever for QMV, member states cannot be outvoted nor compelled to field forces or pay for operations against their will. If there is no consensus, there is no common policy. If nobody wants or offers to contribute assets and capabilities, there is no operation. Special restrictions apply to all related areas, and the only form of flexibility – by default, so to speak – lies in the option of abstaining in a vote, not participating in an operation, and not paying for it. One country, Denmark, has even negotiated and obtained an explicit 'opt-in' (rather than 'opt-out') clause, whereby it is automatically exempt from participating in the implementation of the policy unless it decides to do so. On top of this, ESDP-related provisions are not legally binding nor are they firmly anchored in the existing treaties. There is no relevant *acquis*. Almost all the necessary resources remain under the control and authority of member states. There is no military 'integration' – even less than in NATO – and there is no Council of Defence Ministers either. The relevant decisions are taken by the foreign ministers, while the Commission plays only a minor role on the civilian side of ESDP.

Given such constraints, it is even surprising to note how much progress ESDP has made in only five years, and in the presence of recurrent political divisions among the 15/25. But what is it really all about, and how can it possibly work?

### **ESDP, CFSP and crisis management**

Since its coinage in June 1999, the acronym ESDP has come to cover both a specific policy and a set of dedicated institutions.

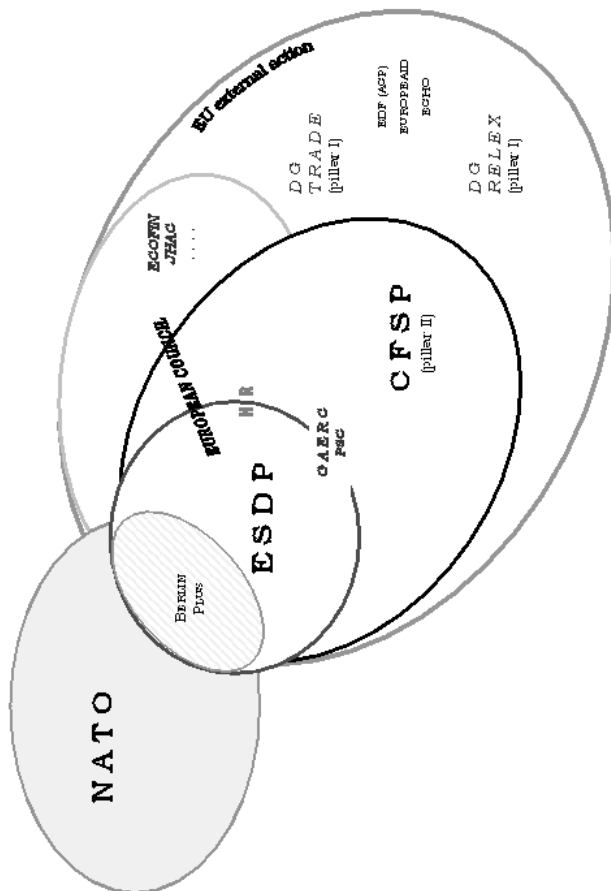
The European security and defence *policy* is primarily identified with ‘crisis management’ as enshrined in Art. 17.2 and Art. 25 cons. TEU, in order also to avoid the semantic traps and political misunderstandings that the term ‘common European defence’ – as derived from WEU language – tended to create. Actually ESDP, too, originally included ‘common’ (CESDP) in its denomination, but that was dropped later for similar reasons. At any rate, EU ‘crisis management’ is not limited to the military dimension but also encompasses a specifically civilian one. In fact, formally starting in January 2003, ESDP has translated into a series of crisis management operations ranging from the EUPM in Bosnia and Herzegovina (civilian) to *Artemis* in the Democratic Republic of Congo (military), and from *Concordia* in the former Yugoslav Republic of Macedonia (military) to *Proxima*, its civilian follow-up. For their part, military operations may be run with (*Concordia*) or without (*Artemis*) the support of NATO through the ‘Berlin-plus’ framework agreement. Finally, if and when the EU takes over from NATO-led SFOR in Bosnia and Herzegovina, it will be running a military *and* a civilian operation at the same time in the same place.

