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COMPILATION OF RELEVANT DOCUMENTS



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Mainstreaming Human Rights and Gender into European Security and Defence Policy



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Foreword

The European Union launched its first crisis management operation in 2003. Since then we have deployed over 20 military, police and rule of law operations on three continents. The experience we have gained from earlier and ongoing operations feeds into those currently at the planning stages.

For example we have learned that including Human Rights and Gender approaches in all of our missions makes our operations more effective.

This handbook gathers together the documents that comprise the guiding principles for planners of EU operations. It also includes examples of how the guiding principles have been used in actual planning documents that have been declassified for this publication. This handbook is a living document, and as ESDP evolves, it will be regularly updated.

It is my hope that making this compilation of materials available to the general public will increase understanding of what the EU is doing to help the management of civilian and military crises.



Javier Solana

*Secretary General of the Council of the European Union/
High Representative of the EU for the Common Foreign and Security Policy*

“Spreading good governance, supporting social and political reform, dealing with corruption and abuse of power, establishing the rule of law and protecting human rights are the best means of strengthening the international order.” This quote, taken from the European Security Strategy, clearly defines the aims and priorities of the EU in its external action.

The European Union is a responsible and dependable global player. The European Security and Defence policy (ESDP) has grown rapidly in the last few years, deploying more than a dozen civilian and military operations all over the world from the Western Balkans to the Middle East, to Africa and to Asia. The European Union’s action is based on our common values such as human rights, cultural diversity, freedom of expression and economic initiative. Our ESDP operations are aimed at conflict management, preventing crises from unfolding and stabilizing post-conflict situations. Human rights violations are part and parcel of crises and conflicts. The promotion of human rights, with special emphasis on gender and rights of the child and the rule of law are key to sustainable conflict resolution and to lasting peace and security.

During their Presidencies, Germany, Portugal and Slovenia invested their efforts into strengthening coherence

and increasing the impact of EU action on the ground. The German Presidency developed this Handbook, Portugal continued mainstreaming efforts and the Slovenian Presidency updated and revised the core documents and made them available to the public. Mandates of EU Special Representatives as well as ESDP planning documents now contain specific provisions and all ESDP missions and operations now aim to include advisers of expertise in human rights, gender equality and children affected by armed conflict.

This Handbook is thus the product of a joint effort by the Trio Presidency with the support of Member States and EU institutions. It is our hope that it will improve cooperation with our governmental and non-governmental partners and make the EU guidelines more visible and concrete, not only to experts involved in planning and implementation of ESDP operations but also to local communities and general public. It is intended to serve as a tool for those who cooperate with, plan, train, carry out, evaluate and report on EU crisis management. Making this Handbook widely accessible will help us to achieve better mutual understanding and raise awareness of human rights and gender aspects of the ESDP, thus enhancing the synergies of our activities on the ground.



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I - Introduction to EU Human Rights Policy

Excerpt from Introduction to EU Annual Report on Human Rights 2007 (doc.13288/1/07 REV1) - available at www.consilium.europa.eu (select "policies/foreign policy/EU human rights policy/EU annual reports on human rights")

The European Union is based upon and defined by its attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law. The European Union considers that adherence to these principles constitutes the prerequisite for peace and stability in any society. As a global player in many regards, e.g. economically, in terms of its contribution to humanitarian efforts etc., the EU also has a global responsibility to protect and promote human rights.

(...) The report intends to illustrate how the common values on which the EU is based translate into human rights-related activities with regard to third countries, in multilateral fora and in relation to a number of thematic issues.

(...) The report also continues, as in previous years, to address human rights developments within the EU, although the focus is on external relations. This is not only a question of coherence, but also of credibility.

(...) The EU has developed a number of tools and instruments for the promotion of human rights and democracy, such as political dialogue, démarches, a financial instrument – the European Instrument for Democracy and Human Rights (EIDHR), guidelines, action at multilateral fora etc. The overview of the actions that were conducted in the period under review should also serve as a tool for improving the use of the different tools as well as the coherence between them. Ensuring transparency and visibility is another objective of this report.

Under the period covered by this report, the EU further increased its efforts concerning the implementation of the EU Guidelines on the Death Penalty, on Torture and Other

Cruel, Inhuman and Degrading Treatment or Punishment, on Children in Armed Conflict as well as the EU Guidelines on the Protection of Human Rights Defenders, including continued action in support of women human rights defenders. With regard to new initiatives, the EU decided to develop a new set of Human Rights Guidelines on the Rights of the Child (...).

The period covered by this report practically coincides with the first year of functioning of the UN Human Rights Council (HRC), which was to take decisions with a long term impact on its future functioning.

(...) The EU has actively contributed to the first year of work of the HRC, both in the institution building debates and in the substantive discussions.

(...) Although not all of the EU's objectives could be attained in the outcome of the negotiations on the institutional aspects, the EU (...) hopes that the results achieved will allow the HRC to develop into a credible and effective body able to fulfil all aspects of its mandate. Of particular importance is the agreed mechanism for a Universal Periodic Review (UPR) of all UN member states, which will ensure regular examination of the human rights record of every country. The future results of the work of the HRC will largely depend on the use that UN member states will make of the framework; the EU is determined to continue engaging in the spirit of the Resolution establishing the HRC.

Another priority, beside the UN-related work, has as in previous years been the mainstreaming of human rights into all aspects of EU policies. In this regard the newly-appointed Personal Representative continued the work of her predecessor, contributing, by interactions with the various EU actors, to the promotion of this mainstreaming effort. A particular focus has also been on integrating the human rights and gender perspective into crisis management operations and missions of the EU.



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Javier Solana, Secretary-General of the Council of the European Union and High Representative for the Common Foreign and Security Policy, visits a refugee camp in Djabal, Chad

II - Human Rights Reference Documents

In June 2001, two years before the EU had launched its first ESDP operation, the Council defined four fundamental elements that could help the EU achieve a more effective human rights and democratisation policy. These were coherence between Community action and the Common Foreign and Security Policy (CFSP); openness through a strengthened dialogue with the European Parliament and civil society; regular identification and review of priority actions; and mainstreaming of human rights and democratisation into EU policies and actions.

Implementation of mainstreaming remains one of the EU's foreign policy challenges, but it already operates in some areas and delivers results.

A) Mainstreaming of Human Rights into ESDP (doc. 11936/4/06)

– endorsed by PSC in September 2006

The Political and Security Committee endorsed, at its meeting on 1st June 2006, doc. 10076/06 concerning the mainstreaming of Human Rights across CFSP and other EU policies. This document, in its section on ESDP missions and operations and in its section on EUSRS, stated that:

“7. ESDP MISSIONS AND OPERATIONS

The protection of human rights should be systematically addressed in all phases of ESDP operations, both during the planning and implementation phase, including by measures ensuring that the necessary human rights expertise is available to operations at headquarter level and in theatre; training of staff; and by including human rights reporting in the operational duties of ESDP missions (...)

COUNCIL SECRETARIAT AND PRESIDENCY TO

(29) integrate human rights provisions in guiding documents and reviews of ESDP missions and operations where relevant, inter alia by making use of the human rights fact sheet and seeking advice of relevant UN agencies and NGOs;

(30) implement human rights policy in the context of ESDP missions and operations where relevant, in particular as regards women and children, including by monitoring and reporting on human rights related issues;

(31) include human rights experts in ESDP missions and operations where appropriate.

MEMBER STATES, COMMISSION AND COUNCIL SECRETARIAT TO

(32) provide human rights training to personnel serving in ESDP missions and operations;

(33) integrate human rights aspects as part of flanking measures or technical assistance provided in the context of ESDP missions and operations where appropriate.

II. 2. PR/HR AND EUSRS

(...)

(43) including relevant human rights aspects in the mandates of EUSRS; considering the possibility of appointing human rights focal points/human rights advisors in the staff of EUSRS.”

CONCRETE STEPS FOR IMPLEMENTATION

Based on the above, a number of practical and concrete steps should be taken in order to ensure **mainstreaming of human rights into ESDP**. These steps will be initiated during the Finnish Presidency. Steps identified so far are:

- develop a **consolidated list** of relevant human rights related documents and concepts in the context of ESDP to assist the planners of ESDP missions and operations (living document). Human rights elements should be incorporated into the full range of planning documents for ESDP missions, including CONOPS, OPLAN and rules of engagement. These documents should incorporate elements related to both respect for human rights by ESDP missions and the way in which the mission should promote respect for human rights in the mission area.
- develop a **model/template** for generic key human rights elements which can be inserted in planning

documents and reviews of ESDP missions and operations.

- develop a **standard field manual** concerning human rights for ESDP missions and operations, drawing also on relevant manuals from UN DPKO, UN OHCHR, UNICEF and other relevant international organisations.
- organise a **workshop** for ESDP-planners with the participation of personnel from UN DPKO, UN OHCHR and UNICEF.
- develop **standard training guidelines** for general ESDP courses (e.g. ESDC, CEPOL, EDP and EGT) as well as for induction training for personnel serving in ESDP missions and operations.
- ensure inclusion of human rights aspects into ESDP **exercises**.
- ensure **necessary expertise** to missions and operations both at headquarter level and in theatre:
 - as a general rule, human rights expertise should be included in preparatory activities such as **fact finding missions and planning teams**, either a full-time human rights advisor, when necessary, or a staff member appointed as focal point for human rights.
 - **ESDP-missions and operations** should have a human rights advisor close to the Operation/Force Commander or Head of Mission (e.g. as is the case in Aceh Monitoring Mission and EUFOR RD Congo); in certain cases, when the mandate of the mission/operation and its area of operation so justify, a staff member close to the Commander or HoM (POLAD or LEGAD) could instead be appointed as focal point for human rights in the mission/operation and this should clearly be indicated in the organigramme.
 - In areas where the EU has ESDP activities (so far BiH, Great Lakes, Middle East, Sudan), the EUSR should have a human rights advisor. In certain cases, when the mandate of the EUSR and local situation so justify, a staff member close to the EUSR (POLAD or LEGAD) could instead be appointed as focal point for human rights in the office of the EUSR and this should clearly be indicated in the organigramme; currently, the EUSR in Afghanistan has a human rights advisor.

- develop generic **job descriptions** for such human rights advisors.

- ensure appropriate mission-specific **reporting** procedures on human rights aspects in ESDP missions and operations.
- ensure that **lessons learned** from ESDP missions and operations, including from the Aceh Monitoring Mission and EUFOR RD Congo, cover experience gained in the field of human rights and that these lessons learned are given due consideration in future ESDP missions and operations.
- ensure that human rights aspects of the European Community activities in areas where there are ESDP activities, are duly taken into account.

B) Human Rights Advice on the Aceh Monitoring Mission (doc. 11678/1/05)

1. In accordance with the CIVCOM advice on the draft Crisis Management Concept for an Aceh Monitoring Mission (AMM) (doc. 11469/05, para. 5), the Personal Representative of the SG/HR for Human Rights is pleased to be consulted on the human rights aspects of the mission. CIVCOM is invited to take note of this advice in the overall planning of the mission. The Personal Representative of the SG/HR for Human Rights recommends that CIVCOM brings this note to the attention of PSC.

General remarks

2. This is the first time that the EU is sending human rights monitors in the context of a crisis management operation. This is an important development which contributes to increasing coherence and consistency of EU human rights policy. Protection of human rights and the rule of law are key to sustainable conflict resolution and to lasting peace and stability. Human rights violations are part and parcel of crises, and therefore human rights protection has to be part of the solution.
3. Effective mainstreaming of human rights issues in EU civilian and military crisis management operations is in line with various EU guidelines, including in particular the guidelines on the protection of civilians in EU-led crisis management op-

erations (doc. 40805/03), on children and armed conflict (docs. 15634/03, 11521/04, 15957/04), human rights defenders (doc. 10056/04) and standards of behaviour (doc. 8373/1/05) as well as EU follow up to relevant UNSC resolutions, including 1325 on women, peace and security.

4. The Personal Representative of the SG/HR for human rights would therefore like to suggest that future crisis management operations include human rights related aspects from the very beginning, and where appropriate also as part of preparatory fact finding missions, to ensure that human rights issues are adequately covered and addressed during and following such operations. It would be important to assess lessons learned in this regard from AMM for future use.

MoU - Human rights aspects

5. The MoU on the status of the AMM sets out its purposes and objectives, which include: "to monitor the human rights situation, contribute to the process of reconciliation and provide assistance in this field; monitor the process of legislation change; rule on disputed amnesty cases; investigate and rule on complaints and alleged violations of the MoU". The draft Crisis Management Concept for AMM (doc. 11351/05) indicates that "legislation change and the improvement of the human rights situation are considered key factors to the overall success of the peace process". The draft Joint Action stipulates that the Mission shall monitor the human rights situation and provide assistance in this field in the context of the demobilisation and reintegration of GAM fighters. The draft Concept of Operations (CONOPS) indicates that AMM is part of a broader strategy for the building of peace in Aceh, which includes also "legislative and institutional changes, reforms to the criminal justice system, an amnesty, and measures to support the reintegration of former CAM activists and develop the communities affected by the fighting".
6. The MoU foresees that a Human Rights Court will be established for Aceh and that a Commission on Truth and Reconciliation will be established for Aceh by the Indonesian Commission of Truth and Reconciliation with the task of formulating and determining reconciliation measures. The Government of Indonesia will adhere to the ICCPR and ICESCR.

Aceh Monitoring Mission - Human rights aspects

7. The CONOPS indicates a number of human rights related activities. It mentions inter alia the need to establish contacts with representatives of International Organisations, national or international NGOs or other relevant organisations in the Mission Area. The SG/HR's Special Representative for Human Rights would like to underline the importance of such contacts, not only with actors present on the ground such as UNICEF, but also for instance with the Office of the High Commissioner for Human Rights, given its specific expertise on human rights training, monitoring and standards. The CONOPS also indicates that guidelines for monitoring of human rights, legislative change, rule of law and political participation will be attached to the OPLAN. The SG/HR's Special Representative for Human Rights stands ready to co-operate with the HoM of AMM in drafting these guidelines.
8. The draft crisis management concept proposes that out of the total of 190 international staff, 40 should possess "expertise in rule of law, human rights, legal and political affairs, information operations as well as more technical expertise for logistic support, CIS and medical affairs". Given the importance of human rights protection for the success of the peace agreement, both in the short term and the long term, and given the variety of needs set out above, it should be considered to assure a sufficient number of staff with human rights expertise, including with expertise on international humanitarian law, child protection and gender. Clear reporting lines should facilitate a lessons learned exercise on the human rights aspects during and following the mission.
9. It is important to distinguish between the tasks of the monitors and the necessity of flanking measures to secure human rights protection and the rule of law in the long term. The Joint Action foresees Community action also in this regard. On the short term assistance is needed to provide human rights training of police and military staff, to set up DDR programmes including particular attention for children formerly associated by the armed forces, to pay special attention to the needs of vulnerable groups, in particular to the rights of the child and violence against women, and to set up a mechanism to rule on disputed amnesty cases and investigate and rule on complaints and

alleged violations of the MoU. On the long term assistance could be provided in setting up the Human Rights Court and the Commission on Truth and Reconciliation as well as in the fields of legal reform, training of judges and prosecutors, assuring protection of human rights defenders, and preparation and observation of elections. The Commission's draft support package to the sustainable implementation of the peace process in Aceh and bilateral contributions by Member States foresee in providing such assistance.

10. The Personal Representative of the SG/HR for Human Rights stands ready to work with the HoM of AMM and the Commission to further elaborate the human rights aspects of the Mission and to provide advice and assistance during the Mission.

C) Examples : extracts from planning/ lessons learned documents

1) EUPOL AFGHANISTAN

CONOPS (doc. 8199/07). Objectives, para. 60. "institutional respect for and adherence to international Human Rights law in consultation with the Office of the UN High Commissioner for Human Rights (UNHCHR) as well as with the Afghanistan Independent Human Rights Commission (AIHRC);"

CONOPS. "Specific guidance to Head of Mission: para. 3.3.3. In accordance with international standards, supporting a reform process towards a police service trusted by citizens, working within the framework of the rule of law and respecting human rights."

Para. 86. "The ANP has to apply international standards that will include among others the following:

- A- (...)
- B- based on the rule of law;
- C- adequately protected from political interference with operational conduct of activities within the rule of law;
- D- acting in full accordance with fundamental democratic values and Afghanistan's obligations under international human rights law (Afghanistan has ratified CAT, CEDAW, CRC and has acceded to the ICCPR, CERD and ICESCR and the Optional Protocols to the CRC);

E- fully committed to protecting all citizens' rights, their lives, and security and their properties; (...)"

CONOPS, para 145. "EUPOL AFGHANISTAN mission personnel should be familiar with international humanitarian law and international human rights law, as well as with EU human rights policy and the generic standards of behaviour for ESDP missions."

CONOPS. "The HoM will (...) in accordance with international standards, assist and support the development of a police service trusted by citizens and that will work with integrity, in the framework of the rule of law and that will respect human rights."

OPLAN (doc. 10132/07), page 291, which describes that in-mission training and induction training of ESDP personnel should include human rights and international humanitarian law.

OPLAN, page 182. "In full respect with Human Rights principles, EUPOL AFGHANISTAN personnel will report and document all observations regarding violations of Human Rights via their chain of command."

Job Descriptions

"Human Rights Advisor: Under the direct supervision of the HoM the Human Right Adviser will be responsible for the following tasks:

- Provide advice to the HoM and the mission on human rights policies, programmes and projects.
- Be responsible for planning and for following up human rights issues.
- Promote the mainstreaming of human rights issues throughout the mission programme, giving advice and guidance, setting standards for achievements and developing plans of action.
- Support the development of training materials and courses which reflects minimum international human rights standards.
- Facilitate contacts and co-operation on human rights issues, in support of EUPOL's Mission goals with the Government of Afghanistan, other international organisations, Member States and non-governmental organisations.
- Work together with the Mission Gender and

Rule of Law Adviser to ensure cohesion and synchronisation of efforts in support of the mission.

Qualifications and Experience Human Rights Advisor

- Advanced university degree in a relevant discipline, preferably human rights law.
- Minimum of 3 years work experience within the international human rights legal and development context, preferably in an advisory/advocacy role.
- Knowledge of the latest international developments in human rights law and principles, approaches and tools for strengthening respect for human rights through field mission work.
- Experience in human rights development and legal work in an international context.
- Work experience with information and changes of attitudes in the area of human rights.
- Experience of working with international development tasks in other international organisations is desirable.
- Experience of working in civilian crisis management operations and/or in Afghanistan will be an advantage.”

2) **ESDP SSR Police Mission and its interface with justice in the Democratic Republic of the Congo (DRC)**

CONOPS (doc. 8048/07), para. 18. Objectives for the European Union. “Long term objectives: Stabilisation and consolidation of the post-conflict situation in the Great Lakes region, based in particular on the respect of fundamental principles of democracy and good governance, including the respect for human rights and the rule of law and the principles highlighted in the EU Strategy for Africa and the Cotonou Agreement. (para. 21 OPLAN, Doc. 9770/07)”

OPLAN (doc. 9770/07), para. 37. “État Final : Les structures locales devraient avoir des moyens suffisants pour accomplir des progrès tangibles et durables en vue de mettre en place et de faire fonctionner un service de police qui soit à la fois transparent et responsable, qui soit coordonné avec le système judiciaire, qui opère dans un cadre juridique rigoureux conformément aux normes internationales,

y compris les questions relatives à l'égalité entre les femmes et les hommes, aux droits de l'homme et à l'État de droit, et qui réponde aux besoins de la société.”

OPLAN, para. 38. “Critères de succès : (...) le renforcement du centre d'opérations permet au moins à la capacité de maintien de l'ordre/de réserve basée à Kinshasa d'effectuer des interventions policières de maintien de l'ordre qui soient opportunes et coordonnées, conformément aux meilleures normes internationales et dans le respect des droits de l'homme; (...)”

