

# MIGRATION MISSION CREEP?

## ECRE'S ASSESSMENT OF THE EMERGING ROLE OF CSDP MISSIONS IN FORCED DISPLACEMENT AND MIGRATION

### I. INTRODUCTION

The recent discussion about the extension of the mandate of EUNAVOR MED Operation Sophia, the EU's military Common Security and Defence Policy (CSDP) mission operating in the Mediterranean Sea has illustrated the roles that CSDP missions have come to play in EU migration policy. CSDP missions have traditionally been deployed to situations of (post) conflict or crisis which were of significant interest for achieving the EU's foreign policy objectives or of strategic importance to individual Member States. Operation Sophia, and the latest debate about its mandate, however, can be better understood as an outcome and reflection of the EU's own political crisis on asylum and migration policy and its failure to develop a rational, rights-based approach. Operation Sophia is the most prominent example of CSDP mission involvement in migration but there is a wider trend developing. This Policy Note will provide an overview of the recent developments regarding the role of CSDP missions in the EU's approach to migration. It analyses four key questions on the role of CSDP in forced displacement and migration.

## II. ANALYSIS

### THE USE OF CSDP IN THE EU'S APPROACH TO MIGRATION

CSDP missions are a central part of the EU's Common Foreign and Security Policy. As stipulated in Article 42 of the Lisbon Treaty, civilian and military missions can be used to support peace-keeping, conflict prevention and strengthening international security. The Treaty further details in Article 43 that this can take the form of "joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation." Border management, covering various tasks, has been part CSDP Missions under the following headings: rule of law and security sector reform (e.g. EULEX Kosovo); confidence-building measures and cross-border cooperation (e.g. EUBAM Moldova and Ukraine); and monitoring of peace agreements (e.g. EUMM Georgia).

Activities directly related to migration are now carried out by CSDP Missions, including:

- » EUBAM Libya: a civilian mission launched in 2013 to advise, mentor and train Libyan authorities on border management and security at Libya's land, sea and air borders. The latest mandate from end of 2018 expands EUBAM Libya's work to disrupting organised criminal networks involved in smuggling migrants, human trafficking and terrorism.
- » EUCAP Sahel Niger: a civilian mission launched in 2012 to support an integrated approach to security sector cooperation, looking particularly at the fight against terrorism and organised crime. In 2015, the "fight against irregular migration and associated activities" was added to the mandate.
- » Operation EUNAVOR Med Sophia: a military mission launched in 2017 to "undertake systematic efforts to identify, capture and dispose of vessels and enabling assets used or suspected of being used by migrant smugglers or traffickers" in the Mediterranean. Although its mandate did not focus on Search and Rescue (SAR) (unlike precursor missions such as Italy's Mare Nostrum), its maritime presence led it to rescue around 50,000 people. The Mission has been undermined by a) limited territorial scope; b) Italy's refusal to allow ships to disembark and efforts to otherwise jeopardize the mission; and c) the inability of Member States to agree on sharing responsibility for people rescued. After disagreements, the Mission's mandate was extended only until September 2019 but without naval assets. This severely limits its role in SAR, meaning that SAR either does not take place or is carried out by the Libyan Coast Guard (given the related disruption of NGO SAR operations).

### QUESTION 1: WHAT DO EU MEMBER STATES WANT FROM CSDP MISSIONS?

CSDP missions are inherently a Member State policy tool with limited engagement of EU institutions beyond the Council of the EU. This is illustrated by the unanimity required for the launch of missions, the confidential reporting from Heads of Missions directly to the Political and Security Committee, and the fact that strategic reviews are not public. The European Parliament (EP) has a limited role in scrutiny of CSDP missions, including the budgets for military missions, which are financed directly by EU Member States. Member States are not only instrumental in the setting up and oversight of CSDP missions, their position on CSDP missions is also crucial in determining whether missions are a significant part of the EU's integrated approach to crisis and conflict.

While Member States' expectations towards CSDP missions of course vary depending on the specific mission and Member State, the following considerations are noteworthy. First, Member States use CSDP missions to shape EU policy towards a specific country or region through proposing a mission and then influencing its mandate and staffing. Launching a separate instrument under the oversight of Member States is a more direct way to shape EU external action than engaging via management committees overseeing funding decisions or with Commission services. Second, CSDP missions are tasked by Member States to carry out very specific activities related to rule of law or security sector reform, which are often described as "technical" despite their inherently political nature. In most cases, CSDP missions are small compared to other international missions in the countries concerned (e.g. Afghanistan, Iraq or Mali), which EU Member States may be separately part of. A notable exception is EULEX Kosovo, the largest civilian mission in terms of numbers of staff, which contributes to statebuilding in Kosovo.

Europe's ongoing sense of crisis on migration has led Member States to turn to CSDP, and it has also led to new alliances on security and migration, notably between France and Germany, who previously often had different views on CSDP missions, particularly in Africa. As for other external policies, the failure of EU Member States to reach agreement on asylum IN Europe, leads to the risk of misuse of CSDP for short-term prevention or disruption of migration.

## QUESTION 2: WHAT IS THE RELATIONSHIP BETWEEN SECURITY AND MIGRATION?

The underlying concept of security used to inform and develop CSDP activity is a recurring issue of debate. The use of either state security or human security concepts leads to different decisions on a mission's mandate, function and way of working. State-centered concepts of security and human security, which conceptualizes security in relation to individuals and considers broader issues that relate to a person's safety and dignity, are not mutually exclusive. However, an excessive or exclusive focus on state security can undermine the security of people in a country. A related issue is the interplay between security in Europe and security of states and people outside Europe. The complex relationship between asylum, migration and security demonstrates these issues and dilemmas.