ESDP remains, however, an integral part of CFSP. In turn, CFSP is a central element, but not the only one, of European ‘external action’ proper, which is broader in its functional scope and institutional framework. It is also endowed with a bigger toolbox, encompassing bodies, programmes and instruments: these lie mostly in the first EU ‘pillar’ (from DG RELEX to DG Trade and

other agencies) and are run by the European Commission. Finally, in much the same way as EU ‘external action’ at large is not limited to or by CFSP means and procedures, EU ‘crisis management’ is not carried out only through ESDP instruments. When it comes to tackling real international crises, other policy areas – entailing trade, aid, assistance, transport and communication, financial and political measures (positive and/or negative) – may equally be involved, which do not fall within the remit of CFSP/ESDP. The traded partition of EU policies into separate ‘pillars’, in other words, still holds in strictly institutional terms but is increasingly challenged – or just less relevant – in practice, thus raising thorny issues of cross-pillar coherence, consistency and coordination.

The key political decisions on ESDP are taken at the highest Council level, be it the General Affairs and External Relations Council (GAERC) of EU foreign ministers or, whenever appropriate and necessary, the European Council itself. It is notably at the level of heads of state or government, in fact, that deliberations entailing first- or even third-pillar measures – which lie in the competence of the EU Finance (ECOFIN) or Justice and Home Affairs (JHA) ministers – are formally agreed and adopted. Generally speaking, crisis management decisions often imply the use of such EU programmes as ECHO, in the humanitarian domain, and those now regrouped under EuropeAid, let alone actions also related to trade (e.g. the Cotonou agreement for ACP countries, financed mainly through the European Development Fund). Yet they may also include freezing of financial assets, imposition of sanctions, specific border control or civilian defence measures, all of which require the involvement of other Council formations and, ultimately, the rubber stamp of the European Council. To date, however, no dedicated Council formation has been created for the EU ministers for defence, who can only meet either informally – i.e. without taking decisions – or in conjunction with the GAERC, which remains the main decision-making body for ESDP (see Figure 1).

Figure 1: EU pillars and policies



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This said, the execution proper of the so-called ‘Petersberg tasks’, which constitute the essence of ESDP – they were originally formulated within WEU in June 1992, then incorporated in Art. 17 TEU at Amsterdam on the suggestion of non-allied Sweden and Finland<sup>1</sup> – is entrusted to a distinct set of bodies that are, in many ways, ‘separable but not separate’ from the other EU institutions.

## The High Representative

First comes the High Representative (HR) for CFSP, a position currently held by Javier Solana. Initially proposed by France, the new function was created with the Amsterdam Treaty, in June 1997, and essentially added to that of Secretary-General (SG) of the Council, which already existed in the Maastricht Treaty. Until then, the SG had been a top EU bureaucrat who coordinated the various activities of the Council Secretariat, supporting the rotational presidency of the Union in its daily work. According to the Amsterdam Treaty, in fact, the presidency would be ‘assisted’ by the SG, who would also ‘exercise the function of High Representative’ for CFSP (Art.18.3). Such assistance would apply to ‘matters coming within the scope of the CFSP, in particular through contributing to the formulation, preparation and implementation of policy decisions and, when appropriate . . . through conducting political dialogue with third parties’ (Art. 26 TEU).

Between June 1997 and the entry into force of the revised Treaty in May 1999, however, the whole context changed.<sup>2</sup> Until then, the job description was such that it was commonly assumed a top diplomat from one of the bigger member states – a name frequently mentioned, for instance, was Sir (now Lord) David Hannay’s – would take over from the retiring SG Jürgen Trumpf. Yet the little revolution generated by the Franco-British St-Malo Declaration of December 1998 and, along with that, the shock of the Kosovo war of spring 1999 – both essential to the birth of ESDP – immediately made the appointment much more relevant politically. In this new context, in which the CFSP remit was being broadened with the fledgling ESDP and the demand for a more active EU role in international crises grew significantly, the European Council in Cologne decided to combine the launch of the new policy with an explicit, visible upgrading of the HR post. As a

1. See Martin Ortega’s contribution to this book.

2. See Jean-Yves Haine’s contribution to this book (chapter 1).

result, the former Spanish Foreign Minister and outgoing Secretary-General of NATO (his mandate was due to expire in a few months), Javier Solana, was appointed to become the SG-HR for CFSP as from the following autumn.