OPLAN, para. 60.10. “Il est sans doute possible de mettre en commun les ressources dans un nombre limité de domaines, en “partageant” l'agent affecté à la sécurité, l'attaché de presse chargé des relations publiques et la fonction de conseiller pour les questions relatives aux droits de l'homme et aux enfants dans les conflits armés, dont l'expertise contribuerait à donner aux autres partenaires une image et un message davantage unifiés.”

OPLAN, para. 61. “Le personnel de la mission devrait posséder une bonne connaissance du droit humanitaire international et du droit international en matière de droits de l'homme, ainsi que de la politique de l'UE pour les droits de l'homme et des normes de comportement pour les opérations PESD.”

3) **Memorandum of Understanding Aceh Monitoring Mission**

Doc. 11678/1/05, page 3, para. 6. “The MoU foresees that a Human Rights Court will be established for Aceh and that a Commission on Truth and Reconciliation will be established for Aceh by the Indonesian Commission of Truth and Reconciliation with the task of formulating and determining reconciliation measures. The Government of Indonesia will adhere to the ICCPR and ICESCR.”

4) **AMM Lessons Learned**

Doc. 7416/07, page 10-11, para. 19-22. Human Rights Monitoring and Gender issues AMM was the first ESDP mission to be given an explicit mandate to monitor Human Rights. The mission started with a Department for Human Rights, Amnesty

and Reintegration. The guidelines were put together and relayed by the AMM Human Rights Coordinator during training sessions and through extensive communication with the Operations Department and individual monitors in the District Offices. (...)

5) **European Union Concept for strengthening African Capabilities for the prevention, management and resolution of conflicts**

Doc. 14556/1/06, para. 2. "Key to the strengthening of the relationship is the provision of support to the capacity building of the AU Commission and the sub-regional organizations to enable them to implement their ambitious agenda. One of the main component of the support, which also needs to be addressed simultaneously with other aspects, is the development of sustainable capabilities for conflict prevention, management and resolution (CPMR). Cooperation in this field is governed by three principles:

- a partnership involving mutually agreed objectives based on international law and human rights;
- equality and mutual accountability;
- and African ownership and responsibility, which implies working through African institutions on the basis of needs identified by the African Union (AU) and sub-regional organisations (SROs)."

6) **Civilian Headline Goal 2008**

Civilian Headline Goal – Civilian Capabilities Improvements Conference 2006 – draft Ministerial Declaration (doc. 14198/07), para. 10. "With regard to recruitment for civilian ESDP mission personnel, Ministers underlined the importance of gender and Human Rights mainstreaming. They stressed that improving gender balance contributes to operational effectiveness of a mission and noted that efforts are being undertaken to further raise gender and Human Rights awareness."

Doc. 13296/1/07. "An Office of the Human Rights Advisor to the Head of Mission was introduced in the draft list in order to take account of the document 'Mainstreaming of human rights into ESDP' that was recently noted by the PSC (doc. 11936/4/06 REV 4)."

In the job description of the political advisor to the HoM the following qualifications were added: "University Degree or equivalent, as appropriate, with a minimum of 5 years of working experience at middle management level. Familiarity with human rights, gender issues and children and armed conflict issues."

Civilian Response Teams (doc. 7568/07), para. 7. "It should also be kept in mind that, when the first call for nominations was made, not all Member States were in a position to nominate experts within the deadlines set at the time. However, many developments have taken place since then, and Member States might now wish to further nominate candidates for the CRT pool. It could therefore be considered to call for new nominations, for a limited number of experts. It could even be appropriate to consider a slight increase (around 15 or 20%) over the initial target of 100, should the need for particular areas of expertise (for instance, Mission Support or Human Rights) be identified."

7) **Draft EU Concept for support to Disarmament, Demobilisation and Reintegration (DDR)**

Doc. 13727/2/07), para. 5. "DDR is often included as an explicit part of the mandate of United Nations (UN) peacekeeping operations and is also undertaken under specific DDR programmes by the United Nations Development Programme (UNDP), the United Nations Children's Fund (UNICEF) and other parts of the UN system, the World Bank or other international actors. The EU brings added value in the field of DDR by being able to bring together a wide range of instruments for security, stability, development, democratic governance and the promotion of human rights. It also possesses a whole bandwidth of capabilities in order to support the assessment, conception, planning, implementation and funding of DDR programmes and can thus effectively contribute to multi-lateral efforts or undertake bilateral support in relation to third countries. (...)"

Para. 21. "The UN has also been more engaged in countries where peacekeeping operations have not been deployed by the Organisation¹, especially

¹ Such as Afghanistan, Central African Republic, Indonesia (Aceh), the Niger, Democratic Republic of the Congo, Somalia, Solomon Islands, Sri Lanka and Uganda.

through UNDP and UNICEF but also through other agencies, funds, departments and programmes of the UN system that have played a key role in supporting the development of disarmament, demobilisation and reintegration programmes and strategies, such as the United Nations High Commissioner for Refugees (UNHCR) or the Office of United Nations High Commissioner for Human Rights (OHCHR). DDR programmes have most often been implemented in concert with programmes of Return of refugees and Rehabilitation/reconstruction of destroyed habitats and livelihoods. (...)

Para. 36. “The European Community, in the framework of its external action, is able to support all the DDR phases with a focus on demobilisation and reintegration, through short term humanitarian assistance, under certain conditions, rapid response through the Stability Instrument and through long-term external support of the overall DDR process. EC support is also provided to the wider recovery and development efforts, notably by applying conflict sensitive approaches, which can contribute to long term reintegration needs, including support to democratic governance processes and institution building, respect for human rights, consolidation of the social and economic development of the country including health and education programs. (...)”

Para. 45. “*The EU should ensure respect for Human Rights and carry out DDR support in relation to efforts in the area of reconciliation and transitional justice.* The EU should continue to promote the ratification and implementation of the key UN Human Rights Instruments and their Optional Protocols². Human rights of all the people, both victims and offenders, should be ensured at all stages of the process and at all times. This requires ending the culture of impunity, such as granting a role to war criminals in a national army or political bodies. All war crimes, crimes against humanity and other offences must be duly and timely investigated

and the perpetrators brought into a fair trial. Sufficient support should be given to the International Criminal Court (ICC), International Criminal Tribunal for Rwanda (ICTR), International Criminal Tribunal for Yugoslavia (ICTY), Special Court for Sierra Leone (SCSL) and other similar structures. Children recruited or used by armed forces and groups should be considered primarily as victims of violence, not perpetrators. All children should be protected from disproportionate and excessive use of force and treated in accordance with international law in a framework of restorative justice and social rehabilitation.”

Para. 46. “*EU support should be carried out in the context of the political dialogue.* DDR should be carried out in the context of the EU’s political dialogue with each partner country, in relation to democratic principles, rule of law, human rights, development and security issues. The political dialogue should be seen as a guiding element throughout the process.”

2 Such as the International Covenant on Civil and Political Rights (ICCPR) 1966, the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1999, the Convention on the Rights of the Child (CRC) 1989, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1985, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 1965 and all their optional protocols.

D) Overview of ratifications of or accession/succession to core international human rights instruments by countries in which the EU has established or is planning to establish a crisis management mission

	ICCPR	ICESCR	CRC	CEDAW	CAT	CERD	ICC
AFGHANISTAN	x	x	X + OPs	x	x	x	x
BOSNIA-HERZ.	x	x	X + OPs	x	x	x	x
DR CONGO	x	x	X + OPs	x	x	x	x
FYROM	x	x	X + OPs	x	x	x	x
GEORGIA	x	x	X + OP2	x	x	x	x
INDONESIA	x	x	X (OPs signed not ratified)	x	x	x	
REP. OF MOLDOVA	x	x	X (OP2 signed)	x	x	x	signed
SUDAN	x	x	X + OPs		signed	x	signed
CHAD	x	x	X + OPs	x	x	x	x
GUINEA BISSAU	signed	x	X (OP2 signed)	x	signed	signed	signed
KOSOVO *							

List of Abbreviations

ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
CAT	Convention Against Torture
CEDAW	Convention on the Elimination of Discrimination against Women
CERD	Convention on the Elimination of Racial Discrimination
CRC	Convention of the Rights of the Child and the optional protocols 1 (on the involvement of children in armed conflict) and 2 (sale of children, child prostitution and child pornography)
ICC	International Criminal Court (Rome Statute)

Example: the CONOPS and OPLAN for EUPOL AFGHANISTAN have listed these core UN human rights covenants in their list of references.

* At the date of this publication, Kosovo is not an UN Member State.

III - Gender Reference Documents



© UN Photo/Marine Perret

A woman from Mabanda, Burundi, casts a ballot in a national referendum

In 2000, the international community committed itself to take into special account the vulnerable situation of women in times of war and to cooperate in involving women at all decision-making levels in peace-building and conflict resolution operations, as well as in humanitarian efforts. UN Security Council Resolution 1325 was born.

The EU has made UNSCR 1325 a guiding principle for ESDP operations and has developed a framework for gender mainstreaming. Former UN High Commissioner for Human Rights Mary Robinson once observed that “Today’s human rights violations are the causes of tomorrow’s conflicts”. In a 1325 context, this means that today’s failure to include women in all phases of negotiation and implementation of peace agreements could contribute to tomorrow’s conflicts.

Using UNSCR 1325 makes good sense in the field, too: in the EU’s experience, operations that take advantage of a gender approach are more effective in fulfilling their mandates.

A) Council conclusions on Gender Mainstreaming (doc. 14884/1/06)

COUNCIL CONCLUSIONS ON PROMOTING GENDER EQUALITY AND GENDER MAINSTREAMING IN CRISIS MANAGEMENT

1. The Council underlines the importance of promoting gender equality and gender mainstreaming in the context of CFSP/ESDP at all levels. The Council expresses its determination to put in practice the decisions taken to promote gender equality in the context of ESDP and the related checklist, which seek to ensure gender mainstreaming and implementation of UN Security Council Resolution 1325 (2000) from the early planning to the conduct and evaluation of ESDP missions and operations.
2. The Council emphasises the importance of effective monitoring to ensure a systematic follow-up of the

- commitments made. Also the Generic Standards of Behaviour, *inter alia*, against sexual exploitation and prostitution should continue to be fully implemented by all ESDP missions and operations. Where not already in place, national measures, such as action plans for the implementation of UNSCR 1325 by Member States as well as third states participating in ESDP operations, should also be encouraged.
3. The Council underscores the importance of improving gender balance in the ESDP operations, also at the senior-management level. The Council therefore invites the Member States to ensure that they nominate more female candidates for upcoming CFSP/ESDP assignments, including the posts of EU Special Representative and Head of Mission. The Member States are also invited to pursue active recruitment strategies and to identify and address specific obstacles limiting women's participation. Mission reports should include relevant statistics in this respect.
 4. The Council stresses that gender equality and human rights should be fully integrated in the planning and conduct of all ESDP missions and operations, including fact-finding missions. Gender awareness and sensitivity contribute generally to the operational effectiveness and situational awareness in standard assignments. Regarding certain tasks, such as checkpoints and outreach activities, it is of particular importance to include in the mission personnel both men and women. A gender adviser or a gender focal point should be appointed for all ESDP missions and operations. In this context, the Council welcomes the work of the gender adviser appointed to the EU's military operation EUFOR RD Congo. The Council notes that support for improved gender sensitivity must be assured throughout the chain of command.
 5. The Council emphasizes the importance of training activities, tailored to the needs of the military and civilian personnel taking part in the ESDP operations, in particular on gender equality and human rights as well as gender-based violence, and encourages the Member States to intensify these training efforts. Such training should include those highest in command. A particular emphasis should be put on mission specific training. The Council encourages the development of public information campaigns and public material on women's and men's involvement in the security sector, including the military and police, in order to change stereotypes regarding women's participation, assignments and tasks.
 6. Gender perspective needs to be fully integrated in peace building. All reconstruction efforts should draw on the knowledge and expertise of women's groups and networks within the community. The Council encourages the development of targeted EU activities to promote gender equality and the role of women in post-conflict situations. In this context, the Council stresses the importance of actively supporting women's participation in civic education and political processes, including right to vote and stand as candidates in elections.
 7. The Council underlines that policies aimed at the protection and reintegration of Internally Displaced Persons (IDPs) / refugees should take gender issues into account.
 8. The Council emphasizes that gender perspective should be incorporated in EU's policies and activities on Security Sector Reform (SSR) and Disarmament, Demobilization and Reintegration (DDR). DDR programmes should ensure that female combatants are identified and registered early and that both sexes can participate equally in these programmes. Women need to be ensured equal access to the assistance package to which they are eligible under the DDR programme and to be involved in economic reintegration activities.
 9. The Council underlines the importance of addressing gender perspective in the context of rule of law activities. Gender equality could also be promoted in post conflict situations through legal reforms in the justice sector, *inter alia* through revising discriminatory laws, such as laws concerning inheritance, family relations, property and employment, and through empowering women to access rule of law and economic and social justice institutions.
 10. The Council emphasizes the importance of including measures against sexual and gender based violence in transitional justice mechanisms. All peace building and reconstruction plans should include comprehensive victim-protection and support mechanisms. The Council notes that the mandates of ESDP missions and operations could also address the possibilities to assist, if so requested, the ICC or other specialised courts and accountability mechanisms (e.g. truth commissions) in carrying out their work, including in cases relating to systematic

sexual exploitation and gender based violence. In this context, the Council recalls that on 10 April 2006 the EU and the International Criminal Court (ICC) have concluded an agreement on cooperation and assistance. The Council also highlights the responsibility of all states to put an end to impunity and to prosecute those responsible for sexual and gender based violence.

B) Checklist to Ensure Gender Mainstreaming and Implementation of UNSCR 1325 in the Planning and Conduct of ESDP Operations (doc. 12068/06)

I. AIM

This checklist seeks to ensure gender mainstreaming and implementation of UNSCR 1325 from the early planning to the conduct of ESDP operations, including their follow-up. The check list should be used by civilian and military planners in member states and in the Council Secretariat. It should serve as a reminder and provide concrete examples of what can be done during the different stages of the planning process. It should be used in conjunction with the document “Implementation of UNSCR 1325 in the context of ESDP” (doc. 11932/2/05 Rev 2).

Where appropriate, gender issues that feature in this checklist should be addressed in the context of human rights.

II. ADVANCE PLANNING - STRATEGIC CONTINGENCY PLANNING and STRATEGIC PLANNING

Early Warning and Situation Analysis - EU Watch List

- SITCEN should consider gender as a factor in situation analyses and be encouraged to liaise and to share with other organisations such as relevant UN agencies, the OSCE as well as NGOs who could have valuable information and experiences. The specific situation of both men and women need to be analysed.

Fact finding missions and Planning Teams

- Fact finding missions and planning teams should consider gender issues and include gender expertise as necessary for the purpose of the mission. A section on gender issues should be included in the report of the fact finding mission.
- The EU Human Rights Fact Sheet should be used when preparing the mission. As appropriate, information should be collected on gender dimensions in all functional areas covered by the assessment. The specific situation of both men and women need to be analysed.
- The fact finding mission and planning teams should, taking into account the purpose of the mission, consider meeting with local women's organisations or international women's organisations present in theatre, to assess specific issues related to the situation of women. Where applicable, meetings with women in decision-making functions should also be held.
- Gender sensitivity can contribute positively to the operational effectiveness. Fact finding missions and planning teams could identify specific tasks, such as check points and outreach activities, where there could be a specific requirement to involve women.

Crisis Management Concept/Strategic Options/Initiating Military Directive

- Situation assessments should include a short summary of gender related issues in the area of operation. Options should be developed on if and how the mission should address identified problems. When possible, discussions could be held with other international organisations such as relevant UN agencies and the OSCE on how to address identified problems.

III. OPERATIONAL PLANNING

Concept of Operations - CONOPS

- If specific concerns and priorities have been identified in the Crisis Management Concept and if it has been agreed that they should be

taken into account by the EU operation, the concept of operations should address this by way of appropriate tasking.

- During the development of the CONOPS, the need for a dedicated gender advisor should be assessed. Depending on the size and mandate of the mission, double-hatting with a possible human rights adviser could be considered. In areas where the EU has both an EUSR and an ESDP operation, a joint gender adviser could be considered.

Operation Plan -OPLAN

- The OPLAN for every ESDP mission must include an annex including specific standards of behaviour, based on the agreed generic standards of behaviour (doc 8373/3/05) and taking into account the specific situation in the area of operation.
- The OPLAN should contain specific guidance on gender issues developing the tasks identified in the CONOPS. The OPLAN should also include a requirement to report on gender related aspects.

IV. FORCE GENERATION/CALL FOR CONTRIBUTION

- To the extent possible, EUSR staff and ESDP operations should include personnel with responsibility for gender issues. Such staff will serve as focal point and technical expertise. Gender experts should be recruited as early as possible in order to make the best use of the expertise during the detailed planning of the operation.
- All calls for contributions and invitations to Force generation Conferences should include the following sentence: "The EU strives for an improved gender balance in ESDP operations, in conformity with UNSCR 1325. The General Secretariat (Head of Mission/The Operation Commander) encourages Contributing States and European Institutions to take this into account when offering contributions". The call for contribution should also stress any specific needs related to gender issues (e.g. the need for both men and women in border controls).

V. CONDUCT OF OPERATIONS

- EUSRs, Heads of ESDP Missions and Commanders should ensure the implementation of the gender related tasks set out in the OPLAN and consider how each component of the mission might take account of gender issues.
- A gender perspective should be integrated into policies, programs and projects, monitoring and data collections.

Reporting

- Apart from the requirements in the OPLAN to report on gender-related aspects, information on the gender specific violence as well as local women's role as actors should be included in the regular reports by EUSRs, HoMs or Commanders, as appropriate.
- The reports should regularly include statistics on gender ratios in the mission as well as on ongoing consultation with local and international women's groups.
- EUSRs, Heads of ESDP Missions and Commanders should also make sure that breaches of the agreed standards of behaviour are reported through the EU Chain of Command.

Reviews

- Gender and standards of behaviour should be included in the regular mission reviews. This should be done as a routine and not only when problems have occurred.
- If possible, the contribution of EUSR's work and ESDP operations on the situation of men and women in the area of operations should be assessed.

Supervision and disciplinary matters

- In line with the Generic Standards of Behaviour, all ESDP missions should have clear procedures for the handling of gender-related complaints, incl. sexual harassment. The Force Commander/Head of Mission must ensure that their personnel are aware of complaint procedures.

Contact with local and international women groups

- A list of local women's groups working and international women's group present in the area of operation should be set up. Regular meetings should be held in order to identify issues of concern. Contacts should be sought, where applicable, with women in decision-making positions.
- In contacts with local authorities, the ESDP operations should stress the importance attached to gender mainstreaming and encourage local authorities to implement a gender sensitive policy to the extent possible. If the EUSR and/or the ESDP operation is involved in peace negotiations and reconciliation processes, the active involvement and presence of local women in these processes should be encouraged.

Training

- Pre-deployment training should include gender and UNSCR 1325 awareness training.
- During ongoing missions, mission personnel should receive training on gender issues. On mission training should also ensure adherence to the standards of behaviour as well as emphasize zero tolerance for abuse and misconduct.

VI. LESSONS IDENTIFIED

- Gender mainstreaming and implementation of UNSCR 1325 should be included as a specific item in the lessons learned process.

C) Implementation of UN Security Council Resolution 1325 (doc. 11932/2/05)

In view of a forthcoming PSC meeting please find herewith the revised version of a draft operational paper, focusing on practical measures for taking work forward on UNSCR 1325 in an ESDP context, as agreed by the PMG at its meeting on 22 September 2005.

It is suggested that the content of this document should

also be applied, as appropriate, to planning and implementation of other types of EU actions in areas of operation, in order to ensure consistency in the EU's approach.