First, the absence of human security is a major reason why people are forced to leave their countries of origin and residence. State institutions need to function in order to provide security for people, so state security is important. However, an excessive focus on strengthening the state may lead to repressive institutions that become agents of persecution – and thus people leave. Second, refugees often have to move “irregularly” to reach protection. An approach that is exclusively focused on “ending” irregular migration poses a risk to their security. Border management should be “protection sensitive”, meaning allowing access to the respective asylum system, independent monitoring, and training border guards on refugee law.

While the Council Conclusions from May 2018 mention the role of civilian CSDP in addressing the security challenges linked to irregular migration, there is no explanation as to what kind of security threats are meant. Where CSDP missions are operating plays a role too. In the case of EUNAVOR Med Sophia, deployed directly at the EU's borders, the security references focus on the EU's perceived security challenges related to migration, while the human security of the individuals concerned, including their right to asylum and the prohibition of non-refoulement, receive less attention. In CSDP missions further afield, e.g. Niger, the question of who defines migration-related security threats need to be assessed as well as what priority it constitutes compared to other security-related challenges, for instance internal armed conflict. In order to have any long-term impact – and to justify their costs – CSDP Missions must contribute to some extent to security challenges and prioritisation of security threats *as perceived by the local populations and authorities*.

## QUESTION 3: WHAT RESOURCES AND CAPABILITIES FOR FORCED DISPLACEMENT AND MIGRATION?

CSDP missions rely on secondments from Member States which leaves many missions operating at significantly lower capacity than planned. The challenge of Member States training and subsequently seconding the right profile of staff for CSDP missions has been an ongoing issue, especially for civilian CSDP which is involved in complex and varied tasks. Different initiatives, most recently the Civilian Capabilities Development Plan of 2018, aim to address this. With CSDP missions becoming more proactive in the field of migration, the shortage of the right profile and caliber of staff on issues related to asylum and migration made available to CSDP missions will arise, which has been recognised in the Civilian Capabilities Development Plan.

This is particularly pertinent given that EU Member States have recently agreed to an increased standing corps of Frontex operational staff which will rely on long-term and short-term deployments by Member States. It is likely that many Member States will prioritise Frontex because of its mandate at the EU's borders, because some secondments are mandatory, and because contributions to staff allowances are higher than for CSDP missions. But it is not only current and future Frontex deployment that makes for a crowded field in the area of migration management and control outside the EU – there is also the recently agreed Regulation on the creation of a European network of immigration liaison officers.

## QUESTION 4: DOES THE TOOL MATCH THE OBJECTIVE? WHAT KIND OF ENGAGEMENT PLAYS TO THE STRENGTHS OF CSDP?

Another way to assess the role of CSDP missions in migration is to consider what is the most useful role they can play given available resources, the legal and political framework for CSDP, experience and learning so far, and the complex operational environment in which they work. CSDP is a relatively small policy tool and forced displacement and migration is a complex and multi-faceted phenomenon. Overestimating the role and creating unrealistic expectations by introducing ambitious mission objectives without a clear intervention logic or without the staff to support specific areas of work would undermine the EU's role as an external actor. It would also risk detracting resources and attention away from those areas where CSDP has proven to be effective.

The absence of systematic independent evaluations of CSDP missions make an assessment of their added value in forced displacement and migration difficult. Looking at the areas where CSDP missions have

traditionally been active suggests two scenarios for their engagement:

- » CSDP missions could reinforce efforts to address the drivers of forced displacement, which include insecurity, violent conflict, unaccountable and harmful state security actors, and a lack of rule of law. CSDP would thereby provide a security dimension to addressing the root causes of forced displacement, complementing other EU external action, such as development cooperation.
- » The second option would be for CSDP missions to develop a more specific profile on border management and the management of movements of people. However, this would require them to significantly improve their expertise in this area to ensure that CSDP missions are not inadvertently implicated in human rights violations at borders, especially when they are carrying out executive roles. Given the scarce resources and the increase in mandate and staff of Frontex, this may be a less viable and effective option. Instead, a division of labour between CSDP missions and Frontex based on different set of activities should be found.

In either of those scenarios, it is not helpful to understand the success of CSDP missions as its contribution to preventing the movement of people. Displacement is a coping strategy to escape persecution, violence and human rights violations which CSDP could play a role in tackling.

### III. RECOMMENDATIONS

Overall: focus CSDP on tackling the security-related causes of forced displacement.

For EU Member States:

- » Clarify in new concepts the specific roles that CSDP missions are expected to play regarding migration, given the expanded role of Frontex and the Recast Regulation on the creation of a European network of immigration liaison officers.
- » Share good practice on accountability between CSDP and Frontex, for example in the use of complaints mechanisms and the role of human rights advisors.
- » Dedicate adequate resources to the implementation of the Civilian Capabilities Development Plan.
- » Recruit staff with expertise in international refugee law, rights of migrants and the link between mobility, migration and development to be seconded to CSDP missions.

For the European External Action Service:

- » Strengthen the conceptual base of CSDP interventions through the development of mini-concepts as mentioned in the Civilian Capability Development Plan.
- » Clarify in concepts the specific security concerns related to irregular migration, without prejudice to the right to claim asylum and the principle of non-refoulement, use concepts of human security where possible.
- » Specify the specific skill sets and profiles that Member States would need for staff for an expanded role of CSDP in migration.

For CSDP missions:

- » Consult regularly with government and civil society actors in countries of deployment, including on issues related to access to asylum, migration dynamics and impact of border management on human rights, as well as security concerns that may be generating displacement.

For the European Parliament:

- » Request impact studies of CSDP activities related to migration and border management in particular regarding the rights of displaced people, the principle of non-refoulement, and access to international protection.

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