As shown above, however, the new Treaty was not particularly generous in details concerning the precise functions and attributions of the SG-HR. For better or for worse, therefore, it was up to its first holder to interpret and shape the new role. And the way Solana opted to proceed decisively strengthened the ‘HR’ part, to the detriment of the ‘SG’. For the primarily bureaucratic function, actually, the European Council decided to appoint a Deputy SG in the person of the former French Permanent Representative to the EU, Pierre de Boissieu. The Cologne summit therefore ended up de facto splitting again the two functions that the new Treaty had just tried to collate, at least in part. Also, Solana was called upon to combine his HR role with that of Secretary-General of WEU, to which he was appointed in November 1999 at the Marseilles WEU Council. Such personal union (or cross-organisational ‘double-hatting’) was meant to facilitate the partial integration of some WEU functions and bodies into the EU, as decided notably in Cologne.

Solana’s work was to be supported by the creation of a Policy Planning and Early Warning Unit (PPEWU), as envisaged in a Declaration attached to the Amsterdam Treaty. Yet again, the new context in which the HR was going to operate induced a partial transformation of the initial PPEWU into what came to be simply called the ‘Policy Unit’ which, in turn, came to resemble ever more an extended cabinet. Rather than looking to the future of CFSP, in other words, the PU – composed mainly of seconded officials from the member states – has become increasingly involved in shaping its present.

Finally, according to the Amsterdam Treaty (Art. 18.5 TEU), the HR may appoint a ‘special representative with a mandate in relation to particular policy issues’. Solana has increasingly resorted to such a possibility in recent times, with particular emphasis on subregional crises. The mandate of such ‘special representatives’, however, tends to vary significantly in terms of duration, breadth and resources. It is obviously stronger wherever the EU runs major programmes and possibly also operations, as in the Western Balkans. In such areas as the Middle East, Afghanistan or the South Caucasus, instead, it is mainly political, comparable to a

sort of roving ambassador's. In some cases the mandate is rotational on a one-year basis, while in others it has no formal deadline.

On the whole, however, it is apparent that in the five years since the initial appointment, the role of the HR has evolved significantly. While it has remained minimal in those areas where there is no consensus (or there is even open dissent) among the member states, it has broadened its scope and visibility in others. Cases in point are the Middle East – where Javier Solana was first a tangible presence at the negotiating table (2000) then an accepted member of the 'Quartet' – and the Balkans, where he managed to act as a trouble-shooter on a couple of occasions. The HR has also gained some room for autonomous initiative in policy formulation, most notably with the European Security Strategy (2003). It is even arguable that the actual interpretation given to the HR role by its first holder has started to erode the rigid intergovernmental barriers that were originally set to it. In fact, by trying to formulate and express the common EU position on some foreign policy matters, 'Mr CFSP' – as the media have come to call him – has sometimes managed to give voice to more than the simple sum of the EU parts.

## **The ESDP bodies**

In connection with the HR, over the subsequent years additional bodies and positions were established in order to cope with the increasing load of policy formulation and implementation that ESDP, in particular, imposed on the Council Secretariat. Such an expansion began when the Helsinki European Council of December 1999 finalised proposals already sketched in Cologne, and decided to set up three new bodies: the Political and Security Committee (PSC), the Military Committee and the Military Staff of the EU. They started operating, albeit in an 'interim' capacity, in March 2000.

The PSC (the French abbreviation COPS is frequently used) is composed of national representatives 'at senior/ambassadorial level', plus a representative of the European Commission, who is 'fully associated' with CFSP work. Its function is 'to monitor the international situation in the areas covered by the CFSP and contribute to the definition of policies by delivering opinions to the

Council'. It is also meant 'to exercise, under the responsibility of the Council, political control and strategic direction of crisis management operations'. This, at least, is the job description that has been incorporated into the new Treaty approved at the Nice European Council in December 2000 (now in Art. 25 cons. TEU as entered into force in February 2003). The PSC, however, started operating on a fully legal basis already in early 2001, following a simple Council decision. To a large extent, it replaces the Political Committee (Po.Co.), created by the Maastricht Treaty (Art. J.15) and formed by the political directors of the national ministries of foreign affairs, which used to convene in Brussels on a monthly basis. The PSC, however, is a permanent body with a marginally narrower competence over policy. It plays a major role in decision-*shaping*, but not decision-making proper: for political/strategic decisions, in fact, it relies on the GAERC, while for the administrative and financial aspects of CFSP/ESDP the key instance is still the COREPER. This means that each member state has at least two distinct ambassadorial-level delegations to the EU – the COREPER, in turn, has at least two major sub-formations – with prerogatives that are not always clearly separate.