References

- Ministerial Declaration of the Conference of Ministers of Gender Equality, Luxembourg, February 4, 2005
- Council Conclusions on ESDP, GAERC, 23 May 2005
- Civilian Headline Goal, doc. 15863/04, 7 December 2004
- EU Guidelines on the protection of civilians in EU-led crisis management operations (doc. 40805/03), on children and armed conflict (docs 15634/03, 11521/04, 15957/04), human rights defenders (doc. 10056/04) and standards of behaviour (doc. 8373/3/05)
- Resolution 1325 (2000) of the United Nations Security Council concerning women, peace and security (UNSCR 1325)

I. Introduction

In February 2005, the EU Ministers on Gender Equality reaffirmed their commitment to implement and encourage initiatives, policies and programmes, following the United Nations Security Council Resolution 1325 concerning women, peace and security (UNSCR 1325). In May 2005, the GAERC encouraged its competent bodies to carry out further work in areas related to the implementation of specific aspects of UNSCR 1325.

UNSCR 1325 calls for increased involvement of women, at all decision making levels, in conflict prevention, crisis management and post-conflict reconstruction, as well as in areas such as DDR and promotes women as advocates for peace. It further acknowledges the need to take special measures in terms of protecting women and girls and to respect the different needs of men and women.

UNSCR 1325 clearly identifies women as important actors in peace-building and conflict mediation. It seeks to expand the contribution of women to field based operations and strives to increase consultation with local and international women's and human rights groups. UNSCR1325 stresses the importance of including gender related issues in training programmes for military and civilian personnel in preparation for deployment.

Gender equality is a fundamental principle of the EU's foreign and security policy. As stated in the Charter of Fundamental Rights of the EU, equality between men and women

must be ensured in policy areas. At a time when the EU is continuing to develop its crisis management capacity and launch new operations, efforts should be made to integrate gender related issues in ESDP policy making, not as a separate issue, but as an aspect that permeates all action taken within this area. Gender mainstreaming in the area of ESDP is not a goal in itself; the ultimate objective is to increase the EU's crisis management capacity by mobilizing additional resources and exploiting the full potential of the human resources available and to make the missions more effective in establishing peace and security and strengthening democratic values. Gender mainstreaming concerns both sexes, and requires the commitment and participation of both men and women. The implementation of UNSCR 1325 will further contribute to the general objective of mainstreaming human rights into crisis management, in accordance with international human rights obligations and in line with the EU human rights guidelines, in particular the guidelines on Children and Armed Conflict and the draft guidelines on protection of civilians in EU-led crisis management operations.

II. Aim

This paper proposes measures to implement UNSCR 1325 within ESDP, contributing at the same time to the application of the EU's general approach on gender mainstreaming. These measures cover all planning and implementation processes from pre-conflict to post conflict phases. This paper constitutes a further step towards more systematic integration of gender perspective in the EU's external relations.

III. Measures to implement the UNSCR 1325

1. Measures to increase women's representation at all decision-making levels

- Strive for improved gender balance in ESDP decision making bodies;
- Encourage Member States to continue to take active steps to ensure that women are fully informed of and encouraged to apply for upcoming international assignments and vacancies, in particular senior ESDP positions;
- Strive for improved gender balance in ESDP operations. Calls for contribution and force generation conferences should specifically take this into account. While candidate selection will be based on qualifications, it should also consider

gender balance. To enable a follow up of women's representation in ESDP operations, data and statistics provided by the EU Member States participating in operations should be gender-disaggregated. In this context, with full regard to operational requirements, Member States are encouraged to promote an appropriate gender balance in all ESDP relevant areas. National best practices on achieving a gender balanced structure in all areas should be shared;

- Promote the role of women as actors in peace building through their participation in peace negotiations as well as establishing transitional governments and reconciliation structures.

2. Measures to increase dialogue with local and international women's groups

- In the theatre of an ESDP operation, the EU should work closely together from the outset with the national and local authorities and civil society in order to promote the importance of gender issues, taking into account each specific situation. As part of the wider process of consultation, with all relevant parties, the EU should ensure that it solicits and incorporates the views of women and women rights groups in order to promote their participation. In this context, the ESDP operation should develop its actions in close coordination with the Commission and Member States, providing assistance to local as well as international organisations and processes promoting women's rights, and their roles in peace processes;
- Appoint, where appropriate, a focal point specifically tasked to establish contact with local and international women's groups and organisations.

3. Measures to protect women and girls affected by conflict

- In the theatre of an ESDP operation the EU should call on all parties to take special measures to protect civilians, in particular women and girls, from gender based violence, particularly rape and other forms of sexual abuse, forced labour, and all other forms of violence in situations of armed conflict;
- ESDP personnel should be fully informed and trained on the Generic Standards of Behaviour

for ESDP Operations. The implementation of the generic standards of behaviour should be regularly reviewed and evaluated.

4. Measures to incorporate a gender perspective into ESDP operations

- Gender issues should be included as a factor for consideration in the planning (including fact finding missions), implementation, monitoring and lessons learned process of ESDP operations and should be incorporated into the supporting documentation to these activities. The advice of the Personal Representative of the SG/HR for human rights could be sought;
- The EUSR, the Head of Mission or the Operation Commander/Force Commander should ensure that reports on gender issues are generated through existing reporting systems. In addition, dependent on the scale of the operation, a member of staff could be designated to advise him/her on gender issues;
- Disarmament, demobilisation and reintegration (DDR) programmes should include ex-combatants of both sexes on equal terms, taking into account the particular fate of women and girls in contemporary armed groups;
- The role of women in enhancing reintegration and reconciliation actions should be strengthened;
- Policies aimed at the protection and reintegration of Internally Displaced Persons (IDPs) should take gender issues into account.

5. Measures to ensure gender training and awareness raising

- Urge Member States to develop and offer a training course on gender in ESDP operations as part of broader human rights training. It could be standardised and offered every year as a part of the EU Training Program in ESDP;
- Include a gender perspective into all ESDP training activities under the responsibility of the European Defence and Security College (ESDC);
- Include gender issues in all pre-deployment mission training, in particular but not limited to senior management, as well as in any induction

or in-mission training. This training should also include HIV/AIDS awareness modules;

- Include a gender perspective in all relevant crisis management training activities under the responsibility of the European Commission;
- Consider using UN and other external gender experts to assist in preparing training materials and as visiting lecturers to EU training activities in ESDP programmes; use the UN's Gender Resource Package for Peace Keeping Operations.

6. Further actions aiming at strengthening the implementation of UNSCR 1325

- Increase cooperation, information sharing and exchange of best practice with other international organisations such as the UN, the OSCE, NATO, ICRC and international NGOs; include implementation of UNSCR 1325 in the regular dialogue with these organisations;
- Promote the importance of gender issues in the framework of EU relations with third countries or regional organisations in the field of ESDP;
- Ensure that aspects of gender are reflected in public information on ESDP;
- Invite the EU Institute for Security Studies (ISS) to conduct a case study on gender mainstreaming with regard to ESDP operations;
- Exchange best practices among Member States on gender mainstreaming in security and defence, including the implementation of UNSCR 1325.

C) Examples: extracts from planning/lessons learned documents

Member States, the Council General Secretariat and all other relevant EU bodies are invited to implement the proposed measures. The Council General Secretariat will initiate a review of the implementation based on the case study and the lessons learned process.

1) EU DDR Concept

Doc. 13727/2/07, para. 58. "Ensuring a gender perspective : Gender aspects must be accounted

for during the whole DDR process. The European Union must reinforce its action along the lines of the documents 'Implementation of UNSCR 1325 in the context of ESDP' and the 'Checklist to ensure gender mainstreaming and the implementation of UNSCR 1325 in the planning and conduct of ESDP operations' when implementing UNSCR 1325 and the relevant international human rights treaties and conventions."

2) EUPOL AFGHANISTAN

CONOPS, para. 144. "The identification of qualified personnel will start as early as possible. The mission will aim to have an adequate gender balance among mission personnel at all levels. Gender issues should be addressed in line with EU policy, based on UNSCR 1325. Member States and Third States will be encouraged to promote gender balance in the selection of their personnel." See also **OPLAN** (doc. 10132/07), page 45. "The EU strives for improved gender balance in ESDP operations at all levels in conformity with UNSCR 1325. Contributing States and European Institutions are encouraged to take this into account when offering contributions."

Para. 86. "The ANP has to apply international standards that will include among others the following:

(...)

- J- promotion of gender mainstreaming with a particular focus on womens' security concerns;
- K- promoting the development of an ethnically balanced and representative police service."

Tasks of the HoM: "(...) assist and support the MoI in elaborating both an ethnicity and gender policy of balance with regard to the police service."

OPLAN (doc. 10132/07), page 185 - "EUPOL AFGHANISTAN personnel will respect local authorities, the law of the land of the host country, their local culture, traditions, customs and practices unless they contradict with International Humanitarian Law (IHL) or Human Rights. They will treat the inhabitants of the host country with respect, courtesy and consideration, *taking into consideration the views of the inhabitants, including women and children, in conflict resolution efforts and post-conflict reconstruction.*"

3) Mission de police menée dans le cadre de la PESD sur la réforme du secteur de la sécurité (RSS) et son interface avec la justice en République démocratique du Congo (RDC)

OPLAN (doc. 9779/07), para. 46. "La mission accordera également une attention particulière aux ONG basées à Kinshasa qui opèrent dans le cadre du mandat de RSS en RDC et cherchera à coopérer avec elles. La mission tiendra aussi pleinement compte des politiques de l'UE en matière de droits de l'homme, d'égalité des sexes et de présence des enfants dans les conflits armés, ainsi que des résolutions pertinentes des Nations unies. À cet égard, des fonctions consultatives adaptées relatives aux droits de l'homme et à la participation des enfants aux conflits armés devraient être prévues à l'appui des deux missions PESD."

OPLAN (doc. 9770/07), para. 61. "La mission visera à assurer un bon équilibre entre les sexes dans le personnel de la mission à tous les niveaux. Cette problématique devrait être abordée conformément à la politique de l'UE, sur la base de la résolution 1325 du Conseil de sécurité des Nations unies. Les États membres et les États tiers seront encouragés à favoriser l'équilibre entre les sexes dans la sélection de leur personnel."

4) Kosovo and Afghanistan – job descriptions

Gender Advisor "Under the direct supervision of the HoM the Gender Advisor will be responsible for the following tasks:

- Provide technical assistance in the mainstreaming of gender in policies, programmes and projects.
- Be responsible for planning and for following up gender equality.
- Promote gender equality, equal opportunities in the mission and the participation of women in conflict resolution, giving advice and guidance, setting standards for achievements and developing plans of action.
- Support the definition of training standards, content and material for the training of staff members on gender-related issues.
- Facilitate contacts and co-operation on gender-issues with other international organisations and non-governmental organisations.
- Advise and monitor compliance with commitments to equal opportunities in recruitment, reviewing policies and reporting on findings.

- Have good communication and pedagogic skills with the aim to create dialogs, interests and engagement in the area.”

Qualifications and Experience Gender Advisor

- “Advanced university degree in social sciences with focus on gender.
- Knowledge of the latest international developments in gender methods, approaches and tools for mainstreaming gender and research in the field.
- Documented experience from gender mainstreaming, education and work in international organisations.
- Work experience with information and changes of attitudes in the area of gender.
- Experience of advising, seminars, training and project management as well as collaborations, changes and developmental work.
- Experience working with international development tasks in other international organisations is desirable.
- Formal/informal networking with other experts in gender, at international level, experience from civilian crisis management operations will be an advantage.”

5) **EUBAM RAFAH**

Letter from HoM Lt. Gen. Pietro Pistolese, Head of Mission EUBAM Rafah to Riccardo Chelleri, Council Secretariat DG EIX, dated January 6, 2007: (...) *“In respect of the Council of the EU Conclusions on promoting gender equality and gender mainstreaming in crisis management (...) , I have appointed a Gender Adviser (...), to fully integrate the gender equality in the planning and conduct of EUBAM. Gender awareness and sensitivity contribute to the operational effectiveness and situational awareness in EUBAM standard assignments. EUBAM Gender Adviser’s tasks will include public information campaigns and preparation of materials on women’s and men’s involvement in order to change stereotypes regarding women’s participation, assignments and tasks.”*

6) **Propositions d’actions visant à renforcer le partenariat entre l’Afrique et l’Union européenne dans le domaine des capacités africaines de prévention, gestion et résolution des conflits**

Doc. 6955/07, page 2. “L’Union africaine a globalement bien accueilli le Concept européen. Les discussions ont en particulier permis de confir-

mer qu’un soutien au développement des capacités africaines de prévention, gestion et résolution des conflits devait s’exercer à quatre niveaux :

- renforcement des capacités dans le domaine de la prévention des conflits ;
- renforcement des capacités dans le domaine de la formation et des exercices ;
- renforcement des capacités dans le domaine du soutien aux opérations de paix ;
- renforcement des capacités dans le domaine de la reconstruction post-conflit.

Ces propositions devront être mis en œuvre en concordance avec les lignes directrices de droits de l’homme de l’UE et les domaines du « *gender* » et des enfants affectés par les conflits armés. (...)”

Page 8. “Objectif : accompagner la mise en œuvre du *Policy Framework for Post-conflict Reconstruction and Development* (PCRD), soutenir l’élaboration par l’Union africaine de doctrines sur des thèmes spécifiques (RSS, DDR, droits de l’Homme, Lutte contre la prolifération des armes légères et de petit calibre). (...)”

Page 12, para. 7. “Soutien aux activités post-crisis : Des besoins spécifiques ont été identifiés par l’Union africaine dans le domaine du management post-crise. L’UA souhaiterait développer une doctrine en la matière, particulièrement sur les sujets suivants : SSR, DDR, Droits de l’Homme et Lutte contre les armes légères. L’UA a demandé à partager l’expérience de l’Union européenne dans ce domaine. Une feuille de route et une structure dédiée au sein de l’UA devraient prochainement voir le jour en vue d’améliorer le contrôle des armes légères. Enfin, l’UE pourrait aider à la mise en œuvre de formation dans le domaine des droits de l’homme, à tous les niveaux, conformément aux règles internationales souscrits par les États membres de l’UA et aux accords régionaux sur les droits des enfants.”

7) **Training**

Council Conclusions on ESDP, May 2007: “The Council welcomed the first training course on Gender and ESDP, organised by Hungary with the support of the Presidency, and called for the course to be standardised and incorporated into the annual EU Training Programme relevant to ESDP. The Council reiterated its view that emphasis should also be put on mission-specific training in this field.”

- 8) **Presidency report on EU activities in the framework of prevention, including implementation of the EU Programme for the Prevention of Violent Conflicts** (doc. 8715/07): paragraph 37 reports on EU and EC activities in this field. The report also includes recommendation on the way forward.

“(37) **Gender mainstreaming** is an integral element of analyzing conflict situations and setting strategic objectives of ESDP missions. The ‘Checklist to ensure gender mainstreaming and the implementation of UNSCR 1325 in the planning and conduct of ESDP operations’ dated 27 July 2006 provides guidance for the planners of missions. In November 2006 the Council adopted conclusions on promoting gender equality and gender mainstreaming in crisis management. Under the EIDHR in fostering a culture of human

rights, special emphasis was put on the rights of women and particularly to women and young girl’s rights protection in conflict and post-conflict situations, with EC support being implemented in Colombia, Ethiopia, Eritrea, Kenya and Somalia. The gender dimension was also clearly integrated to the new joint EU concept on DDR. In addition, the function of a gender adviser will be added to EUSEC RD Congo and EUPOL RD Congo.

In addition, a training seminar on Gender Mainstreaming in ESDP Missions held in Brussels on 30 November - 1 December 2006 was organized for key mission personnel. The Hungarian Ministry of Defence with the support of the Presidency of the EU, also organized a seminar on Gender and ESDP for the staff of Member States and EU institutions in April 2007.”

IV - Children and Armed Conflict



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Sensitising children to the dangers of mines - Kabul, Afghanistan

Children are too often both victims and actors in conflicts that adults create. Other than the self-evident reason for addressing children affected by armed conflict, focussing on the youngest members of our society is also a good channel for promoting human rights generally. It can also provide access to states that otherwise are reluctant to listen to outsiders on human rights issues. Concentrating on children also allows us to have an impact not on one or two generations, but probably on two or even three generations, if not more. This means more impact for the EU's effort.

A) EU Guidelines on Children Affected by Armed Conflict (doc. 10019/08)

Update of the EU GUIDELINES ON CHILDREN AND ARMED CONFLICT

I. CHILDREN AND ARMED CONFLICT

1. In the past decade alone, armed conflicts are estimated to have claimed the lives of over two

2. Children have special short and long term post-conflict needs, such as for tracing of family members, redress and social reintegration, psycho-social rehabilitation programmes, participation in disarmament, demobilisation and reintegration programmes as well as within transitional justice frameworks. In this regard, the EU welcomes the creation of a follow-up forum to the Paris Commitments, which focuses on coordinating and facilitating international support for such programmes.

3. In many situations, there remains a climate of impunity for those committing crimes against children, as proscribed by international humanitarian law and the Rome Statute of the International Criminal Court. The EU underlines the fundamental role of international criminal jurisdictions in fighting impunity and addressing the relevant violations of international law concerning the illegal use and recruitment of child soldiers.
4. The Convention on the Rights of the Child (CRC) is almost universally ratified, but by no means universally applied. Particularly in situations of armed conflict, children suffer disproportionately, in a variety of ways, and with long lasting effects. The impact of armed conflict on future generations may sow the seeds for conflicts to continue or to re-emerge. The Optional Protocol to the CRC on the involvement of children in armed conflict is aimed at countering this situation.
5. The EU welcomes that important international mechanisms have been established dealing with children and armed conflict, in particular, the Special Representative of the UN Secretary General for Children and Armed Conflict, and the Security Council Working Group on Children and Armed Conflict. Consequently, the EU and its member States shall take into consideration and, where appropriate, coordinate their action with these mechanisms, in a view to maximise impact of their respective interventions.

II. PURPOSE

6. Promotion and protection of the rights of the child is a priority of the EU's human rights policy. The European Union (EU) considers it of critical importance to address the issue of children and armed conflict not only because children are suffering in the present and will shape the future but because they have inherent and inalienable rights, as set out in the CRC, its Optional Protocols and other international and regional human rights instruments. The EU aims to raise the awareness of this issue by giving more prominence to EU actions in this field, both within the EU and in its relations with third parties.
7. The EU undertakes to address the short, medium and long term impact of armed conflict

on children in an effective and comprehensive manner, making use of the variety of tools at its disposal, and building on past and ongoing activities (overview of EU actions in Annex I). The EU's objective is to influence third countries and non state actors to implement international and regional human rights norms, standards and instruments, as well as international humanitarian law (as listed in Annex II) and to take effective measures to protect children from the effects of armed conflict, to end the use of children in armed forces and armed groups, and to end impunity for crimes against children. The EU recognises the importance of ensuring coordination and continuity between the various policies and actions targeting the situation of children affected by armed conflict in the various policy areas, including CFSP/ESDP, external assistance and humanitarian aid.

III. PRINCIPLES

8. The EU is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law. These principles are common to the Member States. Respect for human rights features among the key objectives of the EU's Common Foreign and Security Policy (CFSP), which includes the European Security and Defense Policy (ESDP). Respect for human rights is also part of the Community's policies regarding trade and development co-operation and humanitarian assistance.
9. The promotion and protection of the rights of all children is a priority concern of the EU and its Member States. In its work to ensure the protection of children affected by armed conflict, the EU is guided by relevant international and regional norms and standards on human rights and humanitarian law including, inter alia, those contained in Annex II.
10. The EU supports the work of the relevant actors, in particular the UN Secretary General, the Special Representative of the Secretary General for Children and Armed Conflict, the Working Group of the Security Council on Children and Armed Conflict, UNICEF, UNIFEM, OHCHR, UNHCR, UNDP, ILO, the Committee on the Rights of the Child, the Human Rights Committee, the Human Rights Council, the Third Com-

mittee, the Council of Europe, OSCE/ODIHR as well as UN Special Mechanisms and other relevant actors such as the ICRC, the Human Security Network and civil society organisations. The EU also supports the work of child protection networks and Task Forces monitoring UN Resolution 1612 on the ground. The EU will proactively contribute and work with these actors to ensure that the existing international safeguards to the rights of the child are strengthened and effectively implemented.

