

Working Group VIII

Working document 13

WORKING GROUP VIII « DEFENCE »

Subject : Note by Mr Kimmo KILJUNEN

Members of the Working Group will find attached a note by Mr Kimmo Kiljunen, member of the Convention.

European Security and Defence policy as an integral part of the Common Foreign and Security Policy

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1. Draft Constitutional Treaty. The Praesidium has presented to the Convention a preliminary draft Constitutional Treaty (CONV 369/02). On questions of defence, the draft makes a distinction between crisis management, which is included in the sub-section “Common Foreign and Security Policy” under title “External Action” and “Defence”, which appears as a separate title of the draft Treaty. In the present Treaty defence is clearly a part of the Common Foreign and Security Policy. It is necessary for the Convention to consider whether a separate section on defence contributes to a coherent, consistent and united EU foreign policy.

2. Broad concept of security. The Common Foreign and Security Policy of the Union, and the ESDP as part of it, are, first and foremost, a means to promote the broad concept of security. This implies security that is indivisible, goes beyond military aspects and focuses not only on the security of states but also on that of citizens. Thus, the external policy of the EU should take into account human, social, economic as well as political and military security. The integration process itself brings about broad security by creating structures of cohesive security in Europe.

3. Global role. The European Union has unique potential to act as a world leader in promoting, with a balanced approach, international security. Global security does not derive principally from military might but from trust in multilateral agreements, common institutions and from respect for international law. This is the real challenge for the CFSP. The external policy of the Union should be strengthened so that it could better address pressing problems such as global poverty and terrorism.

4. Conflict prevention. The Union should be able both to prevent and to solve crises. Prevention should always be the primary focus in order to avoid both human suffering and material losses, which is why a much stronger emphasis should be laid on an early prevention of crises. Conflict prevention must be a priority of the CFSP.

5. Military crisis management. There are situations where conflict prevention does not suffice and concrete crisis management is necessary. In conducting its foreign policy the Union has to act consistently in a way that strengthens “multilateralism”. The Union must continue to recognise the primary responsibility of the United Nations Security Council for the maintenance of international peace and security. Union should aim to have the mandate of The Security Council for all its military crisis management operations.

6. ESDP – integral part of the CFSP. The ESDP is an essential part of the external relations of the Union. It complements the Union's instruments for crisis management with military options. The ESDP should not, though, develop a separate life of its own – it should be institutionally, politically and financially integrated into the existing structures of EU external action.

7. *Treaty provisions on security and defence.* The provisions of the Amsterdam Treaty give clear and ambitious goals for the Common Foreign and Security policy. The Article 17(1) of the TEU states: “ *The common foreign and security policy shall include all questions relating to the security of the Union, including the progressive framing of a common defence policy, [...], which might lead to a common defence, should the European Council so decide.* ”

7.1. *Inclusive approach to the ESDP.* The development of the ESDP should continue to be based on an inclusive approach, enabling all Member States to participate fully in all aspects of its development. The Treaty, as it now stands, serves this inclusive approach well. This approach should be preserved – Member States should not be divided, for example, on the grounds of military alignment.

7.2. *The Treaty provides options.* Article 17 of the TEU in its present form provides many possibilities to develop the security policy instruments and the military capabilities of the EU. Furthermore, the Treaty enables the European Council to take a decision on a collective, common defence, if that would be deemed necessary.

7.3 *Challenges of implementation.* The ESDP, as formulated in consecutive meetings of the European Council, is already in its present form an ambitious project. It presents the Union and Member States with a formidable challenge for some years to come. A lot of work remains to be done to fulfil, step by step, the Helsinki Headline goal and enable the Union to implement the whole range of the Petersberg tasks.

7.4. *Sufficient scope.* The scope of the ESDP does not need to be expanded in the Treaty provisions to any greater extent at this stage. All in all, the present Treaty provides an ambitious programme for the development of the ESDP as well as additional options and possibilities for future needs.

8. *Civilian crisis management.* The Convention could, however, consider whether the new Treaty should include explicit provisions on civilian crisis management. The concept of civilian crisis management encompasses all three (current) pillars of the Union. New treaty wording should recognise this and try to find a balanced approach between the different Community and intergovernmental aspects of civilian crisis management.

The role of the institutions should be clarified. The Commission should play a major role in the implementation and coordination of civilian crisis management, especially since it has competence in many of its components. The Council, as an institution with overall responsibility for crisis management, should e.g. handle the coordination between the civilian and military aspects of crisis management. In general, the coordination of civilian crisis management with other relevant policy fields, such as development cooperation, should be strengthened. Due emphasis should also be laid on the coordination of EU action with other international actors, especially the UN and the OSCE.

9. *New threats.* Another issue the Convention could consider is whether the so-called new threats and the acute question of terrorism should be included in the new Treaty. Effective response of the EU to new threats and terrorism is not mainly a question for the ESDP. These threats have to be approached as a horizontal issue, with major emphasis on cooperation in justice and home affairs. Convention could consider a horizontal provision on the question of new threats along the same lines as outlined above with regard to civilian crisis management. Separate but related question, that the Convention could consider, is the use of ESDP capacities and procedures within the European Union in case of a major terrorist attack or a natural catastrophe.

10. Armaments policy. Article 17 of the TEU mentions, in passing, cooperation in the field of armaments. This cooperation has thus far developed mainly outside the Union structures. There is a need to integrate it in the Union. The capabilities of different Member States with regard to armaments vary greatly, but all have something to offer. The inclusive approach should be the basis also in armaments, so that all Member States take part in formulating the basis for the armaments policy.

Each Member State could participate in implementation of armaments policy, in accordance with its interests and possibilities, following the principles of enhanced EU cooperation. The principle of voluntary participation of Member States followed within the ECAP process could serve as a precedent for intensified armaments cooperation within the Union. A separate armaments agency, firmly rooted within the institutional structure of the Union, could also be established.

11. Control of arms exports. A logical consequence of integration in the field armaments is the development of arms exports policy of the Union. It should be ensured that arms exports policies of the EU Member States shall be consistent with the EU external policy and are in line with its principles and goals. Transparency of the regime is also essential. There is a need to strengthen the EU regulation in this field, i.a. by reinforcing the 1998 EU Code of Conduct on Arms Exports.

12. Conclusions and proposals:

- The ESDP and related defence provisions should continue to be developed as a part of the Common Foreign and Security Policy and in a manner consistent with other EU policies. This approach is essential to guarantee that the EU has a coherent and effective approach to the wide range of security-related questions.
- Current provisions on the ESDP need not to be altered to a great extent – they cover all major options and provide quite a challenge for implementation.
- Minor clarifications to present Treaty provisions could be considered on:
 - o establishing an **armaments policy** as well as an **armaments agency** within the institutional structure of the EU;
 - o **civilian crisis management** by introducing a provision, which would take into account the horizontal and multifaceted nature of the subject;
 - o **new threats**, including terrorism, which should be approached as a horizontal issue covering the whole range of EU policies.