The Military Committee (EUMC) is composed by the Chiefs of Defence of all the EU countries or, whenever appropriate, their military delegates. It gives military advice and makes recommendations to the PSC, while providing direction to the Military Staff. Its Chairman – the first holder was the Finnish General Gustav Hägglund – is elected for a period of three years and he attends Council meetings whenever decisions with defence implications are to be taken. A peculiarity of the EUMC is that some of its members also sit on the Military Committee of NATO and, therefore, are *de facto* 'double-hatted': this does not apply to all EU members of the Alliance, however, while the military representatives of some non-allied countries are also seconded to the Alliance bodies.

For its part, the Military Staff (EUMS, *Etat-Major* in French) is there to provide military expertise and support to ESDP, including the conduct of crisis management operations: this entails early warning, situation assessment and strategic planning, and also identification of European national and multinational forces for possible operations. It currently consists of some 70 (mostly seconded) officers and is considered part of the Council Secretariat.

The specifically military bodies are also meant to cooperate with NATO's SHAPE according to modalities ('Berlin-plus') that were still being negotiated at the outset of ESDP. It is also worth noting that, in contrast to the PSC, the EUMC and the EUMS were not included in the Nice Treaty and, therefore, are *not* treaty-based. This was mainly due to the reluctance of some member states – especially the non-allied ones – to have these mentioned in the TEU. Yet it is also fair to say that ESDP has moved forward by intergovernmental decisions first, with a 'codification' to follow only later on (if ever). The only exception is notably the creation of the HR, which preceded rather than followed ESDP.

Finally, a Situation Centre (SITCEN) was also created at the Council Secretariat to fulfil the 'monitoring' function assigned to the new politico-military bodies. In addition, the former CFSP Unit in the Council General Secretariat developed into a dedicated Directorate-General (DG E), expanding to cover also 'pol-mil' affairs and restructuring to absorb new officials with relevant experience from WEU, NATO and national ministries. It currently encompasses three main sub-directorates: (a) enlargement, development and multilateral economic affairs; (b) CFSP and regional affairs; and (c) ESDP and operations (both military and civilian). More recently, a Police Unit has also been created, while a Committee for Civilian Crisis Management has been set up for advisory purposes. On the whole, however, the Brussels-based ESDP staff amount to little more than 200 officials, which is nothing compared with national ministries or the Commission's relevant DGs. Last but not least, two former WEU organs – the Satellite Centre based in Madrid (SATCEN) and the Institute for Security Studies based in Paris (EUISS) – have been attached to the ESDP machinery as 'autonomous agencies' of the Council, with ad hoc budget and status.

### **Operating modalities and scope**

Five years after its inception, ESDP is still a policy in the making and work in progress, with regard to its internal procedures and resources as much as to its ultimate goals. In part, this is due to the very nature of the policy: crisis situations are never identical to one another and demand, therefore, a high degree of flexibility and

adaptability. Moreover, most of the capabilities to be mobilised belong to the member states: this requires a peculiar combination of willingness and ability on their part to put such capabilities at the disposal of the Union, especially since there is no legal obligation to do so. In part, however, the evolving character of ESDP is also due to its relatively young age as compared to other EU common policies (or NATO itself). One has to bear in mind that: (a) EU-led operations only began in January 2003, on a small scale and with limited duration; (b) the EU's own training and exercise policy is still fledgling, at best; (c) procedures are still relatively untested; and (d) 'lessons-learned' evaluations have just started. It is therefore extremely difficult to draw up a reliable flow-chart for the launch and conduct of a 'typical' ESDP operation.