IV. GUIDELINES

Regular monitoring, reporting and assessments form the basis for the identification of situations where EU action is called for. Where EU-led crisis management operations are concerned, decision making will proceed on a case-by-case basis, bearing in mind the potential mandate for the specific action and the means and capabilities at the disposal of the EU.

A. Monitoring and reporting

11. In their periodic reports and where relevant, and in full knowledge, and in coordination with, the reporting and monitoring system of the UN established through UNSC resolutions 1539 (2004) and 1612 (2005), the EU Heads of Mission, Heads of Mission of civilian operations, EU Military Commanders (through the chain of command) as well as the EU Special Representatives will include an analysis of the effects of conflict or looming conflict on children. These reports should address in particular violations and abuses against children, recruitment and deployment of children by armies and armed groups, killing and maiming of children, attacks against schools and hospitals, blockage of humanitarian access, sexual and gender-based violence against children, abduction of children and the measures taken to combat them by the parties in case. While these six violations provide a primary focus, they do not exclude monitoring and reporting of, and response to, other violations committed against children as relevant in each country situation. They will include in their normal reporting periodic evaluation of the effect and impact of EU actions on children in conflict situations where appropriate. Where relevant, Heads of Mission may prepare *ad hoc* reports on country situations, including an up-

date on the implementation of relevant country strategies which may cover also these issues. Lessons learned from EU crisis management operations may form another important source of information for the competent working parties provided they are not classified.

12. The Commission will draw the attention of the Council and Member States to relevant reporting in this area and provide further information, where appropriate and necessary, on Community-funded projects aimed at children and armed conflict and post-conflict rehabilitation. Member States will feed into this overview by providing information on bilateral projects in this area.

B. Assessment and recommendations for action

13. The Council Working Group on Human Rights (COHOM) in close co-ordination with other relevant working parties will on the basis of the above mentioned reports and other relevant information, such as reports and recommendations from the UNSG (including the list of parties to armed conflict that recruit or use children as annexed to the annual report to the UN Security Council on children and armed conflict), the Special Representative of the Secretary General for Children and Armed Conflict, the UN Security Council working group on Children and armed conflict, UNICEF, UN Special Mechanisms and human rights Treaty Bodies as well as non-governmental organisations, at regular intervals identify situations where EU actions are called upon, in particular where alarming situations arise which call for immediate attention, and make recommendations for such action to the appropriate level (PSC/Coreper/Council).

C. EU tools for action in relations with third countries

The EU has a variety of tools for action at its disposal. The EU will build on existing initiatives in order to consolidate, strengthen and advance EU actions for children affected by armed conflict (as in Annex I). In addition, the tools at the EU's disposal include, inter alia, the following:

14. Political dialogue: The human rights component of the political dialogue at all levels between the EU and third countries and regional organisa-

- tions shall, where relevant, include all aspects of the rights and well being of the child during pre-conflict, conflict and post-conflict situations.
15. Démarches: EU will make démarches and issue public statements urging relevant third countries to take effective measures to ensure protection of children from the effects of armed conflict, to end the use of children in armed forces and armed groups, and to end impunity. The EU Special Representatives and Heads of Mission will be tasked to continue to address the matter with non state actors where relevant. Where appropriate, the EU will also react to positive developments that have taken place.
 16. Multilateral co-operation: the Community is engaged in funding projects relating to children and armed conflict in several fields, in particular for Disarmament, Demobilisation, Reintegration and Rehabilitation (DDRR) and through humanitarian assistance. The Commission will identify possibilities for extending such support, for example in the context of its Country Strategy Papers and its Mid Term Reviews, paying specific attention to the situations in priority countries. The Commission will also specifically consider the link between relief, rehabilitation and development. In this continuum, the Commission has recognised the importance of support to education in emergencies, which has to be integrated into comprehensive longer-term policies. Member States will equally seek to reflect priorities set out in these guidelines in their bilateral co-operation projects.
 17. Crisis management operations: during the planning process, the question of protection of children should be adequately addressed. In countries where the EU is engaged with crisis management operations, and bearing in mind the mandate of the operation and the means and capabilities at the disposal of the EU, the operational planning should take into account, as appropriate, the specific needs of children, bearing in mind the particular vulnerability of the girl child. In pursuit of the relevant UNSC resolutions, the EU will give special attention to the protection, welfare and rights of children in armed conflict when taking action aimed at maintaining peace and security.
 18. Making use of the various tools at its disposal, the EU will seek to ensure that specific needs of children will be taken into account in early-warning and preventive approaches as well as actual conflict situations, peace negotiations, peace agreements, ensuring that crimes committed against children be excluded from all amnesties, post-conflict phases of reconstruction, rehabilitation, reintegration and long-term development. The EU will seek to ensure that the local community, including children, is involved in the peace process. In this context, the EU will take advantage of and build on experience gained within the UN system and regional organisations. Girls and those children, who are refugees, displaced, separated, abducted, affected by HIV/AIDS, disabled, subject to sexual exploitation or in detention are particularly vulnerable.
 19. Training: the co-ordinated EU Training Concept in the field of crisis management should take account of the implications of these guidelines. In light of this, the EU recommends training in child protection.
 20. Other measures: the EU might consider making use of other tools at its disposal where appropriate, such as the imposition of targeted measures. When EU agreements with third countries are approaching renewal the EU will consider carefully the country's record on respect for children's rights, with particular reference to children affected by armed conflict.
- V. IMPLEMENTATION AND FOLLOW-UP**
21. COHOM is furthermore requested to:
 - a) oversee the implementation of EU action taken in accordance with these guidelines and to that end develop modalities to render paragraph 12 operational, as well as to oversee the implementation of relevant country strategies. In this context, reference is made to the 25 June 2001 General Affairs Council's conclusions, which recalled that the Community actions should be consistent with the EU's action as a whole;
 - b) review and update on a regular basis the EU list of priority countries;
 - c) promote and oversee mainstreaming of the issue of children and armed conflict throughout

all relevant EU policies and actions, as well as to co-operate with other EU bodies in the area of security and development to comprehensively protect the rights of children;

- d) undertake ongoing review of the implementation of these guidelines, in close co-ordination with the relevant working groups, Special Representatives, Heads of Mission, Heads of Mission of civilian operations and EU Military Commanders (through the chain of command);
- e) continue to examine, as appropriate, further ways of co-operation with the UN and other international and regional intergovernmental organisations, NGOs as well as corporate actors in this area;
- f) report to PSC on an annual basis on progress made towards fulfilling the objectives set out in these guidelines;
- g) submit an evaluation of these guidelines to the Council with recommendations for improvements or updates as and when appropriate;
- h) On that basis, consider establishing a focal point (for instance a special group of experts or Special Representative) to ensure the future implementation of these guidelines.

Annex I

Non-exhaustive list of international norms, standards and principles the EU may invoke in contacts with Third Countries concerning children affected by armed conflict

I. UN human rights instruments

a. Treaties and protocols

- * Convention on the Rights of the Child, 1989;
- * Optional Protocol II to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2002;
- * Optional Protocol I to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2002;
- * ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999.

b. Security Council Resolutions

- * Security Council Resolution 1539 (2004, Children and armed conflicts);
- * Security Council Resolution 1612 (2005, Children and armed conflicts).

c. Resolutions by the General Assembly related to Children and Armed Conflict

- * Resolutions on the rights of the child introduced by the EU, jointly with GRULAC, in the Human Rights Council and Third Committee of UN General Assembly on a yearly basis. These resolutions contain paragraphs on children and armed conflict.

II. International Humanitarian Law, Refugees and IDPs

- * Geneva Convention relative to the Treatment of Prisoners of War, 1949;
- * Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949;
- * Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1978;
- * Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1977;
- * Convention relating to the Status of Refugees, 1951;
- * Protocol relating to the Status of Refugees, 1967;
- * Guiding Principles on Internal Displacement, 1998.

III. International Criminal Law

- * Rome Statute of the International Criminal Court, 2002;
- * Amended Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, 1993 (as amended in 1998, 2000, 2002);
- * Statute of the International Criminal Tribunal for Rwanda, 1994;
- * Statute of the International Tribunal for Sierra Leone.

IV. Other relevant international principles, guidelines and normative instruments

- * The Paris Commitments to Protect Children from Unlawful Recruitment or use by Armed Forces or Armed Groups adopted on 6 February 2007;
- * The Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups adopted on 6 February 2007;
- * Report of the Special Representative of the Secretary-General for Children and Armed Conflict, Item 68 (a) on the provisional agenda of the 2007 UN General Assembly (A/62/228);
- * Enhancing the EU Response to Children Affected by Armed Conflict With particular reference to development policy, Study for the Slovenian EU Presidency prepared by Andrew Sherriff in December 2007;
- * "Will you listen?" Young voices from conflict zones prepared in 2007 by the UNICEF Office of the Special Representative of the Secretary General for Children and Armed Conflict, UNICEF, Global Youth Action Network, UNFPA, et al.

V. Regional instruments

- * African Charter on the Rights and Welfare of the Child, 1990.

Annex II

EU Actions in the field of Children and Armed Conflict (INDICATIVE)

a. CFSP Instruments

- * Council Conclusions of 10 December 2002 (doc. 15138/02, page 9).
- * Council conclusions on the biennial review of the EU Guidelines on Children & Armed Conflict of 12 December 2005 (doc. 14960/05, page 15).
- * Council Conclusions on Children in External Action, May 2008.
- * EU guidelines on torture and other cruel, inhuman or degrading treatment or punishment (doc. 7369/01) and working paper to implement the guidelines (doc. 15437/02).
- * European Union Guidelines on the Death Penalty (doc. 9199/98).
- * European Union Guidelines on Human Rights Dialogues (doc. 14469/01).
- * EU Guidelines for the promotion and protection of the rights of the child adopted on 10 December 2007.

- * Implementation Strategy for Guidelines on Children and Armed Conflict adopted on 25 April 2006 (doc. 8285/1/06 REV 1).
- * Common Positions on human rights and good governance in Africa (doc. 98/350/CFSP).
- * Common Positions on Rwanda, Somalia, Sierra Leone, Zimbabwe, DRC, Nigeria, Liberia, Angola, Cuba (including the imposition of targeted sanctions in some of these cases).
- * Council Common Position 2003/444/CFSP of 16 June 2003 in the International Criminal Court, OJ L 150, 18.06.2003, p. 67.
- * Joint Actions (DRC, South Ossetia, Bosnia Herzegovina, various special representatives), and Common Strategies (Russia, Ukraine, Mediterranean region).
- * EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms of 26 June 1997.
- * EU Code of Conduct on Arms Export adopted on 8 June 1998. Ongoing work to introduce EU-wide controls on the exports of paramilitary equipment.
- * Common Position on conflict diamonds and Council Regulation implementing the Kimberley Process certification scheme for the international trade in rough diamonds (doc. 15328/02).

b. Crisis management (ESDP)

- * Council Conclusions on Checklist for integration of the protection of children affected by armed conflict into ESDP
- * Council Conclusions on ESDP of 14 May 2007.
- * Council conclusions concerning the declaration by the EU and the UN on cooperation between the two in crisis management (doc. 12875/03).
- * Council Conclusions of 21 July 2003 on co-operation between the EU and the UN on crisis management: protection of civilians in EU-led crisis management operations (doc. 11439/03).
- * Draft guidelines on protection of civilians in EU-led crisis management operations (doc. 14805/03).
- * Comprehensive EU concept for missions in the field of rule of law in crisis management, including annexes (doc. 9792/03).
- * Implementation of the EU programme for the Prevention of Violent Conflicts (doc. 10680/03). This programme sets out the various EU initiatives undertaken in the context of conflict prevention, including training of officials.
- * Harmonisation of training for EU civilian aspects of crisis management and recruiting (doc. 11675/1/03)

and Common Criteria for training for EU aspects of civilian aspects of management (doc. 15310/03).

- * The EC has contributed to increase the UN capabilities in areas such as rapid deployment, training and DDRR. The Commission and the Council Secretariat's Policy Unit have also developed "conflict indicators" (watch lists of countries in difficult situations). One programme example is the co-operation with the African Union in order to improve its capacity building on the peaceful solution of conflicts and desk to desk co-operation with partner countries covering specific sectors such as illegal exports of timber and water resources.
- * General review of the Implementation of the Checklist for the Integration of the Protection of Children affected by Armed Conflict into ESDP Operations (doc. 9693/08).
- * EU Concept for support to Disarmament, Demobilisation and Reintegration adopted on 14 December 2006.
- * Mainstreaming Human Rights and Gender into European Security and Defence Policy – Compilation of relevant documents of 29 June 2007 (doc. 11359/07).
- * Civcom advice on the Checklist for the Integration of the protection of children affected by armed conflict into ESDP operations given on 29 May 2006 (doc. 9877/06).
- * Joint statement on UN-EU cooperation in Crisis Management signed in Berlin on 7 June 2007.

c. Community instruments (development co-operation, trade, humanitarian assistance)

- * Council Resolution on Corporate Social Responsibility (doc. 5049/03).
- * Various Trade and Co-operation Agreements, in particular the ACP-EU "Cotonou" Partnership Agreement, contain specific paragraphs on children, conflict prevention, human rights.
- * Assistance and protection of vulnerable children is seen in the wider context of poverty eradication, therefore, in the framework of EC development co-operation. Children are an important focal group of external aid, in particular in sectoral policies such as education and health. Numerous child-related activities are funded by the EC through ECHO, EDF, EIDHR.
- * Assistance and protection of children involved in armed conflicts is channelled through a number of Commission programmes. The promotion of children's rights was one of the priorities for funding under the European Initiative for Human Rights and

Democracy in 2001, was mainstreamed in funding for the period 2002-2004, and is now retained in the new European Instrument for Democracy and Human Rights.

- * In accordance with the European Consensus on Humanitarian Aid, which recognises the particular vulnerabilities of children in humanitarian crises, the Commission is committed to pay special attention to them and to address their specific needs. Examples of humanitarian operations with a child component supported by the Commission include: demobilisation, rehabilitation and reintegration projects (Uganda), health and nutrition projects (Sudan, Colombia, Palestine), psychosocial support (Sierra Leone, Sudan, West Bank, Gaza Strip and Lebanon), funding of schools in emergency camps for displaced persons (DRC, Sudan, Sierra Leone, among others), family tracing and reunification (Colombia).
- * ECHO also funded research and advocacy activities of Save the Children, Belgian Red Cross and others and supports UNICEF in strengthening its capacities to effectively deliver on its commitments for children in emergencies in the area of child protection.
- * Commission Communication Towards an EU Strategy on the Rights of the Child of 7 July 2006 (COM(2006) 367 final).
- * Summary of CAAC-Related EU Projects prepared by the European Commission (non paper).
- * Commission Communication "A Special Place for Children in European Union External Action" and attached "Action Plan on Children's Rights in EU External Action" and "Staff Working Paper on Children in Situations of Crisis and Emergency", adopted on 6 February 2008.

d. European Parliament

- * Resolution on children and armed conflict adopted by the EU-ACP Joint Parliamentary Assembly, June 2003.
- * Annual Human Rights reports for the years 2004, 2005, 2006, 2007.
- * European Parliament resolution on the situation of women in armed conflicts and their role in the reconstruction and democratic process in post-conflict countries (doc. 2005/2215(INI)).
- * European Parliament resolution on the exploitation of children in developing countries, with a special focus on child labour (doc. 2005/2004(INI)).
- * Report on the European Parliament hearing on an EU Strategy for Children's Rights held on 17 April 2007 in Brussels.

- * Resolution on human rights dialogues and consultations on human rights with third countries adopted on 6 September 2007.

B) Checklist on Children Affected by Armed Conflict (doc. 9822/08)

DRAFT GENERAL REVIEW OF THE IMPLEMENTATION OF THE CHECKLIST FOR THE INTEGRATION OF THE PROTECTION OF CHILDREN AFFECTED BY ARMED CONFLICT

I. Introduction

In recent years, the protection of children in situations of armed conflict has been squarely put on the international peace and security agenda. In several resolutions, most recently in its resolution 1612 (2005), the UNSC expressed its resolve to give special attention to child rights and protection and developed a comprehensive framework for the protection of children affected by armed conflict. The UNSC, i.e., called upon parties to armed conflicts to include child protection provisions in peace agreements and to address child rights concerns throughout the consolidation of peace in the aftermath of conflict; in recognition of the critical role UN operations play in providing protection to children, the UNSC has explicitly incorporated the protection of children into mandates of UN operations.

GAERC adopted Guidelines on Children and Armed Conflict in December 2003, with the aim to influence third countries and non state actors to take effective measures to protect children from the effects of armed conflict, to end the use of children in armies and armed groups, and to end impunity. The Guidelines emphasise that the EU will give special attention to the protection, welfare and rights of the child in armed conflict when taking action aimed at maintaining peace and security and contain specific undertakings to this end. The Council conclusions on the biannual review of the EU Guidelines on Children and Armed Conflict of 2005 reaffirm the strong commitment to the promotion and protection of the rights of the child, and in particular those affected by armed conflict and the need for further mainstreaming of the issue throughout the EU system, in particular into geographical and thematic Council Working Groups as well as into ESDP missions and operations.

In December 2007, EU Guidelines for the Promotion and Protection of the Rights of the Child were adopted. Continued focus on CAAC resulted in adoption of the Compi-

lation of relevant documents on “Mainstreaming Human Rights and Gender into European Security and Defence Policy”. [From the development and humanitarian perspective, Council Conclusions on the Promotion and protection of the rights of the child in the EU External action are equally important.] In parallel, COHOM up-dated the EU Guidelines for the Promotion and Protection of the Rights of the Child gave the necessary framework for the revision of the Checklist.

Since the adoption of the key documents, particular emphasis has been put on their implementation. It is important to recognise the complex impact of the armed conflict and post-conflict environment on children, including human rights, gender, development and security dimensions.

Objectives of the Checklist

The present Checklist for the Integration of the Protection of Children affected by Armed Conflict into ESDP mission and operations seeks to ensure that child rights and protection concerns are systematically addressed from the early planning through the implementation of ESDP missions and operations. The document is intended for use by staff responsible for mission planning and support, and by the EUSR, as well as the Head of mission/Commander in the field. In addition, the Checklist refers to child protection concerns that are addressed by all mission staff, as child protection concerns can be core functions for some staff, they should be taken into account by all members and/or components of an operation.

II. The inclusion of child protection and CAAC in mandates of ESDP operations and mission planning

The rights of the child, and in particular the protection of children in armed conflict shall be taken into account and integrated in all phases of operations, both during the planning and implementation phase. Advice shall be sought from the PR/HR, as well as other resources, as appropriate.

Protection of Children affected by Armed Conflict encompasses inter alia protection of children from family separation, recruitment into armed forces or armed groups, exploitation and gender based violence, physical harm and psychosocial distress.

During mission planning, preparations or mandate review:

- Incorporate relevant child protection issues explicitly into the terms of reference for planning and

assessment missions and include child protection expertise in planning missions for the establishment of ESDP operations. The operational planning should take into account the specific needs of children, bearing in mind that the girl child is often in a particularly vulnerable situation.

- Address key child protection concerns in planning documents for ESDP missions and operations. Relevant issues include: institution-building or strengthening initiatives that address child rights concerns (juvenile justice administration, legislative reform, training for local police, penitentiary and justice administration officials, strengthening local child rights NGO capacity); child-conscious DDR and SSR; child-conscious landmine clearance and awareness programmes.
- Include the child protection and CAAC dimension as an integral part of information strategy for specific ESDP mission/operation.
- Support public awareness initiatives on child protection and CAAC issue on the ground, in Brussels, as well as in Member States whenever possible. They should contain appropriate levels of cultural/local awareness training, explicitly taking into account regional differences.
- Ensure that the proposed mission mandate addresses key child protection concerns, in particular those mentioned in peace agreements and provides for monitoring, verification and follow-up to the child protection matters addressed in the peace process or in peace agreements, as appropriate. Relevant operational planning documents shall explicitly address key child protection concerns, including the involvement of children with fighting forces in the mission area.
- Incorporate relevant child protection issues explicitly into the terms of reference for assessment and review missions and lessons learned processes.
- In the planning and implementation of ESDP missions and operations, as well as the review and lessons learned processes, seek the advice, cooperation and support from relevant international partners, in particular UNICEF, SRSG/CAAC, OHCHR and NGO partners.
- During all phases of missions and operations, seek the collaboration with relevant international partners, in particular UNICEF, SRSG/CAAC, OHCHR

and NGO partners, to facilitate the identification of and cooperation with existing local Child protection networks and/or Task forces for Monitoring and Reporting.

III. Operational aspects of protecting children within ESDP missions and operations: Mission practices and policies on the ground

EUSRs, Heads of ESDP missions and Commanders will integrate the protection of children affected by armed conflict into their work, in accordance with their specific mandate, as well as the EU Guidelines on Children and Armed Conflict. EUSRs, Heads of Mission and Commanders should in particular:

Mainstreaming child protection activities throughout the operation:

- Develop a mission-wide approach to implementing the child protection aspects of the mission's mandate and consider how each component of the mission might take account of child rights concerns.
- Include the situations of child rights and violations in all monitoring and reporting activities of the mission, particularly when the parties have made specific commitments in this regard.
- Integrate a gender and age perspective into all policies, programmes, projects, monitoring and data collection. This includes disaggregating all data by sex and age, to the extent possible.
- Publish and distribute a declassified version of the Handbook on "Mainstreaming Human Rights and Gender into European Security and Defence Policy - Compilation of relevant documents" (doc 11359/07 dated 29 June 2007) in order to reach the broadest possible target audiences, including in the fields of training, education, cooperation, awareness and information purposes.

Reporting on child protection and CAAC issues:

- Ensure that the PSC is appraised, in particular through reports and briefings, of the child-relevant aspects of the peace process.
- EUSRs, Heads of Mission and Commanders will include in their regular periodic reports a comprehensive analysis of the effects of conflicts on children, in particular violations and abuses against children,

as well as evaluations of the effect and impact of EU actions on children in conflict situations. Regular reports should include qualitative and quantitative indicators and, inter alia, the following elements:

- up-date on cases of gross violations of child rights and security threats;
 - mainstreaming activities on child protection within the mission;
 - cooperation with international and local partners on the ground;
 - local awareness raising activities of the mission;
 - SSR and DDR-related activities;
 - Difficulties encountered in these activities.
- Child rights monitoring and reporting mechanisms should be assured even in a difficult security situation.

Child protection expertise in ESDP missions and operations:

- Missions will include staff with expertise in and responsibility for human rights questions, including children and armed conflict. Such staff would serve as focal point and centre of technical expertise on all issues relating to the protection of children and advise and support the Head of Mission and other staff, as appropriate.
- ESDP missions/operations operating in the environment where the risk of grave violations of child rights is particularly high should have an expert designated for Child protection and CAAC issues.
- Child protection and CAAC expert should be able communicate on specific CAAC issues directly with appropriate competent structures within the Council and Commission services.

Supervision and disciplinary issues:

- Ensure that all ESDP personnel are fully informed and trained on the Generic Standards of Behaviour for ESDP Operations. Their implementation shall be regularly reviewed and evaluated.
- The Council General Secretariat and the Commission services are encouraged to design CAAC cards to be used by ESDP missions and operations staff as well as for training purposes and awareness raising, as applicable.

- In the event of allegations of misconduct involving a child is attributed to mission personnel, ensure immediate and thorough child-sensitive investigations and follow-up. The conduct of such investigations should be initiated by the competent law enforcement authorities. Such investigations should be conducted by specialists in this area.

Collaboration with child protection partners in particular at local level:

- Obtain a good knowledge of the key players in child protection and child rights in the mission area and a clear sense of the local child protection priorities. Encourage civil society involvement in the peace process. Identify, together with UNICEF and other child protection partners, the child protection priorities and concerns in the mission area.
- Seek cooperation with child protection partners in the implementation of relevant aspects of the mandate of the operation, e.g. training, monitoring and reporting and capacity building.
- Ensure that institution-building and strengthening initiatives account for child rights and protection.
- Ensure close coordination with other EU programmes in the theatre of operation.

Key child protection concerns for consideration of ESDP operations:

Protection of children exposed to abuse and violations:

- Call on parties to conflict to take special measures to protect civilians, in particular children, from all forms of violence and abuse, in particular recruitment and abductions by armed groups, killing and maiming of children, sexual and gender-based violence, attacks against schools and hospitals.
- Engage with all parties to conflict to bring such violations to an end, including through negotiating specific commitments, e.g. on ending recruitment and abduction of children and releasing children with the fighting forces.
- Remind parties to conflict of their obligations under international humanitarian and human rights law, in particular as concerned the rights of the child.

- Engage in public awareness-raising of child protection issues.

Monitoring and reporting on the situation of children:

- Include, in internal and, as appropriate, public reporting, information on serious violations of the rights of the child committed by the parties to conflict.
- Support the development or strengthening of networks/task forces for the monitoring, investigating and responding to child rights violations, as foreseen in UNSC resolution 1612 (2005), including through training and capacity-building of civil society groups.

Reintegration of children, including child soldiers and separated children:

- EU, including Member States and the Commission, to advocate for and provide support to special attention to children in DDR and reintegration and rehabilitation programmes, with special emphasis to the particular challenges of girls in their demobilization and effective reintegration.
- Ensure long-term sustainability of Disarmament, Demobilization and Reintegration (DDR) programs for former child soldiers, including psychosocial support, education, vocational training, employment opportunities, and support for their communities.
- Develop policies and strategies at national and regional level to address cross-border child protection issues with special attention to child abduction, child (re-)recruitment, trafficking and separated children.

Security Sector Reform/Disarmament Demobilization and Reintegration:

- EU, including Member States and the Commission, to give particular attention to the protection of children in SSR and DDR concepts and programmes. Ensure that the reform of the police and the national armed forces addresses child protection concerns and the provision of training on human rights law, including the rights of the child, and humanitarian law.

Rule of Law (law reform, juvenile justice, and law enforcement):

- Promote the ratification of international instruments relevant for the protection of children (such as the Optional Protocol on the Involvement of Children in Armed Conflict, the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, ILO Convention 182 and the Rome Statute for the International Criminal Court), as well as regional instruments such as the African Charter on the Rights of the Child, and provide support for the implementation of these instruments.
- Advise and assist governments on law reform concerning children (new legislation, e.g. child rights bill, or reform of existing laws) in accordance with the Convention on the Rights of the Child and other applicable international human rights norms and standards.
- Support the provision of technical assistance for the improvement of birth registration, including nationality legislation.
- Promote and support the (re-)establishment of appropriate protection and justice systems for children in need of legal protection and in conflict with the law. Ensure that the content and thrust of new legislation, policies and guidelines on juvenile justice address the rights and needs of children. Provide training, information and sensitization campaigns for judges and lawyers, prosecutors, law enforcement officials and social workers on child protection legislation and juvenile justice administration.

Accountability mechanisms and children:

- EU, including Member States and the Commission, to advocate for accountability for crimes against children in situations of armed conflict and to provide support to programmes ensuring the protection of children involved in accountability or truth-seeking mechanisms.
- Support justice and truth-seeking mechanisms in the development and implementation of child-sensitive procedures, e.g. building capacity of investigators, statement takers and other officials involved in how to address cases involving children and how to interview and take testimonies from children.

Child participation in conflict:

- Since children also are directly involved in conflict (child soldiers), it is deemed necessary that they are appropriately integrated in DDR/SSR processes, including specific DDR programmes for children.

Child participation in peace processes:

- Through contacts with relevant actors, promote the establishment of forums/programs that facilitate the participation of children in peace consolidation and peace-building.

Sexual and gender based violence:

- Support the establishment of an effective system for preventing, monitoring, and reporting on gender based violence, including sexual exploitation and abuse, as well as the provision of special care for sexually exploited and abused children, including sexual and reproductive health care.

Education:

- Promote the review of education materials and seek to eliminate content of textbooks that encourages perpetuation of conflict or discrimination. Promote a culture of peace, and non-discrimination, including through support for peace education and reconciliation programmes.
- Support conflict-resolution, HIV/AIDS prevention, trafficking prevention and landmine awareness for children at risk through a life-skills curriculum.

IV. Training in child protection and child rights:

- Pre-deployment as well as in-mission training specifically on child protection and CAAC issues are of particular importance. Member States national experiences and expertise should be mainstreamed at the EU level in the following fields:
 - ensuring the continuity of specific training workshops/seminars on CAAC in ESDP missions and operations (e.g. IPT Specialization Course on Child protection, monitoring and rehabilitation);
 - integrating child protection and CAAC into the ESDC curricula;
 - sharing national expertise on Child protection and CAAC;

- applying the expertise of international and local NGOs;
- incorporating lessons learned and best practices from ESDP missions and operations.

- Member States should ensure that child protection issues are adequately covered in their national training programmes, in particular for military and civilian personnel to be deployed in ESDP missions and operations, as well as relevant Community projects.
- The Council General Secretariat and the Commission services are encouraged to invite relevant actors such as DPKO, UNICEF, SRSG/CAAC, OHCHR, UNHCR, ICRC and Save the Children to share their experiences and relevant training programmes and packages on child protection.
- The Council and the Commission to include the Guidelines on CAAC in existing and planned training programmes for all staff on human rights, including the rights of the child. Seek the support of i.a. UNICEF, SRSG/CAAC and Save the Children for such programmes.

- PMG to take into account human rights aspects, including CAAC, when considering future training needs for crisis management. CIVCOM to contribute to this work as far as specific needs for civilian crisis management are concerned.
- Include human rights, including the rights of the child and child protection in all pre-deployment training for personnel deployed to ESDP missions and operations as well as relevant Community projects, particularly when child protection is explicitly included in the mission mandate.

- During ongoing missions, ensure that all mission personnel receive periodic training on human rights, humanitarian and refugee law, including the rights, protection and welfare of children, as well as appropriate guidance on HIV/AIDS. Training should seek to maximize the positive potential of mission personnel to improve child protection while ensuring adherence to the relevant codes of conduct.

V. Follow-up:

- Heads and staff of ESDP missions and operations, within their respective mandates, Member States, the Council General Secretariat and all other relevant EU bodies are invited to implement the proposed

measures. The implementation of the checklist will be included in assessments and reviews of specific missions and operations. The Council General Secretariat, in close collaboration with the Commission services, will initiate a general review of the implementation of the checklist within one year.

C) Examples: extracts from planning/ lessons learned documents

1) EUPOL AFGHANISTAN

CONOPS, para. 145. "(...) Issues related to children affected by armed conflict should be addressed in line with EU policy, based on UNSCR 1612."

OPLAN (doc. 10132/07), page 184 (general code of conduct). "The issues related to children affected by armed conflict should be addressed in line with EU policy, based on UNSC 1612 Resolution."

2) Mission de police menée dans le cadre de la PESD sur la réforme du secteur de la sécurité (RSS) et son interface avec la justice en République démocratique du Congo (RDC)

CONOPS. "Mission personnel should be familiar with international humanitarian law and international human rights law, as well as with EU human rights policy and the generic standards of behaviour for ESDP missions. Issues related to children affected by armed conflict should be addressed in line with EU policy, based on UNSCR 1612." (see also OPLAN para. 61)

OPLAN (doc. 9779/07), para. 46. "La mission accordera également une attention particulière aux ONG basées à Kinshasa qui opèrent dans le cadre du mandat de RSS en RDC et cherchera à coopérer avec elles. La mission tiendra aussi pleinement compte des politiques de l'UE en matière de droits de l'homme, d'égalité des sexes et de présence des enfants dans les conflits armés, ainsi que des résolutions pertinentes des Nations unies. À cet égard, des fonctions consultatives adaptées relatives aux droits de l'homme et à la participation des enfants aux conflits armés devraient être prévues à l'appui des deux missions PESD."

3) EU policy on DDR

Doc. 13727/07, para. 58. "More effectively address the issue of children affected by armed conflict: The European Union should support the setting up of the Monitoring and Reporting Mechanism provided for in UNSCR 1612. It should also prioritise efforts to prevent the recruitment of children, in accordance with the international human rights treaties, conventions and optional protocols, through support to awareness-raising, training and the creation of child protection units and focal points for children within law enforcement institutions. In addition, it should intensify its efforts to implement the 2003 Guidelines on Children in Armed Conflicts."

4) Propositions d'actions visant à renforcer le partenariat entre l'Afrique et l'Union européenne dans le domaine des capacités africaines de prévention, gestion et résolution des conflits

Doc. 6955/07, page 2. "L'Union africaine a globalement bien accueilli le Concept européen. Les discussions ont en particulier permis de confirmer qu'un soutien au développement des capacités africaines de prévention, gestion et résolution des conflits devait s'exercer à quatre niveaux :

- renforcement des capacités dans le domaine de la prévention des conflits;
- renforcement des capacités dans le domaine de la formation et des exercices;
- renforcement des capacités dans le domaine du soutien aux opérations de paix;
- renforcement des capacités dans le domaine de la reconstruction post-conflit.

Ces propositions devront être mis en œuvre en concordance avec les lignes directrices de droits de l'homme de l'UE et les domaines du « *gender* » et des enfants affectés par les conflits armés. (...) "

Page 12, para. 7. "Soutien aux activités post-crisis : Des besoins spécifiques ont été identifiés par l'Union africaine dans le domaine du management post-crise. L'UA souhaiterait développer une doctrine en la matière, particulièrement sur les sujets suivants : SSR, DDR, Droits de l'Homme et Lutte contre les armes légères. L'UA a demandé à partager l'expérience de l'Union européenne dans ce domaine. Une feuille de route et une structure dédiée au sein de l'UA devraient prochainement voir le jour en vue d'améliorer le contrôle des armes légères. Enfin,

l'UE pourrait aider à la mise en œuvre de formation dans le domaine des droits de l'homme, à tous les niveaux, conformément aux règles internationales souscrits par les États membres de l'UA et aux accords régionaux sur les droits des enfants.

- 5) **Exercise 2006** : scenarios include issues related to child protection and child soldiers.
- 6) **Presidency report on EU activities in the framework of prevention, including implementation of the EU Programme for the Prevention of Violent Conflicts** (doc. 8715/07): paragraph 38 reports on EU and EC activities in this field. The report also includes recommendation on the way forward.

“(38) Work has also progressed with respect to **children affected by armed conflict**. The EU Guidelines on Children and Armed Conflict (2003) were followed up by the EU Checklist for the Integration of the Protection of Children Affected by Armed Conflict into ESDP Operations (2006) and the EU Concept for Support to DDR. These offer a framework for joint EU action to prevent children's

rights' abuse in the context of armed conflicts and in post-conflict situations and for the reintegration of children associated with armed groups. Through EC support efforts are made to demobilise and reintegrate former child soldiers, including in Burundi, Côte d'Ivoire, Liberia, the Philippines, Sri Lanka, Sierra Leone and Uganda. Efforts have also been made to prevent the recruitment of children into armed groups or forces. During the reporting period, language on women and children in armed conflicts was included as appropriate in EUSR mandates. In addition, the function of an adviser on human rights and children in armed conflicts will be added to EUSEC RD Congo and EUPOL RD Congo. The Cape Town Principles of 1997 dealing with children associated with fighting forces, with the prevention of recruitment of children and demobilization and social reintegration of children in Africa were revised, resulting in the adoption of the Paris Principles in February 2007. This was done in a process led by UNIFEM and supported by the EC to reflect current legal standards, to increase their reach beyond Africa and to engage a larger range of institutions and governments.”

V - International Humanitarian Law



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Refugee camp in Djabal, Chad

Since 2003 when the EU launched its first ESDP mission, the majority of operations have been civilian. Nevertheless, 9 out of every 10 persons the EU has deployed over the years have been military. For this reason, and because of increased EU presence in situations of armed conflict, an understanding of International Humanitarian Law (IHL), or the Law of War, is becoming increasingly important for the EU, as is an understanding of Human Rights Law. For the EU, there should be no protection gaps. It is not only important for the EU and its Member States to respect IHL and Human Rights Law, but also to promote compliance with IHL by third parties on the ground, in the context of ESDP operations or in political dialogue with third countries. This obligation to “ensure respect” is the focus of the EU’s IHL guidelines.

A) The EU Guidelines (doc. 15246/05)

Official Journal 23.12.2005 – (2005) C327/04

European Union Guidelines on Promoting Compliance with International Humanitarian Law (IHL)

I. PURPOSE

The purpose of these Guidelines is to set out operational tools for the European Union and its institutions and bodies to promote compliance with international humanitarian law (IHL). They underline the European Union’s commitment to promote such compliance in a visible and consistent manner. The Guidelines are addressed to all those taking action within the framework of the European Union to the extent that the matters raised fall within their areas of responsibility and competence. They are complementary to Guidelines and other Common Positions already adopted within the EU in relation to matters such as human rights, torture and the protection of civilians³.

³ See EU Guidelines on Human Rights Dialogues (Economic and Financial Affairs Council of 13 December 2001); Guidelines for EU Policy towards Third Countries on Torture and other Cruel, Inhuman or Degrading Punishment or Treatment (General Affairs Council of 9 April 2001); EU Guidelines on Children and Armed Conflict (General Affairs Council of 8 December 2003); and Council Common Position 2003/444/CFSP of 16 June 2003 on the ICC (Official Journal L 150 of 18.6.2003).

These Guidelines are in line with the commitment of the EU and its Member States to IHL, and aim to address compliance with IHL by third States, and, as appropriate, non-State actors operating in third States. Whilst the same commitment extends to measures taken by the EU and its Member States to ensure compliance with IHL in their own conduct, including by their own forces, such measures are not covered by these Guidelines⁴.

II. INTERNATIONAL HUMANITARIAN LAW (IHL)

Introduction

The European Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law. This includes the goal of promoting compliance with IHL.

International Humanitarian Law (IHL) - also known as the Law of Armed Conflict or the Law of War - is intended to alleviate the effects of armed conflict by protecting those not, or no longer taking part in conflict and by regulating the means and methods of warfare.

States are obliged to comply with the rules of IHL to which they are bound by treaty or which form part of customary international law. They may also apply to non-State actors. Such compliance is a matter of international concern. In addition, the suffering and destruction caused by violations of IHL render post-conflict settlements more difficult. There is therefore a political, as well as a humanitarian interest, in improving compliance with IHL throughout the world.

Evolution and Sources of IHL

The rules of IHL have evolved as a result of balancing military necessity and humanitarian concerns. IHL comprises rules that seek to protect persons who are not, or are no longer, taking direct part in hostilities - such as civilians, prisoners of war and other detainees, and the injured and sick - as well as to restrict the means and methods of warfare - including tactics and weaponry - in order to avoid unnecessary suffering and destruction.

As with other parts of international law, IHL has two main sources: international conventions (treaties) and customary international law. Customary international law is formed

by the practice of States, which they accept as binding upon them. Judicial decisions and writings of leading authors are subsidiary means for determining the law.

The principal IHL Conventions are listed in the Annex to these Guidelines. The most important are the 1907 Hague Regulations, the four Geneva Conventions from 1949 and their 1977 Additional Protocols. The Hague Regulation and most of the provisions of the Geneva Conventions and the 1977 Additional Protocols are generally recognised as customary law.

Scope of application

IHL is applicable to any armed conflicts, both international and non-international and irrespective of the origin of the conflict. It also applies to situations of occupation arising from an armed conflict. Different legal regimes apply to international armed conflicts, which are between States, and non-international (or internal) armed conflicts, which take place within a State.

Whether situation amounts to an armed conflict and whether it is an international or non-international armed conflict are mixed questions of fact and law, the answers to which depend on a range of factors. Appropriate legal advice, together with sufficient information about the particular context, should always be sought in determining whether a situation amounts to an armed conflict, and thus whether international humanitarian law is applicable.

The treaty provisions on international armed conflicts are more detailed and extensive. Non-international armed conflicts are subject to the provisions in Article 3 common to the Geneva Conventions and, where the State concerned is a Party, in the 1977 Additional Protocol II. Rules of customary international law apply to both international and internal armed conflicts but again there are differences between the two regimes.