In the light of the limited experience so far, it is nevertheless possible to say that the initial assessment of the feasibility of an EU-led crisis management operation is made at a highly informal level, all the more so if and when it is an exclusively *military* one and located in the NATO 'area'. In the latter case, talks are held between the two organisations – at the political and military level – in order to set the main parameters of the operation and the possible division of labour and responsibilities. In the event of an autonomous EU operation, the same informal negotiations are likely to be held with the member state that is ready to offer its headquarters and thus become the 'framework nation', while force generation proper (i.e. the identification and commitment of specific national force elements for the final 'package') is carried out in collaboration with the EUMC and EUMS. In the event of an exclusively *civilian* operation the method is quite similar, only more centralised in the EU bodies and with a more prominent role for the European Commission. In this 'upstream' phase, the HR and the PSC are supposed to act, respectively, as facilitator (or even initiator) and 'clearing-house'.

Once the likely profile, desirable goals and available means of the operation have been assessed and agreed (with the Council Secretariat providing bureaucratic support and the COREPER administrative and financial back-up), a 'Joint Action' is drafted and finalised by the GAERC. The voting system for CFSP/ESDP is such that decisions are taken by consensus: this means the unanimity rule applies although, since Amsterdam, member states also have the possibility to abstain. Such abstention must be 'qualified' in a formal declaration: it does not oblige the member

state(s) in question to apply the decision and to pay for it, but only to accept that it ‘commits the Union’. Such a ‘qualified abstention’ blocks the decision only if the number of member states who choose it amount to more than one-third of the weighted votes in the Council (Art. 23.1 TEU).

Finally, in a special Protocol attached to the Amsterdam Treaty, Denmark, as already mentioned above, obtained automatic exemption from all defence-related obligations. This does not apply, however, to civilian crisis management and other decisions of a merely institutional or procedural nature (including appointments). Denmark’s exemption is coupled with the right to ‘opt-in’ should it so decide.

Whatever one may think of the desirability of QMV in the broader CFSP domain, it is a fact that, ever since the Maastricht Treaty was signed, decisions ‘having defence implications’ have always constituted an arena in which unanimity is required: member states cannot be outvoted (and even less obliged to commit forces) against their will. As a result, ‘qualified abstention’ arguably represents the most flexible mechanism that could be applied to ESDP decisions, although the automatic financial exemption it entails may open the door to voting behaviour dictated by sheer budgetary calculations. This said, it is also arguable that the whole upstream phase as described above is such that it is extremely unlikely that a member state would decide to block the decision in the GAERC, i.e. when the Joint Action had already gone through all the preliminary negotiations. This could go some way to explaining why, so far, neither formal vetoes nor qualified abstentions have ever been used.

One peculiarity of ESDP vis-à-vis CFSP at large, however, is that the new treaty provisions on ‘enhanced cooperation’ in the second EU ‘pillar’ – as approved at Nice and entered into force in February 2003 – are not applicable to ‘matters having military or defence implications’ (Art. 27b cons. TEU). Such a proviso was due mainly to last-minute reservations concerning the scope of ‘enhanced cooperation’ on defence policy in general. This may or may not be considered a major limitation for military crisis management. Yet the truth is that the current guidelines for mounting and conducting EU-led operations – as outlined in the Presidency Report on ESDP presented in December 2000 at Nice – already entail relatively flexible arrangements. The ‘downstream’ phase, in other words, leaves ample room for coalitions of the willing to run mis-

sions on behalf of and under the ‘strategic control’ of the whole EU.

First of all, as already mentioned above, there is no obligation to take part in any common operation. Secondly, all the participating countries constitute a ‘Committee of Contributors’ that becomes the instance of reference for the practical elements of the operation under way: it also includes, whenever this is the case, those non-member ‘third’ countries that provide a ‘significant’ military contribution to it (whatever that means in the given case). General provisions to this end were approved by the Nice European Council in December 2000, including procedures for consultation in the pre-operational phase. More specific ones – for Russia, Canada and Ukraine respectively – were approved by the Seville European Council in June 2002, including their involvement on an equal footing in the day-to-day management of operations. There is also the possibility, for member and non-member states alike, to leave or join a mission once its initial phase on the ground is completed.