International Human Rights Law and IHL

It is important to distinguish between international human rights law and IHL. They are distinct bodies of law and, while both are principally aimed at protecting individuals, there are important differences between them. In particular IHL is applicable in time of armed conflict and occupation. Conversely, human rights law is applicable to everyone within the jurisdiction of the State concerned in time of peace as well as in time of armed conflict. Thus while distinct, the two sets of rules may both be applicable to a particular situation and it is therefore sometimes necessary to consider the relationship between them.

⁴ All EU Member States are Parties to the Geneva Conventions and their Additional Protocols and thus under the obligation to abide by their rules.

However these Guidelines do not deal with human rights law.

Individual responsibility

Certain serious violations of IHL are defined as war crimes. War crimes may occur in the same circumstances as genocide and crimes against humanity but the latter, unlike war crimes, are not linked to the existence of an armed conflict.

Individuals bear personal responsibility for war crimes. States must, in accordance with their national law, ensure that alleged perpetrators are brought before their own domestic courts or handed over for trial by the courts of another State or by an international criminal tribunal, such as the International Criminal Court⁵.

III. OPERATIONAL GUIDELINES

Reporting, assessment and recommendations for action

Action under this heading includes:

In order to enable effective action, situations where IHL may apply must be identified without delay. The responsible EU bodies, including appropriate Council Working Groups, should monitor situations within their areas of responsibility where IHL may be applicable, drawing on advice, as necessary, regarding IHL and its applicability. Where appropriate they should identify and recommend action to promote compliance with IHL in accordance with these Guidelines. Consultations and exchange of information with knowledgeable actors, including the ICRC and other relevant organisations such as the UN and regional organisations, should be considered when appropriate. Consideration should also be given, where appropriate, to drawing on the services of the International Humanitarian Fact-Finding Commission (IHFFC) established under Article 90 of the Additional Protocol I to the Geneva Conventions of 1949, which can assist in promoting respect for IHL through its fact-finding capacity and its good offices function.

⁵ See the Union's Common Position on the ICC (2003/444/CFSP) and the EU's Action Plan on the ICC. See further Decision of 13 June 2002 (2002/494/JHA) by which the Council set up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes; the Framework Decision (2002/584/JHA) on the European arrest warrant and the procedures between Member States; the Decision of 8 May 2003 (2003/335/JHA) concerning the investigation and prosecution of genocide, crimes against humanity and war crimes.

Whenever relevant, EU Heads of Mission, and appropriate EU representatives, including Heads of EU Civilian Operations, Commanders of EU Military Operations and EU Special Representatives, should include an assessment of the IHL situation in their reports about a given State or conflict. Special attention should be given to information that indicates that serious violations of IHL may have been committed. Where feasible, such reports should also include an analysis and suggestions of possible measures to be taken by the EU.

Background papers for EU meetings should include, where appropriate, an analysis on the applicability of IHL and Member States participating in such meetings should also ensure that they are able to draw on advice as necessary on IHL issues arising. In a situation where an armed conflict may be at hand, the Council Working Group on International Law (COJUR) should be informed along with other relevant Working Groups. If appropriate and feasible, COJUR could be tasked to make suggestions of future EU action to relevant EU bodies.

Means of action at the disposal of the EU in its relations with third countries

The EU has a variety of means of action at its disposal. These include, but are not limited to, the following:

Political dialogue: Where relevant the issue of compliance with IHL should be brought up in dialogues with third States. This is particularly important in the context of ongoing armed conflicts where there have been reports of widespread IHL violations. However, the EU should also, in peace-time, call upon States that have not yet done so to adhere to, and fully implement, important IHL instruments, such as the 1977 Additional Protocols and the ICC Statute. Full implementation includes enactment of any necessary implementing legislation and training of relevant personnel in IHL.

General public statements: In public statements on issues related to IHL, the EU should, whenever appropriate, emphasise the need to ensure compliance with IHL.

Demarches and/or public statements about specific conflicts: When violations of IHL are reported the EU should consider making demarches and issuing public statements, as appropriate, condemning such acts and demanding that the parties fulfil their obligations under IHL and undertake effective measures to prevent further violations.

Restrictive measures/sanctions: The use of restrictive measures (sanctions) may be an effective means of promoting

compliance with IHL. Such measures should therefore be considered against State and non-state parties to a conflict, as well as individuals, when they are appropriate and in accordance with international law.

Co-operation with other international bodies: Where appropriate, the EU should co-operate with the UN and relevant regional organisations for the promotion of compliance with IHL. EU Member States should also, whenever appropriate, act towards that goal as members in other organisations, including the United Nations. The International Committee of the Red Cross (ICRC) has a treaty-based, recognised and long-established role as a neutral, independent humanitarian organisation, in promoting compliance with IHL.

Crisis-management operations: The importance of preventing and suppressing violations of IHL by third parties should be considered, where appropriate, in the drafting of mandates of EU crisis-management operations. In appropriate cases, this may include collecting information which may be of use for the ICC⁶ or in other investigations of war crimes.

Individual responsibility: While, in post-conflict situations it is sometimes difficult to balance the overall aim of establishing peace and the need to combat impunity, the European Union should ensure that there is no impunity for war crimes. To have a deterrent effect during an armed conflict the prosecution of war crimes must be visible, and should, if possible, take place in the State where the violations have occurred. The EU should therefore encourage third States to enact national penal legislation to punish violations of IHL. The EU's support of the ICC and measures to prosecute war criminals should also be seen in this context.

Training: Training in IHL is necessary to ensure compliance with IHL in time of armed conflict. Training and education must also be undertaken in peacetime. This applies to the whole population, although special attention should be given to relevant groups such as law enforcement officials. Additional obligations apply to the training of military personnel. The EU should consider providing or funding training and education in IHL in third countries including within the framework of wider programmes to promote the rule of law.

Export of arms: The European Code of Conduct on Arms Export⁷ provides that an importing country's compliance with IHL should be considered before licences to export to that country are granted.

B) Examples : extracts from planning/ lessons learned documents

1) EUPOL AFGHANISTAN

CONOPS, para. 145. "Mission personnel should be familiar with international humanitarian law and international human rights law, as well as with EU human rights policy and the generic standards of behaviour for ESDP missions."

OPLAN (doc. 10132/07), page 291, which describes that in-mission training and induction training of ESDP personnel should include human rights and international humanitarian law.

OPLAN, page 185. "EUPOL AFGHANISTAN personnel will respect local authorities, the law of the land of the host country, their local culture, traditions, customs and practices unless they contradict with International Humanitarian Law (IHL) or Human Rights."

2) Mission de police menée dans le cadre de la PESD sur la réforme du secteur de la sécurité (RSS) et son interface avec la justice en République démocratique du Congo (RDC)

OPLAN, (doc. 9770/07), para. 61. "Le personnel de la mission devrait posséder une bonne connaissance du droit humanitaire international et du droit international en matière de droits de l'homme, ainsi que de la politique de l'UE pour les droits de l'homme et des normes de comportement pour les opérations PESD."

⁶ See the Agreement on Co-operation and Assistance between the European Union and the International Criminal Court (OJ L 115, 28.4.2006, p.50).

⁷ Adopted on 8 June 1998, doc 8675/2/98 REV 2.

VI - Transitional Justice



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Daily work of EUPOL Kinshasa helping the Integrated Police Unit (IPU) keep order during the transition of the Democratic Republic of the Congo (DRC) to democracy

In recent years, the EU has come to understand that its potential added value in crisis management is its comprehensive approach. Through a range of intergovernmental and community instruments, the EU can not only help manage a crisis out of the conflict phase, but also help move a country from post-conflict transition to development and beyond. Because conflicts nearly always involve violations of human rights, an understanding of how to balance peace and justice is crucial to making the post-conflict progression successfully.

Draft document on “Transitional Justice and ESDP”, in view of the PSC meeting on 20 June 2006 (doc. 10674/06)

INTRODUCTION

1. In recent years the EU has developed its capabilities in the field of crisis management and has gained
2. experience with the planning and conduct of a number of operations, both civilian and military. At the heart of the EU's approach to crisis management is a commitment to developing a comprehensive approach to the whole question of crisis management, conflict resolution and peace-building. In line with this commitment, consideration is increasingly being given to the sustainability of peace processes, taking into account a broad range of factors, in particular those relating to the human rights dimension. In this context, it is appropriate to give consideration to ongoing developments in the field of transitional justice.
2. Following a PSC seminar on Transitional Justice on 21 March 2006 and discussions in CIVCOM and PMG, this document outlines suggestions for how thinking on transitional justice can be further taken into account in the context of ESDP.

Context

3. The concept of transitional justice is commonly understood as a framework for confronting past abuse as a component of a major political transformation - from war to peace or from authoritarian rule to democracy. This abuse can include past human rights abuses, mass atrocities, or other forms of severe social trauma, including genocide or civil war. In transitional contexts, while the perceived need for justice is high, there are usually real constraints on the capacity or willingness of successor governments to deliver this justice. At the same time, the pursuit of justice and reconciliation must be combined with other public interest objectives, such as the consolidation of peace and democracy and the need for economic development and public security.
4. The role played by the UN in transition processes has been significant. The UN and other international actors are able to play a role in helping to negotiate peace agreements and in subsequent transitional periods. As the EU continues to develop its capabilities in crisis management, conflict resolution and peace building, and as it ventures further afield into increasingly complex situations, its actions under ESDP need to take full account of the developing international standards which provide parameters and guidance on policy options for justice and accountability, in particular guidelines established by the UN in this field.
5. The concept of transitional justice offers a number of tools which may be relevant in the design of ESDP operations. Although the specific mix of tools needs to be tailored to each specific situation, there are nevertheless key elements which should be considered from the early stages of developing a concept for an ESDP operation. These include criminal prosecutions, whether national, international or hybrid; truth commissions; reparations programmes; and vetting programmes. Judicial responses, while necessary, often need to be accompanied by non-judicial responses. In particular, local ownership and public/victim consultation are crucial elements of the transitional justice approach.
6. The field of transitional justice is based on the general premise that national strategies to confront past human rights abuses can contribute to accountability, an end to impunity, the reconstruction of state-citizen relationships and the creation of democratic institutions. These are all important elements in assuring the sustainability of peace processes and can contribute to ending the cycle of violent conflict. Contributing to a sustainable and lasting peace is key for any ESDP operation. In this context, consideration needs to be given to how transitional justice aspects can be taken into account during the planning of ESDP operations. In particular, the exit strategy for an ESDP operation and the continuing situation on the ground following the departure of an ESDP operation should be taken into account from the perspective of the transitional justice dimension. Effective coordination with the Commission throughout the planning process for an ESDP operation should also ensure that the transitional justice dimension is taken into account in the design of flanking or follow-on measures provided through Community instruments.
7. The concept of transitional justice has already been a factor in the mandates of previous and current ESDP operations, dealing with questions such as supporting the apprehension of persons indicted by international war crimes tribunals; SSR and DDR, specifically the demobilisation and reintegration dimensions; support for the vetting of personnel; and supporting the transformation of public institutions, particularly in the justice and security sectors. In the future, as the EU develops its experience and capabilities further, a more coherent approach to thinking about the transitional justice dimension will be required. In possible future ESDP operations with an executive mandate, this dimension can be expected to be even more relevant.
8. The EU is also increasingly recognising the need to devote greater attention to the facilitation of peace processes. The transitional justice framework can also provide guidance in these situations.

Areas for possible action

9. The central challenge for taking full account of the transitional justice dimension in the context of ESDP is to ensure that this is a factor in the thinking on possible operations from the earliest stages, taking into account activities undertaken by other international actors. Each operation will require an approach specifically tailored to the demands of the situation, and transitional justice considerations will be of differing degrees of relevance. Nevertheless, there are a number of areas which can already be identified where concrete action may be taken

to ensure that this dimension remains an active consideration throughout the process of planning ESDP operations.

a) Planning:

ESDP operational planning documents should continue to include, where appropriate, an analysis of the transition process in the host country(ies) and an assessment of the extent to which the ESDP operation can contribute to or support the development of national strategies towards peace. Planners should consider how the exit strategy for the operation can be assured and a sustainable peace supported in the medium to long term. The transitional justice dimension should be considered from the earliest stages of the planning, including, where appropriate, in Fact Finding Missions. Coordination with relevant Community measures should also be ensured.

b) Expertise:

Taking account of the transitional justice dimension when planning ESDP operations implies a need for appropriate expertise in Member States, the Council General Secretariat and within ESDP operations themselves. Such expertise already exists: a more systematic approach should be considered, with possible consequences for the Civilian Headline Goal 2008 process.

c) Training:

Consideration should be given to the inclusion of transitional justice elements in existing and future training programmes for EU crisis management operations. This might include the development of a module on transitional justice in training for the CRTs and the inclusion of the transitional justice dimension in the courses offered by the ESDC and by other relevant bodies.

d) Facilitation:

The EU could consider enhancing further its capabilities to conduct facilitation of peace processes. Where appropriate transitional justice could be an element to take into account when defining the mandates of EU Special Representatives.

e) Development of guidelines:

The EU could consider developing further guidelines on how the transitional justice dimension could be taken into account in the context of ESDP. Any such guidelines would be inspired by and consistent with UN standards. In this light, work undertaken by the new UN Peacebuilding Commission in the area of transitional justice would also be taken into account.

f) NGOs:

Further consideration could be given to ways in which the EU can benefit from the important experience gained by NGOs on transitional justice.



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A EUFOR soldier with civilians in the Democratic Republic of the Congo (DRC)

VII – Standards of Behaviour

As the EU becomes increasingly active and visible through ESDP operations, its vulnerability grows as well. Demanding the highest personal standards of behaviour of deployed personnel is not only the right thing to do, it is also central to the EU's continued credibility in crisis management around the globe.

A) Generic Standards of Behaviour for ESDP Operations (doc.8373/3/05)

Introduction

On 18 November 2003, the PSC took note that CIVCOM had agreed draft guidelines on protection of civilians in EU-led crisis management operations⁸. The generic standards of behaviour developed in this paper should be seen as complementary to these guidelines.

On 17 February 2005, the PSC agreed an aide memoire for commanders on standards of behaviour for Operation ALTHEA. The aide memoire has been included as an appendix to Annex E of the OPLAN with an associated requirement to inform the PSC as to its implementation.

Subsequently the PSC requested the Secretariat to develop a generic document on standards of behaviour to be used when planning for future ESDP operations and advised that it should be based on extant documents. This document responds to the PSC mandate.

Aim

The aim of this document is to establish generic standards of behaviour in order to ensure that all categories of personnel involved in ESDP operations, mentioned hereafter as "personnel"⁹, maintain the highest personal standards of behaviour. In this regard it:

- sets out generic standards of behaviour to be adhered to by all personnel
- and provides principles for the implementation and further development of the generic standards of behaviour.

⁸ Doc. 14805/03.

1. Generic standards of behaviour

Mission specific EU agreed standards of behaviour already exist for the military operation ALTHEA in BiH and for civilian operations already launched which use codes of conduct. The proposed generic standards of behaviour will ensure commonality of approach.

All categories of personnel are expected to maintain the highest standards of behaviour. It is of particular importance to pay attention to the past behaviour of civilian staff recruited directly by the Head of Mission or the Force Commander.

The standards of behaviour will have to be tailored to the specific operation but they will cover all relevant standards to ensure the appropriate behaviour of personnel both with regard to each other and to the local population. The standards will thus contribute to the moral cohesion of the operation.

The standards of behaviour are complementary to the legal obligations of personnel in accordance with international law and the law of the contributing state. Not adhering to the required standards of behaviour is misconduct and may result in disciplinary measures. This is independent of possible criminal procedures.

The generic standards of behaviour are to be found in the document at Annex.

2. Principles for the implementation and further development of the generic standards of behaviour

- *Command*

The engagement of commanders and senior management, at all levels of the command chain, is vital to ensure that standards of behaviour

⁹ Within the meaning of this document, personnel consists of the following categories:

- Military personnel seconded, in the framework of the operation, by Member States, Third States and EU Institutions
- Civilian personnel seconded, in the framework of the operation, by Member States, Third States and EU Institutions
- Internationally contracted civilian personnel
- Locally contracted civilian personnel.

are implemented and adhered to. The Council General Secretariat should ensure, within its remit, that the Operation Commander or the Head of Mission are suitably advised on the implementation of the standards of behaviour. Depending on the size and nature of the operation, the Force Commander or the Head of Mission could designate a member of the staff to advise him/her on the implementation of the standards of behaviour.

- *Documentation*

The planning documents for every future ESDP operation should contain provisions for the implementation of standards of behaviour. These provisions should be based on this document including its Annex, adapted as required to suit the operation. The Council General Secretariat should ensure, within its remit, that the generic standards of behaviour are adapted where necessary and incorporated into the relevant planning documents of each operation.

- *Complaint procedures*

Each ESDP operation will need to establish a fair and unbiased complaint procedure, utilising existing procedures where available and appropriate. It is the responsibility of commanders and senior management to ensure that their personnel are aware of complaint procedures.

- *Reporting mechanisms*

Clear reporting mechanisms should be established for each ESDP operation and for each category of personnel. In parallel to any national reporting system that may be established, serious incidents should be reported through the EU chain of command, in accordance with the specific reporting procedures established for each operation.

- *Disciplinary measures*

Procedures for disciplinary measures for misconduct differ for civilian and military personnel. The generic standards of behaviour are not intended to replace, restrict or extend national regulations. In the interest of transparency, Member States, Third States and the EU Institutions should report on disciplinary actions taken, as appropriate.

- *Training*

Pre-deployment training of personnel, carried

out nationally as well as by the EU, should include training and education on prescribed standards of behaviour. Particular attention should be given to international law, including international humanitarian law and human rights issues, gender issues and child rights issues. Specific training activities should be developed within the framework of the EU Training Concept in ESDP, drawing on EU guidelines on children and armed conflict and existing manuals developed for instance by the UNICEF and DPKO.

- *Co-operation with international organisations and dialogue with partners*

The EU does not operate in isolation. Other international actors such as the UN, the OSCE and NATO have valuable experience on which to draw. Consultations with them, with a view to an exchange of information and experience, are therefore important in the future development of standards of behaviour and wider related issues. The issues could also be raised in dialogue with partners. A dialogue with the UN should also include the follow up and possible implementation of the recently proposed UN strategy to eliminate future sexual exploitation and abuse in UN peace keeping operations. Exchange of information and experience with NGOs would also be useful.

- *Lessons learned*

Each ESDP operation will have its own specifics and the standards of behaviour will have to be adapted accordingly. Coherence between operations, both civilian and military, should be maintained. The standards of behaviour and the methods to implement them should be incorporated into the lessons learned on ESDP operations. These generic standards of behaviour may be adjusted as a consequence of lessons learned.

GENERIC STANDARDS OF BEHAVIOUR FOR PERSONNEL IN ESDP OPERATIONS

1. INTRODUCTION. Personnel in ESDP Operations come from varying cultures and legal systems and represent different levels of training and experience. Nonetheless, in pursuance of their mission, all personnel are to apply the same standards of personal

and professional behaviour. The maintenance of the highest personal and professional standards is crucial in order to engender and maintain confidence and trust in the EU.

2. AIM. The purpose of these standards of behaviour is to provide guidance to senior management and commanders on the standard of behaviour expected of personnel involved in ESDP operations, mentioned hereafter as “personnel”. They are not intended to replace, restrict or extend national regulations.
3. APPLICATION. All personnel should fully adhere to the standards of behaviour. Failure to adhere to the standards of behaviour may constitute grounds for the initiation of disciplinary actions. The inculcation and maintenance of appropriate standards of behaviour by personnel is a core responsibility of commanders and senior managers at all levels. The education of and guidance to personnel in order to underpin these principles is required. It is a function of leadership to respect and protect the rights and interests of subordinates and also of those with whom they interact. It is imperative that all personnel are fully aware of not only their rights and obligations but also of the appropriate standards of behaviour. Personnel must understand why they are expected to adhere to the standards of behaviour in the discharge of their duties. It is the duty of commanders and senior managers at all levels to ensure that these values and standards are accorded high priority, are fully explained to personnel and are applied consistently. Instances of unacceptable behaviour should be met by prompt and decisive action. Commanders and senior managers must themselves lead by example and discharge in full their duty of care.
4. SCOPE. The standards of behaviour are complementary to the legal obligations of personnel. Personnel must apply the provisions of international law, including, when applicable, the law of armed conflict, and the laws of the contributing state. As a rule, personnel will also respect local law unless the execution of the mission requires otherwise.
5. STANDARDS OF BEHAVIOUR. In order to ensure these standards of behaviour are achieved, adherence to principles such as impartiality, personal integrity, courage, discipline, loyalty and respect for others is essential. Personnel should at all times exercise patience, tolerance, tact, diplomacy, good

judgement and common sense. Personnel shall conduct themselves in an acceptable manner both on and off duty. Personnel should adhere to these standards in order to ensure appropriate behaviour in their relations with the local population. This will also contribute to the moral cohesion of the operation.