Moreover, each operation has its own financial coverage through an ad hoc ‘mechanism’ that is normally included in the Joint Action. Its modalities vary according to whether the operation is military or civilian. In fact, Art. 28 TEU states that, while ‘administrative’ expenditure is to be charged to the common EU budget, ‘operational’ expenditure for military operations is to be charged to the member states according to the GDP scale or any other ‘key’ the Council decides to adopt unanimously. In practice, this means that civilian operations can be financed mainly through the EU budget (with some flexibility as to which line is to be charged), while military ones are paid for mainly by the participating states – members and non-members alike – according to the rule whereby ‘costs lie where they fall’ (normally used by NATO). The per-diems of the national personnel seconded to the operation are normally covered by their respective administrations.<sup>3</sup>

However, experience gained with the first EU-led operations in 2003-04, and the need to adopt rules more in line with the EU traditions and practice, seem to be leading to a partial review of these initial arrangements. As a result, a strengthening of the principle of direct EU funding (‘as much as possible’) for civilian crisis management operations has been proposed, along with a push for

3. See Gustav Lindstrom’s contribution to this book.

better 'burden-sharing' for military ones, e.g. through a common 'start-up' fund for technical equipment and cost-sharing schemes for participating 'third' countries. More recently, an ad hoc mechanism called 'Athena' has been outlined to meet the specific demands of military missions.

During the whole downstream phase, operational control and tactical management on the ground lie with the relevant (military or civilian) head of mission, often supported by a 'special representative'. They are all answerable to the HR, while the PSC exercises its 'strategic control' through monitoring and political feedback.

However, as previously stated, EU crisis management is not limited to the planning and conduct of ground operations. Nor is ESDP proper geared only towards addressing international crisis situations, for that matter. ESDP is also about identifying and, hopefully, addressing capability shortfalls (of whatever nature) which could negatively affect EU crisis management. Among them is also the promotion of 'a strong and competitive European defence industry and technology', mentioned as early as 1998 in the Franco-British St-Malo Declaration and maintained ever since. Interestingly enough, this specific commitment was not incorporated into the Nice Treaty, and the only treaty-based provisions concerning the European defence industry lie in the first 'pillar' (Art. 296 TEC) and are of a restrictive rather than supportive nature. On top of that, all major policy developments in this domain so far have occurred outside of the EU-specific institutional framework.<sup>4</sup> Yet the decision taken by the Union, in late 2003, to create an 'Agency in the field of defence capabilities development, research, acquisition and armaments' within the EU may help rationalise and unify under its aegis all the relevant efforts and programmes currently under way.

Finally, ESDP is also about setting common principles and guidelines for policies that affect and engage (politically rather than legally) both the EU as a whole and its individual member states, externally and internally. Such was the case lately with the EU Strategy against WMD proliferation and the European Security Strategy, both approved by the European Council in December 2003.

4. See Burkard Schmitt's contribution to this book.

## The next five years

If this is the way ESDP operates five years after its inception, what are the likely challenges awaiting it over the coming five? As has been seen, the policy is still in the making and liable to constant adjustment and adaptation. It is therefore extremely hazardous to try and predict its medium-term evolution. This said, at least four main institutional challenges already loom large on its horizon.

The first one concerns the Union's *enlargement*. With the accession of ten new partners in 2004, and maybe two or three more by 2007, all ESDP bodies are to be severely tested. Numbers matter, and managing international crises at 25-plus may prove very tricky indeed. Even shaping decisions may become much more complicated: it is not by accident that, in the run-up to the current enlargement, the PSC decided to set up a sort of informal sub-committee composed of deputies – the so-called 'Nikolaïdis Group', inaugurated during Greece's presidency of the EU in early 2003 along the model of the 'Antici Group' of the COREPER. Its task is a preliminary drafting of the agenda for meetings while exploring the areas of convergence and/or divergence among the member states. And much as the 'socialisation' of the new partners started well before their actual accession (i.e. immediately after the signature of the relevant treaties in April 2003), achieving a common approach to policy-making may still require some time and encounter a few bumps along the road.