- a. To guarantee appropriate relations with the local population.

The clear demonstration of personal integrity will help to establish the credibility and authority of the ESDP operation and it is essential to the establishment of trust with the local population.

The impartial and objective pursuit of the operation's mandate, regardless of provocation and challenge, is essential in preserving the legitimacy of the operation and in maintaining, where appropriate, the consent and cooperation of parties involved. Personnel must be consistent and objective in the discharge of their duties and unfair advantage must not be, nor be seen to be, given to any party, regardless of personal opinion. Personnel shall neither engage personally in political activity within the area of operations, nor publicly express any preference for any political religious or ethnic entity group. Personnel will respond to all requests for assistance in a fair and impartial manner.

Personnel should be aware that both prostitution and the pornographic industry have established links with organised crime and human trafficking. Not only will the patronage of either serve to undermine the moral standing of the ESDP operation, but it will ultimately make the mission more difficult to achieve.

Sexual exploitation and sexual abuse violate universally recognised international legal norms and standards. They constitute acts of serious misconduct and are therefore grounds for disciplinary measures. Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited.

Local society will often be representative of a wide diversity of people of different ethnic groups, religions and cultural backgrounds. Lo-

cal customs may differ from those of personnel involved in ESDP operations, especially with regard to religion and family. All people must be treated with dignity and respect, regardless of sex, age, ethnic origin, religion, sexual orientation, disability, social or economic status or political views.

Condescending and discriminating remarks or gestures are not to be tolerated. As a rule, local customs should be respected.

Except where duly authorised, personnel must refrain from accepting items of value from members of the local community in order to maintain the neutrality integral to the operation.

- b. To guarantee moral cohesion of the operation. Personnel will represent a diversity of men and women of different nationalities, ethnic groups, religions and cultural backgrounds. All personnel must be treated with dignity and respect, regardless of sex, age, ethnic origin, religion, sexual orientation, disability, social or economic status or political views.

The moral concepts of colleagues will differ, especially in terms of religion and family. Condescending and discriminating remarks or gestures are not to be tolerated.

The right of all personnel to live and work in an environment free from harassment, abuse, unlawful discrimination, intimidation and bullying must be upheld. This especially includes all forms of sexual abuse and sexual harassment but also the display of pornographic material at the work place and its distribution. The use of physical force or the abuse of authority to intimidate or victimise others, or to give unlawful punishments, is unacceptable behaviour which will undermine trust and respect. Any such behaviour should not be tolerated. The standard determining harassment is not the intent of the alleged harasser but the effect of the behaviour on the alleged victim.

Misuse of drugs can be especially harmful. Those who are involved in drug misuse are a liability, not only to themselves, but also to their colleagues and the local population. Their judgement may be impaired, their fitness reduced,

their health damaged, and their performance degraded. In short, they can be neither trusted nor relied upon. Drug misuse poses a significant threat to operational effectiveness. All forms of handling or use of illegal drugs are forbidden. Once again the link between organised crime and drug misuse and the detrimental effect that this has on the attainment of the ESDP operation merits mention here.

Excessive drinking impairs judgement, endangers health, degrades performance and is a major cause of ill-discipline. Alcohol abuse generates a loss of self-control, which can lead to unacceptable behaviour accompanied by criminal violence. For these reasons excessive drinking will not be tolerated. In addition, driving under the influence of alcohol is a serious offence that endangers life and displays a lack of judgement and self-discipline.

The consumption of alcohol whilst on duty must be authorised. On such occasions and during off duty periods alcohol consumption must be moderate. This must be particularly well observed where the consumption of alcohol is contrary to the religion of the local population and therefore where the damage to the perception of the EU caused by its abuse would be exacerbated.

- 6. CRIMINAL ACTIVITIES. Personnel should report any alleged violations by personnel of human rights and international humanitarian or international criminal law. An investigation of each complaint and where relevant subsequent prosecution should be ensured by the competent authority.

Personnel are to be made fully aware of applicable law. In particular, the following illegal and criminal activities merit highlighting in this document:

- a. Organised Crime. Organised crime is likely to be a major source of much of the instability in the area of the operation. Any support to organised crime, whether intentional or otherwise, contributes further to this degree of instability and renders the execution of the ESDP operation more difficult. This includes everything from purchasing goods on the black market to the indirect/direct support of human trafficking.

- b. Corruption. Personnel will not improperly use their relative position of power and privilege. Personnel will not contribute to corruption by giving or accepting bribes (money, expensive gifts or in services) for the purpose of gaining advantages over other people.
- c. Human Trafficking. Trafficking in human beings includes the recruitment, transportation, transfer, harbouring or receipt of persons using the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or vulnerability or the giving or receiving of payments or benefits for the purpose of exploitation – from prostitution to the supplying of cheap labour¹⁰. The personnel must not in any way contribute to trafficking in human beings including for the purpose of sexual exploitation.
- d. Child Abuse. All forms of sexual contact with children as well as child pornography are forbidden¹¹. Personnel must not in any way involve themselves in sexual exploitation, abuse and trafficking of children¹².

Other types of criminal activities will be included, as appropriate, in the relevant planning documents for each operation.

- 7. LEADERSHIP. The personal conduct of commanders and senior managers will have a direct effect on that of their subordinates. They are to ensure that their own professional and personal behaviour is of the highest standard in order to inspire the same in their subordinates. In addition, they are to ensure that the required standards of behaviour are known and adhered to by their personnel. Failure to do so will result in the breakdown of the moral cohesion of the operation.

¹⁰ Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the UN Convention against transnational organised crime (2000).

¹¹ The UN states that “for the purposes of the UN disciplinary procedures for all categories of personnel, a child is defined as anyone under 18 years of age, irrespective of the local age of consent”.

¹² In 2004 EU adopted Guidelines on Children and armed conflict (doc. 15634/03). Subsequently, a Plan of Action was adopted for the implementation of the guidelines (doc.15957/04).

- 8. REPORTING. Instances of misconduct may lead to disciplinary measures and actions, and appropriate reporting procedures should be instigated. In parallel to any national reporting systems that may be established, serious incidents should be reported through the EU chain of command in accordance with the specific reporting procedures established for each operation. It is the right and obligation of all personnel to report cases of serious misconduct and criminal activity.

9. DISCIPLINE.

9.1. Principles.

- a. Military and civilian seconded personnel. With regard to military and civilian personnel, seconded in the framework of the operation, by Member States, Third States or EU Institutions, relevant national authorities or relevant authorities within the EU Institutions will retain full disciplinary jurisdiction over their personnel.
- b. Internationally contracted civilian personnel. With regard to internationally contracted civilian personnel, EU Force Commanders or EU Heads of Mission have full disciplinary jurisdiction over these personnel.
- c. Locally contracted civilian personnel. With regard to locally contracted civilian personnel, EU Force Commanders or EU Heads of Mission have full disciplinary jurisdiction over these personnel.

9.2 Implementation.

- a. For each operation, arrangements concerning discipline will be developed in the relevant planning documents, reflecting the specificity of the operation, especially its chain of command.
- b. It has to be noted that, for civilian operations, following the established practice, the EU Head of Mission would be responsible for carrying out investigations and would decide on the appropriate measures concerning seconded personnel, while the relevant national authorities or relevant authorities within the EU Institutions are responsible for taking appropriate disciplinary action.

B) Examples : extracts from planning/ lessons learned documents:

See general standard of conduct for EUPOL AFG (OPLAN, doc. 10132/07).

1) EUPOL AFGHANISTAN

CONOPS, para 145. “EUPOL AFGHANISTAN mission personnel should be familiar with international humanitarian law and international human rights law, as well as with EU human rights policy and the generic standards of behaviour for ESDP missions.”

OPLAN (doc. 10132/07), page 184. “Attending or soliciting sexual services from places of prostitution or trafficked persons is forbidden. No EUPOL AFGHANISTAN member will in any place within the Mission area procure the services of a trafficked person or attend any properties or establishments known for or suspected of promoting prostitution or the trafficking of persons, including children (persons under 18 years of age), unless they are attending these places during the course of official operations while monitoring the local HOST COUNTRY police. All such operations must have the prior approval of respective chain of command. No EUPOL AFGHANISTAN member will at any time or in any place procure the services of a prostitute or a trafficked person.”

2) EUPOL RD Congo

CONOPS. “Mission personnel should be familiar with international humanitarian law and international human rights law, as well as with EU human rights policy and the generic standards of behaviour for ESDP missions. Issues related to children affected by armed conflict should be addressed in line with EU policy, based on UNSCR 1612.”

VIII – Protection of Civilians



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Displaced persons in Darfur, Sudan

Civilians are too often victims of conflict by accident or deliberately. The world community has voiced its concern for human security in the concept of R2P, or the Responsibility to Protect. Enshrined in the Outcome Document of the 2005 UN Millenium Summit, R2P aims to enlist a range of instruments from diplomacy, sanctions, legal instruments to military force. The EU has signed on to the need to protect civilians not only in word but also in practice: EUFOR Chad/ CAR, launched in 2008, is an ESDP operation specifically aimed at safeguarding the civilian population affected by hostilities originating in neighbouring Sudan.

A) PSC Working Document 14805/03 dated 14 November 2003

Guidelines on protection of civilians in EU-led crisis management operations

The Council, in its Conclusions of 21 July 2003, affirmed the endeavours made by the EU to ensure that special pro-

tection, rights and assistance needs of civilians are fully addressed in all EU-led crisis management operations, in full compliance with the applicable obligations of Member States under relevant international law and under relevant UN Security Council resolutions.

The Council invited the competent bodies, drawing on the expertise of all relevant organisations, to develop a set of guidelines for a comprehensive and action-oriented approach to the protection of civilians in the conduct of EU-led crisis management operations.

The following guidelines are accordingly to be taken into account in the review, assessment and evaluation of planning in this field, taking into account the mandate of a concrete operation and the limitations on the means and capabilities at the disposal of the EU:

1. All appropriate steps will be taken, in co-operation with the UN and other international organisations where relevant, to help create a secure environment for civilians endangered by a conflict to which an

EU-led crisis-management operation relates, and to facilitate, to the greatest extent possible, safe and unhindered access by humanitarian personnel to civilians.

2. The EU will, in co-ordination with the UN and other relevant international organisations, take all appropriate measures to facilitate, including through co-ordinated support and assistance, respect of international norms for the protection of civilians.
3. In close co-operation with the relevant international organisations and, where appropriate, with the host State, special protection and assistance will be afforded to internally displaced persons in conformity with the Guiding Principles on Internal Displacement and to refugees, in particular to the most vulnerable groups. Bearing in mind the need to maintain the humanitarian and civilian character of camps for refugees and internally displaced persons, the forces deployed in EU-led crisis management operations will also co-operate with the actors referred to above in the provision of security measures, including through technical assistance and training and in the deployment of multidisciplinary teams, in particular to assist and support the separation of civilians from combatants.

All possible measures will be taken, including making requests to the host State or any international organisation concerned, to ensure that women play a key role in refugee camp planning, management and decision-making so that gender issues are taken into account in all aspects, especially resource distribution, security and protection.

4. Where an EU-led crisis management operation is deployed, all possible measures will be taken to ensure respect for the rights as well as the protection of civilians in situations of armed conflict. To this end, particular attention will be paid to the rights and protection of those persons who, on grounds of race, colour, sex, sexual orientation, religion or faith, descent, national or social origin, suffer from discrimination. Without prejudice to the principle of non-discrimination just stated, and taking into account the mandate of a concrete operation and the limitations on the means and capabilities at the disposal of the EU, consideration will be given notably to:
 - (a) the rights of children, including the rights and special requirements of girls. A strong

child rights perspective will accordingly be mainstreamed into all aspects of EU-led crisis management operations. Specific measures will be taken, where appropriate in co-operation with the relevant organ(s) of the UN or other international organisations concerned, to:

- (I) ensure that children do not take a direct part in hostilities and are not recruited or used by armed groups; that persons under the age of 18 years are not compulsorily recruited into armed forces; and that, where voluntary recruitment under the age of 18 years into such forces is permitted, such recruitment is carried out in compliance with the safeguards laid down by international law;
 - (II) disarm, demobilise, rehabilitate and reintegrate ex-combatants, including in particular child soldiers, and girls who are with armed groups;
 - (III) where necessary, integrate child protection expertise in the chain of command of EU-led crisis management operations;
 - (IV) work with the UN and other international organisations to ensure family reunification of displaced children;
 - (V) where necessary, and as part of early warning activities where appropriate, monitor and report on the protection of children in armed conflict.
- (b) the need for special measures to protect women and children, especially girls, from sexual exploitation, abuse and trafficking. These measures could include the development of, or the incorporation of provisions in, as appropriate, standards or codes of conduct for national armed forces or police forces and all other personnel deployed in EU-led crisis management operations, which reflect as a minimum the provisions of the UN's "Ten Rules: Code of Personal Conduct for Blue Helmets", as well as the Six Core Principles established by the Inter-Agency Standing Committee in its "Plan of Action

on Protection from Sexual Exploitation and Abuse in Humanitarian Crises”. Compliance with these codes should be strictly observed and monitored.

5. With a view to promoting the important role of women in conflict prevention and resolution and in peace- and confidence-building, in addition to the mainstreaming of a child rights perspective mentioned above, measures will be taken to mainstream a gender perspective taking into account all relevant UN Security Council resolutions. Within the available means and capabilities of any given mission, such measures could include:
 - (a) the systematic incorporation of gender analysis into early warning activities to ensure the receipt of accurate and timely information on women affected by conflict;
 - (b) the inclusion of gender expertise in assessment and fact-finding missions as well as in planning and implementation processes for post-conflict reconstruction and institution-building, making use of UN or other expertise where appropriate;
 - (c) the inclusion of gender expertise in field operations;
 - (d) as appropriate, the integration of gender perspectives into all standard operating procedures, mission planning, field instruction manuals, reporting processes and other guidance materials for crisis management operations.
6. With a view to preventing the infection by HIV/AIDS and other communicable diseases of personnel deployed in EU-led crisis management operations, as well as preventing transmission of those diseases from such personnel to civilians in the country of deployment, Member States are encouraged to incorporate, inter alia, HIV/AIDS awareness training into their national training programmes for personnel to be deployed in EU-led crisis management operations.
7. Bearing in mind their obligations under national and international law, States contributing personnel deployed in EU-led crisis management operations should in particular ensure monitoring and reporting of alleged violations of human rights, interna-

tional humanitarian or international criminal law. Investigation of each complaint and - where there is sufficient evidence against the person concerned - prosecution of that person by the competent authority, should be ensured.

8. Suitable training in the areas mentioned above should be provided to personnel deployed in EU-led crisis management operations, both at the national level and through European programmes such as those run by the European Police College (CEPOL), the ESDP Pilot Orientation Course and the EC Project on Training for Civilian Aspects of Crisis Management, where appropriate in co-operation with the UN and other relevant international organisations. To ensure consistency with efforts already undertaken in this regard in other fora, such training should draw upon all relevant materials already available. In the preparation of relevant training curricula, guidelines and materials, particular emphasis will be placed on the following areas:
 - (a) human rights, international humanitarian, refugee and international criminal law;
 - (b) issues regarding discrimination;
 - (c) the rights and protection of children and other vulnerable groups, including the special needs of women and girls to be protected from sexual exploitation and abuse, as well as trafficking;
 - (d) gender mainstreaming and gender perspectives;
 - (e) HIV/AIDS awareness.
9. Within the available means and capabilities of any given mission and in co-operation with other relevant actors such as the ICRC, measures should be taken to ensure that EU-led crisis management operations can disseminate information about human rights law and international humanitarian law.
10. Within the means and capabilities of any given mission, measures should also be taken to ensure close co-operation and co-ordination with the UN and other relevant international organisations to take steps to counter effectively occurrences on the ground of speech used to incite hate and violence.

11. Close co-operation, consultation and co-ordination will be maintained between all EU institutions and bodies, including ECHO, and all relevant parts of the UN system as well as with the Council of Europe, the OSCE, ICRC, and the IFRC in order to ensure that the protection of civilians in the context of crisis situations continue to be fully integrated in all EU-led crisis management operations.

B) Examples : extracts from planning/ lessons learned documents:

OPLAN EUPOL AFGHANISTAN (doc. 10132/07), page 182. "In full respect with Human Rights principles, EUPOL AFGHANISTAN personnel will report and document all observations regarding violations of Human Rights via their chain of command."

IX – Civil Society



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Enjoying health care in the Central African Republic

Working closely with civil society is a cornerstone of the EU's Human Rights Policy. Giving citizens a voice not only brings legitimacy and thus credibility, it also makes for better policy because:

- *NGOs provide expertise that governments often are not able to produce on their own.*
- *NGOs often have better access to sources in the field, where victims are often more willing to speak to NGO representatives than to government officials.*
- *NGOs provide continuity: they stay with an issue over several years.*

The EU has enshrined its dedication to cooperation with civil society in a number of documents, including the Guidelines on Human Rights Defenders, which regards not only individuals but also organisations as defenders.

A) EU Guidelines on Human Rights Defenders (doc. 10056/1/04 REV1)

ENSURING PROTECTION - EUROPEAN UNION GUIDELINES ON HUMAN RIGHTS DEFENDERS

I. PURPOSE

1. Support for human rights defenders is already a long established element of the European Union's human rights external relations policy. The purpose of these Guidelines is to provide practical suggestions for enhancing EU action in relation to this issue. The Guidelines can be used in contacts with third countries at all levels as well as in multilateral human rights fora, in order to support and strengthen ongoing efforts by the Union to promote and encour-

age respect for the right to defend human rights. The Guidelines also provide for interventions by the Union for human rights defenders at risk and suggest practical means to support and assist human rights defenders. An important element of the Guidelines is support for the Special Procedures of the UN Commission on Human Rights, including the UN Special Representative on Human Rights Defenders and appropriate regional mechanisms to protect human rights defenders. The Guidelines will assist EU Missions (Embassies and Consulates of EU Member States and European Commission Delegations) in their approach to human rights defenders. While addressing specific concerns regarding human rights defenders is their primary purpose, the Guidelines also contribute to reinforcing the EU's human rights policy in general.

II. DEFINITION

2. For the purpose of defining human rights defenders for these Guidelines operative paragraph 1 of the "UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms" (see Annexe I), which states that "Everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels" is drawn upon.
3. Human rights defenders are those individuals, groups and organs of society that promote and protect universally recognised human rights and fundamental freedoms. Human rights defenders seek the promotion and protection of civil and political rights as well as the promotion, protection and realisation of economic, social and cultural rights. Human rights defenders also promote and protect the rights of members of groups such as indigenous communities. The definition does not include those individuals or groups who commit or propagate violence.

III. INTRODUCTION

4. The EU supports the principles contained in the Declaration on the Right and responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms. Although the primary responsibility for the promotion and protection of

human rights lies with states, the EU recognises that individuals, groups and organs of society all play important parts in furthering the cause of human rights. The activities of human rights defenders include:

- documenting violations;
- seeking remedies for victims of such violations through the provision of legal, psychological, medical or other support; and
- combating cultures of impunity which serve to cloak systematic and repeated breaches of human rights and fundamental freedoms.

5. The work of human rights defenders often involves criticism of government's policies and actions. However, governments should not see this as a negative. The principle of allowing room for independence of mind and free debate on a government's policies and actions is fundamental, and is a tried and tested way of establishing a better level of protection of human rights. Human rights defenders can assist governments in promoting and protecting human rights. As part of consultation processes they can play a key role in helping to draft appropriate legislation, and in helping to draw up national plans and strategies on human rights. This role too should be recognised and supported.
6. The EU acknowledges that the activities of Human Rights Defenders have over the years become more recognised. They have increasingly come to ensure greater protection for the victims of violations. However, this progress has been achieved at a high price: the defenders themselves have increasingly become targets of attacks and their rights are violated in many countries. The EU believes it is important to ensure the safety and protect the rights of human rights defenders. In this regard it is important to apply a gender perspective when approaching the issue of human rights defenders.

IV. OPERATIONAL GUIDELINES

7. The operational part of the Guideline is meant to identify ways and means to effectively work towards the promotion and protection of human rights defenders in third countries, within the context of the Common Foreign and Security Policy.

Monitoring, reporting and assessment

8. EU Heads of Mission are already requested to provide periodic reports on the human rights situation in their countries of accreditation. The Council Working Party on Human Rights (COHOM) has recently approved the outline of fact sheets to facilitate this task. In line with these fact sheets Missions should address the situation of human rights defenders in their reporting, noting in particular the occurrence of any threats or attacks against human rights defenders. In this contexts HoMs should be aware that the institutional framework can have a major impact on the ability of human rights defenders to undertake their work in safety. Issues such as legislative, judicial, administrative or other appropriate measures, undertaken by States to protect persons against any violence, threats retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of any of the rights referred to the UN Declaration on Human Rights Defenders are all relevant in this regard. Where it is called for, HoMs should make recommendations to COHOM for possible EU actions, including condemnation of threats and attacks against human rights defenders, as well as for demarches and public statements where human rights defenders are at immediate or serious risk. HoMs should also report on the effectiveness of EU actions in their reports.
9. The HoMs reports and other relevant information, such as reports and recommendations from the Special Representative of the Secretary General for Human Rights Defenders, UN Special Rapporteurs and Treaty Bodies as well as non-governmental organisations, will enable COHOM and other relevant working parties, to identify situations where EU actions are called upon and decide actions to be taken or, where appropriate, make recommendations for such action to PSC / Council.

Role of EU Missions in supporting and protecting human rights defenders

10. In many third countries EU Missions (Embassies of EU Member States and European Commission Delegations) are the primary interface between the Union and its Member States and human rights defenders on the ground. They therefore have an important role to play in putting into practice the EU's policy towards human rights defenders. EU Missions should therefore seek to adopt a proactive policy towards human rights defenders. They should at the same time be aware that in certain cases EU

action could lead to threats or attacks against human rights defenders. They should therefore where appropriate consult with human rights defenders in relation to actions which might be contemplated. Measures that EU Missions could take include:

- co-ordinating closely and sharing information on human rights defenders, including those at risk;
- maintaining, suitable contacts with human rights defenders, including by receiving them in Missions and visiting their areas of work, consideration could be given to appointing specific liaison officers, where necessary on a burden sharing basis, for this purpose;
- providing, as and where appropriate, visible recognition to human rights defenders, through the use of appropriate publicity, visits or invitations;
- attending and observing, where appropriate, trials of human rights defenders.

Promotion of respect for human rights defenders in relations with third countries and in multilateral fora

11. The EU's objective is to influence third countries to carry out their obligations to respect the rights of human rights defenders and to protect them from attacks and threats from non-state actors. In its contacts with third countries, the EU will, when deemed necessary, express the need for all countries to adhere to and comply with the relevant international norms and standards, in particular the UN Declaration. The overall objective should be to bring about an environment where human rights defenders can operate freely. The EU will make its objectives known as an integral part of its human rights policy and will stress the importance it attaches to the protection of human rights defenders. Actions in support of these objectives will include:

- where the Presidency, or the High Representative for the CFSP or EU Special Representatives and Envoys, or European Commission are making country visits they will, where appropriate, include meetings with, and raising individual cases of, human rights defenders as an integral and part of their visits to third countries;
- the human rights component of political dialogues between the EU and third countries and regional organisations, will, where rel-

evant, include the situation of human rights defenders. The EU will underline its support for human rights defenders and their work, and raise individual cases of concern whenever necessary;

- working closely with other like minded countries with similar views notably in the UN Commission on Human Rights and the UN General Assembly;
- promoting the strengthening of existing regional mechanisms for the protection of human rights defenders, such as the focal point on human rights defenders of the African Commission on Human and Peoples' Rights and the special Human Rights Defenders Unit within the Inter-American Commission on Human Rights, and the creation of appropriate mechanisms in regions where they do not exist.

Support for Special Procedures of the UN Commission on Human Rights, including the Special Representative on Human Rights Defenders

12. The EU recognises that the Special Procedures of the UN Commission on Human Rights (Special Rapporteurs, Special Representatives, Independent Experts and Working Groups) are vital to international efforts to protect human rights defenders because of their independence and impartiality; their ability to act and speak out on violations against human rights defenders worldwide and undertake country visits. While the Special Representative for Human Rights Defenders has a particular role in this regard the mandates of other Special Procedures are also of relevance to human rights defenders. The EU's actions in support of the Special Procedures will include:
 - encouraging states to accept as a matter of principle requests for country visits by UN Special Procedures;
 - promoting via EU Missions, the use of UN thematic mechanisms by local human rights communities and human rights defenders including, but not limited to facilitating the establishment of contacts with, and exchange information between, thematic mechanisms and human rights defenders;
 - since the Special Procedures are unable to carry out their mandate in the absence of

adequate resources, EU Member States will support the allocation of sufficient funds from the general budget to the Office of the High Commissioner for Human Rights

Practical supports for Human Rights Defenders including through Development Policy

13. Programmes of the European Community and Member States aimed at assisting in the development of democratic processes and institutions, and the promotion and protection of human rights in developing countries are among a wide range of practical supports for assisting human rights defenders. These can include but are not necessarily limited to the development co-operation programmes of Member States. Practical supports can include the following:
 - bi-lateral human rights and democratisation programmes of the European Community and Member States should take further account of the need to assist the development of democratic processes and institutions, and the promotion and protection of human rights in developing countries by, inter alia, supporting human rights defenders through such activities as capacity building and public awareness campaigns;
 - by encouraging and supporting the establishment, and work, of national bodies for the promotion and protection of human rights, established in accordance with the Paris Principles, including, National Human Rights Institutions, Ombudsman's Offices and Human Rights Commissions;
 - assisting in the establishment of networks of human rights defenders at an international level, including by facilitating meetings of human rights defenders;
 - seeking to ensure that human rights defenders in third countries can access resources, including financial, from abroad;
 - by ensuring that human rights education programmes promote, inter alia, the UN Declaration on Human Rights Defenders.

Role of Council Working Parties

14. In accordance with its mandate COHOM will keep under review the implementation and follow-up to

the Guidelines on Human Rights Defenders in close co-ordination and co-operation with other relevant Council Working Parties. This will include:

- promoting the integration of the issue of human rights defenders into relevant EU policies and actions;
- undertaking reviews of the implementation of the Guidelines at appropriate intervals;
- continuing to examine, as appropriate, further ways of co-operating with UN and other international and regional mechanisms in support of human rights defenders;
- Reporting to Council, via PSC and COREPER, as appropriate on an annual basis on progress made towards implementing the Guidelines.

Annex I

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming also the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfil this obligation according to the Charter,

Acknowledging the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

Stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

Declares:

Article 1

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Article 3

Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 4

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments and commitments applicable in this field.

Article 5

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

Article 6

Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

- (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 7

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

Article 8

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.
2. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.
2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress,

including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, *inter alia*:
 - (a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;
 - (b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;
 - (c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.
4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.
5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

Article 10

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

Article 11

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

Article 12

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.
2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.
3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Article 13

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

Article 14

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, inter alia:
 - (a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;
 - (b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.
3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

Article 15

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

Article 16

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, inter alia, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

Article 17

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just require-

ments of morality, public order and the general welfare in a democratic society.

Article 18

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

Article 19

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

Article 20

Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.

Annex II

Relevant international instruments

- The Universal Declaration of Human Rights
- The International Covenant on Civil and Political Rights
- The International Covenant on Economic, Social and Cultural Rights
- The Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

- The Convention on the Rights of the Child
- The Convention on the Elimination of Discrimination Against Women
- The Convention on the Elimination on all Forms of Racial Discrimination
- The European Convention on Human Rights, its protocols and the relevant case law of the European Court of Human Rights
- European Social Charter / Revised European Social Charter
- African Charter for Human and Peoples' Rights
- American Convention on Human Rights
- Geneva Conventions on the Protection of Victims of War and its Protocols as well as customary rules of humanitarian law applicable in armed conflict
- The 1951 Convention regarding the Status of Refugees and its 1967 Protocol
- The Rome Statute of the International Criminal Court
- Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

**B) Recommendations for Enhancing
Co-operation with Non-Governmental
Organisations (NGOs) and Civil Society
Organisations (CSOs) in the Framework of
EU Civilian Crisis Management and Conflict
Prevention (doc. 15574/1/06,
22 November 2006)**

INTRODUCTION

1. The Crisis Management Procedures¹³ foresee consultation and co-operation with civilian actors, including non-governmental organisations (NGOs), and note that modalities for co-ordination in the field need to be developed in the context of ESDP. The aim, in particular, is to contribute to increasing the operational efficiency.
2. The Action Plan for Civilian Aspects of ESDP¹⁴ welcomes regular exchanges of views with civil society organisations (CSOs) in relation to the orientations of civilian ESDP and early warning.

¹³ Doc. 11127/03 (Suggestions for procedures for coherent, comprehensive EU crisis management).

¹⁴ Adopted by the European Council 17-18 June 2004.

3. A number of NGOs and CSOs have considerable expertise and knowledge in the field of civilian crisis management and conflict prevention.
4. Further efforts to enhance co-operation with the NGOs and CSOs should, i.a., build on:
 - the experience of the European Commission in co-operating with NGOs and CSOs through operational work and established partnerships, in the area of Crisis Management and Conflict Prevention,
 - the experience within the ESDP field in co-operating with NGOs/CSOs, e.g. the NGO "Crisis Management Initiative" (CMI) in the establishment of Aceh Monitoring Mission (AMM),
 - the need to ensure a comprehensive and transparent approach vis-à-vis the key EU partners in crisis management in line with European Security Strategy,
 - the results of the Conference on "Enhancing Co-operation between Civil Society and EU Civilian Crisis Management" held in Helsinki on 27-28 September 2006¹⁵.

RECOMMENDATIONS

In light of the above, CivCom recommends to further enhance ESDP co-operation with NGOs and CSOs through:

- regular informal exchanges between NGOs/CSOs and the appropriate level of Council bodies, in particular the PSC and CIVCOM, in line with paragraph 22 of the Action Plan. The results of these exchanges should, where appropriate, be reported to the relevant Council bodies.
- fact-finding or pre-planning missions should take into account, where appropriate, NGO and CSO knowledge and experience.
- exchanges of views with and feedback from partners, local stakeholders and local populations, as appropriate, in view of mission evaluation/lessons learned processes.

¹⁵ See Conference report dated 17 October 2006.

- the establishment of NGO/CSO liaison functions, as appropriate, within civilian crisis management missions in line with the findings of Workshop IX on "Required capabilities in Mission Support for ESDP civilian crisis management missions".
- the identification of NGO/CSO liaison officers within the Council Secretariat, with a view to strengthening its capacity to dialogue with civilian agencies, NGOs and CSOs.
- the establishment of modalities for routine information exchange with relevant civilian agencies and civil society groups at the field level, in close collaboration with the European Commission.

Furthermore, CivCom encourages

- providers of training for civilian crisis management to ensure that EU-level training addresses issues of cooperation with civilian actors, in particular through briefings by relevant external actors, including NGOs and CSOs,
- Member States to consider, in accordance with their national legislation, expertise from the NGO and CSO sector, when establishing or developing rosters for deployment in civilian crisis management missions.
- the NGOs and CSOs to take a pro-active engagement with the EU in civilian crisis management at policy and operational level.

FOLLOW-UP

The issue of EU co-operation in crisis prevention, crisis management and post-conflict peace-building will be further developed under the German Presidency. Additional recommendations may be identified in this context.

In the light of the progress made in their implementation and taking into account developments in civilian ESDP and EC efforts in Civilian Crisis Management and Conflict Prevention, these recommendations will be reviewed in 2008 and further steps considered, including the ideas of a possible concept for co-operation with civil society and of an EU - NGO arrangement in the framework of Civilian Crisis Management and Conflict Prevention.

C) Examples: extracts from planning/lessons learned documents

1) EU DDR Concept

Doc. 13727/4/06, para. 52. *"The EU should pay particular attention to co-operation with other actors: The UN and other international actors in DDR activities, like the World Bank should remain key channels for EU support. The role of and support to local, national and regional actors is especially important given the principle of national and local ownership. In most cases Non-Governmental Organisations are very active in this area, including in terms of implementing EU support. The private sector is a key player in post-conflict circumstances in income generation, sustainable job creation and recruitment as well as improving vocational training. Consequently, co-ordination and co-operation, involving all stakeholders, including national governments, local authorities, civil society, NGOs, the private sector, international and regional organisations, Member States and other participants, are essential."*

2) Civilian Headline Goal

- Ministerial Declaration November 2006 (doc. 14981/06, para. 15): "Ministers also recall the value of experience, expertise and early warning capacity of non-governmental organisations and civil society, in accordance with the Action Plan for Civilian Aspects of ESDP and welcome the dialogue in this field. Further exploration of the use of the non-governmental actors' and civil society's capabilities in the Civilian Crisis Management should be encouraged."
- Workshop XI Cooperation in the field of ESDP civilian crisis management with non-EU States, International Organisations and NGOs, Brussels (26 April 2007) – report forthcoming.

3) Conferences: Partners in Conflict Prevention and Crisis Management: EU and NGO Cooperation. Berlin, June 20-21, 2007. Follow up to Conference held in Helsinki, Finland, in June 2006.

4) Regular invitations in CIVCOM and PMG of NGO representatives to exchange views on current and planned ESDP missions.

- 5) **OPLAN EUPOL AFGHANISTAN** (doc. 10132/07), page. 22 : “liaise with Non-Governmental Organizations (NGO) / Civil Society Organisations (CSO) as appropriate”.
- 6) **OPLAN DRC** (doc. 9779/07), para. 46. “La mission accordera également une attention particulière aux ONG basées à Kinshasa qui opèrent dans le cadre du mandat de RSS en RDC et cherchera à coopérer avec elles.”
- 7) **Draft Presidency report on EU activities in the framework of prevention, including implementation of the EU Programme for the Prevention of Violent Conflicts**

Doc. 8715/1/07 REV1, para. 9. “Further progress has also been achieved in the cooperation between

the EU and NGOs/CSOs by enhanced exchange of information on potential threats and ongoing crisis situations. In the framework of the Conflict Prevention Network the EU institutions have been able to draw on NGO/CSOs policy and operational advice. Local, regional and international NGOs/CSOs also provide important channels for implementing Community and Member states’ bilateral support in the area of peace and security.”

Para. 11. “Improve co-operation with non-state actors, in particular NGOs/CSOs by further enhancing exchange of views and information in Brussels and in the field, as appropriate, and intensifying cooperation in the field.”

Reference documents, websites and contacts

Reference documents and websites

EU

- Council of the European Union: www.consilium.europa.eu
(select “Policies” / “Foreign Policy” / “EU Human Rights Policy” or “Security & Defense”)
- European Commission: http://ec.europa.eu/external_relations/human_rights/intro/index.htm -
http://ec.europa.eu/external_relations/cfsp/cpcm/cm.htm
- European Parliament: http://www.europarl.europa.eu/committees/droi_home_en.htm

UN

- UN Handbook on Multilateral Peacekeeping Operations <http://pbpu.unlb.org>
- UN Special Representative of the Secretary General on Children and Armed Conflict:
<http://www.un.org/children/conflict/english>
- UNICEF: http://www.unicef.org/protection/index_armedconflict.html
- Office of the High Commissioner for Human Rights (OHCHR): <http://www.ohchr.org/english>
- Peacekeeping Best Practices Section: <http://www.peacekeepingbestpractices.unlb.org>
- UN High Commissioner for Refugees: <http://www.unhcr.org/cgi-bin/texis/vtx/home>

Other

- OSCE: <http://www.osce.org/>
- Joshua S. Goldstein: War and Gender: www.warandgender.com
- Gender and Peacekeeping, Online Training Course: www.genderandpeacekeeping.com
- OSAGI: www.un.org/womenwatch/osagi/
- African Union: www.africa-union.org
- Committee on Women in the NATO Forces: http://www.nato.int/issues/women_nato/index.html
- International Center for Transitional Justice: <http://www.ictj.org/en/index.html>

Point of contact in the Council Secretariat:

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LIST OF ABBREVIATIONS

AIHRC Afghanistan Independent Human Rights Commission

AMM Aceh Monitoring Mission

ANP Afghanistan National Police

AU African Union

BiH Bosnia and Herzegovina

CAAC Children Affected by Armed Conflict

CAT Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CEDAW Convention on the Elimination of All Forms of Discrimination against Women

CERD Convention on the Elimination of Racial Discrimination

CFSP Common Foreign and Security Policy

CIVCOM Committee for Civilian Aspects of Crisis Management

COHOM Council Working Group on Human Rights

COJUR Council Working Group on International Law

CONOPS Concept of Operations

CPMR capabilities for conflict prevention, management and resolution

CRC Convention on the Rights of the Child

CSO Civil Society Organisation

DDR Disarmament, Demobilization and Reintegration

DPKO United Nations Department of Peacekeeping Operations

DRC Democratic Republic of the Congo

ECHO European Community Humanitarian Aid Office

EIDHR European Instrument for Democracy and Human Rights

ESDC European Defence and Security College

ESDP European Security and Defence Policy

EUSEC European Union Security Sector Reform Mission

EUBAM European Union Border Assistance Mission

EUFOR European Union Force

EUPOL European Union Police Mission

EUSR European Union Special Representative

GAERC General Affairs and External Relations Council

HoM Head of Mission

HRC UN Human Rights Council

ICC International Criminal Court

ICCPR International Covenant on Civil and Political Rights

ICERD International Convention on the Elimination of All Forms of Racial Discrimination

ICESCR International Covenant on Economic, Social and Cultural Rights

ICRC International Committee of the Red Cross

ICTR International Criminal Tribunal for Rwanda

ICTY International Criminal Tribunal for Yugoslavia

IDPs Internally Displaced Persons

IHFFC International Humanitarian Fact-Finding Commission

IHL International Humanitarian Law

ILO International Labour Organisation

ISS EU Institute for Security Studies

LEGAD Legal Advisor

MoU Memorandum of Understanding

NATO North Atlantic Treaty Organisation

NGO Non-Governmental Organisation

OHCHR Office of United Nations High Commissioner for Human Rights

OPLAN Operation Plan

OSCE Organisation of Security and Co-operation in Europe

OSCE/ODIHR Organisation of Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights

PCRD Policy Framework for Post-conflict Reconstruction and Development

PMG Politico-Military Working Group

POLAD Political Advisor

PR/HR Personal Representative for Human Rights of the Secretary-General/High Representative for the Common Foreign and Security Policy

PSC Political and Security Committee

SCSL Special Court for Sierra Leone

SG/HR Secretary-General/High Representative for the Common Foreign and Security Policy

SITCEN European Union Joint Situation Centre

SRO Sub-Regional Organisations

SSR Security Sector Reform

UNDP United Nations Development Programme

UNHCR United Nations High Commissioner for Refugees

UNHCHR United Nations High Commissioner for Human Rights

UNICEF United Nations Children's Fund

UNIFEM United Nations Development Fund for Women

UPR Universal Periodic Review

UNSC United Nations Security Council

UNSCR United Nations Security Council Resolution

Council of the European Union

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