This is all the more true if one considers the differences in size, capabilities, external policy interests and perceptions of the EU-25. Much more than CFSP proper – for which, ultimately, effectiveness and credibility depend on the largest possible consensus on common foreign policy decisions and goals – ESDP relies on the resources that the member states are willing and able to commit and engage. And it is difficult to deny that, in this domain, there are major imbalances among EU partners: enlargement has not created them, of course, but it has made them more acute. In other words, while all EU members are formally equal in representation and decision-making, some are 'more equal' than others in terms of capabilities that may be needed to conduct an effective ESDP, be they military (forces, equipment, industrial base), commercial, civilian or diplomatic. It is not just a matter of geographical extension, population or GDP: some bigger member states could do much better in the light of their sheer size, while some

smaller ones do remarkably well given theirs. Yet it is clear that striking an acceptable and viable trade-off between the rights of all and the means of some is a precondition for making ESDP work at 25-plus, especially if the operational and strategic stakes are set to rise.

A second major challenge concerns policy and institutional *coherence*. This is not new either. But recent policy developments – especially regarding the fight against terrorism – and the parallel delay in enforcing decisive institutional reform have aggravated it further. Over the coming years, in fact, the ‘dual’ (or even ‘triple’) system of the Union’s external action – dispersed as it is across and among its different ‘pillars’ – is likely to remain in place. This is true both horizontally and vertically, both at the political and the bureaucratic level: Council vs. Commission, EU vs. member states, at times even within each one of these. While the European Security Strategy approved in December 2003 has brought some clarity and broad convergence over the goals of CFSP/ESDP (and, more generally, of EU ‘external action’), the recent inclusion of the fight against terrorism in the HRSG’s remit – no matter how desirable and welcome it may be – undeniably increases the intricacy and segmentation of EU ‘crisis management’, internally as well as externally. The expectations and demands are higher now, and require adequate responses. EU institutions and leaders are therefore urged to rise to the occasion – well beyond the current legal provisions and political or bureaucratic realities.

A third major challenge for ESDP is its *accountability*. Often neglected in the public debate, the issue is none the less important. As compared with other EU common policies, in fact, ESDP seems to suffer from a specific accountability gap. On the one hand, national parliaments are largely responsible for the democratic control of ESDP, but are ill-equipped for the oversight of inter-governmental decisions. On the other hand, the European Parliament has few formal powers in this realm but has access to relevant information and expertise, and also has competence for the scrutiny of the Commission’s implementation of ESDP-relevant activities. Finally, the WEU Assembly, still anchored in the WEU Treaty and based in Paris as an inter-parliamentary body specialising in European defence issues, now finds itself in an institutional and political vacuum: it does provide a forum for debating issues related to ESDP (and NATO) but it is powerless and looks increasingly like an odd left-over from the transfer of WEU functions to

the EU. As a result, ESDP lies in a sort of parliamentary grey area that hardly strengthens its overall legitimacy. Also, its transparency and accessibility for EU citizens are naturally limited by its confidential nature, especially regarding military matters, and cannot be measured by the same standards as other EU policies. Pragmatic solutions can and probably should be envisaged for the coming years, for instance regular joint sessions of national parliamentary representatives and MEPs, and hearings of ESDP officials in national parliaments. But it seems difficult to overcome entirely the current disconnect between national- and European-level policy debates and parliamentary competencies.

Finally, a special challenge for the next five years may turn out to be the *Constitutional Treaty*. Paradoxically, in fact, ESDP will operate in a legal context (Nice) that the new Treaty alters significantly. Such a paradox, of course, does not apply to ESDP only. But some of the most important innovations enshrined in the Constitutional Treaty apply notably to it: from the creation of the post of EU Minister for Foreign Affairs to the solidarity clause against terrorist attacks, up to the implementation of ‘permanent structured cooperation’ on defence.<sup>5</sup> On the one hand, therefore, the current institutional arrangements may be de facto weakened or delegitimised by the parallel virtual existence of new ones. On the other, these have to go through a lengthy and risky ratification process that may, in turn, cast shadows over their actual entry into force. This is why clear transitional arrangements may help prevent confusion and bridge this potential legal and functional gap. Some already agreed reforms, in other words, could be secured and put in place regardless of what may happen during the ratification process – while ESDP is likely to remain a constantly adapting and evolving policy.

5. See my other contribution to this book.