

Working Group VIII

Working document 30

WORKING GROUP VIII « DEFENCE »

Subject : **Comments by Mr Kimmo Kiljunen to the preliminary draft final report of
Working Group VIII "Defence" (WD 022)**

Members of Working Group VIII will find attached comments by Mr Kimmo Kiljunen, member of
the Convention, on the preliminary draft final report.

Comments to the Draft Report of the Convention Working Group on Defence (WD 22) by Dr Kimmo Kiljunen, Representative of Parliament of Finland to the European Convention

As a general comment I would like to state that the draft Report seems to place too much emphasis on the variety and diversity of Member State situations, without elaborating on how these differences - with regard to status of military alignment, differences in defence industry or differences in the size of defence budget - have in practice effected or hindered the development of the ESDP.

The practice with regard to the development of the ESDP and the participation of Member States in recent, challenging crisis management operations does not support this emphasis (e.g. all 15 Member States participate in KFOR in Kosovo and 13 out 15 Member States - including 3 out 4 non-aligned EU Members - participate in ISAF in Afganistan). In a similar way, all Member States (with the exception of Denmark) have participated actively in the fulfilment of the Helsinki Headline Goal.

Many of the issues covered by the draft Report, such as conflict prevention and civil protection, have either been extensively prepared or are currently under preparation within the Council and the Commission. This important work already carried out should be better reflected in the Report.

Paragraph 4

The text concerning ESDP today should be complemented with the following text to state the objective and the context of the ESDP more clearly:

The Common Foreign and Security Policy of the Union, and the ESDP as part of it, have promoted 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.

Union has acknowledged that global security does not derive principally from military might but from trust in multilateral agreements, common institutions and from respect for international law. Conflict prevention has always been the primary focus in crisis management in order to avoid both human suffering and material losses. The ESDP is an essential part of the external relations of the European Union. It complements the Union's instruments for crisis management with military options.

Paragraph 21

The references to the United Nations should be complemented with the following text:

In conducting its foreign policy the Union has acted consistently in a way that strengthens multilateralism. The Union contributes to international peace and security in accordance with the principles of the United Nations Charter. Similarly, the Union recognises the primary responsibility of the United Nations Security Council for the maintenance of international peace and security.

Paragraph 22

At the end of the paragraph, the text should refer to “citizens” instead of “soldiers”.

Paragraph 23

The paragraph should be corrected in order not to imply that the principle of constructive abstention is not applicable decisions having military or defence implications. The provision in Article 23, paragraph 2 of the Union Treaty, referred to in this paragraph, excludes the use of qualified majority in decisions having military or defence implications, not the use of constructive abstention.

Paragraphs 24 – 29

Paragraphs 24 – 29 describe in some length the various differences between Member States in terms of status, defence industry or budget differences etc. I think this approach is not very useful as a starting point, when it is our objective is to develop further a common European Security and Defence Policy. The Report of this Working Group should not highlight internal divergences in somewhat arbitrary way (there are also other relevant differences, such as membership in the UN Security Council, nuclear capability or choice between professional/conscript army). Quite the contrary, the Report should highlight the things common to the Member and Candidate States.

Consequently, I propose that the paragraphs 24 – 29 be deleted from the draft, or in any case the text in this part of the Report should be abridged substantially.

Paragraph 33

The discussions within the Working Group have established firmly that development of credible military capabilities is not only a question of increasing military budgets, but to a major degree a question of better use of the funds allocated to defence in the Member States. Taking this into account I propose that the phrase “The need for further efforts in this area is hampered in particular by Member States' reluctance in deciding to increase defence budgets” be deleted.

Since this part of the Report is intended to be descriptive, the first two sentences of second subparagraph should be amended to read as follows:

In military research, there are differences in the level of investment between Europe and the United States (some EUR 10 billion by the EU as against EUR 53 billion by the US)...

Paragraph 35 (b)

The role and functions of the High Representative are part and parcel of the institutional package, and currently under consideration in WG VII. The Report of our WG should not anticipate any decisions with regard to the role of the High Representative. It would also be necessary to gather more experience in the functioning of crisis management procedures, in order to be able to evaluate the need of possible changes in this regard.

Paragraph 35 (c)

Text should be clarified in order not to confuse the different command and coordination roles on the ground. The command of the military crisis management operation must remain in the hands of the commanding officer. The overall coordination of civil and military parts of the operation can be assigned to a Special Representative, acting on the authority of the Council.

New Paragraph 35 (d) [before current paragraph 35 (d)]

The Report should recognise the importance of civilian crisis management as essential part of EU crisis management with the following recommendation:

The new Treaty should include explicit provisions on civilian crisis management in a way that ensures that the concept encompasses all three (current) pillars of the Union. New treaty wording should be formulated in way that guarantees a balanced approach between the different Community and intergovernmental aspects of civilian crisis management.

Paragraph 36

The need for joint training to enhance the interoperability between operational headquarters at the disposal of the EU, Military Staff of the EU and the Member State military structures is evident. There is, however, no need to establish new permanent structures, such a joint military college, for this purpose.

Paragraph 38

With reference to my earlier comments concerning paragraph 35, it is quite premature for the Working Group to take a position on the need for a “well-known political figure” to ensure effectiveness of the of the defence policy.

III. The response to the new threat: more solidarity

Paragraphs 42-44

I welcome the efforts to enhance the capability of the Union to protect civilian population and the structures of the society. We do unfortunately need to prepare ourselves also for possible terrorist attacks within the Union. I think it is necessary to link the question of “more solidarity” to the more general notion of increased solidarity within the Union, which is broader than solidarity related to security issues.

Paragraph 42 should state that these tasks would be approached as a horizontal matter. Major efforts have been undertaken to attain the same end in the developing civilian crisis management and civil protection policies of the Union. The efforts undertaken in these fields, such as the creation of Civil Protection Mechanism in October 2001, should be recognised in the text. The mechanisms envisaged in paragraphs 42 and 44 should be developed in coordination with the efforts already undertaken so that duplication is avoided.

The principle that solidarity envisaged under paragraph 42 would be extended to a Member State at the request of the civilian authorities of the country concerned is very important. Thus no automatism would apply to the use of this procedure.

Proposal for text

44. Taking this enhanced solidarity further, the setting up of a civil protection pool might be envisaged consisting of specialised units identified by the Member States, which would undertake training and coordination programmes so as to facilitate more effective intervention in the event of natural or humanitarian disasters within the Union. Efforts already undertaken within the Union, such as the creation of Civil Protection Mechanism in October 2001, should be taken into account in this work in order to avoid duplication.

Paragraph 43

The Working Group should consider whether the proposal that the European Council adopt and update a threat-assessment declaration is feasible. Since such a common declaration would be bound to be very general in nature, its usefulness is to my mind questionable.

IV. Petersberg missions: updating and flexibility

Paragraph 45

I welcome the proposals to update the Petersberg mission with the proposed three tasks (stabilisation, conflict prevention and defence outreach). The horizontal approach and extensive work carried out within the Union should be stressed also in this paragraph.

Paragraph 46

The paragraph seems to be drafted with the assumption included in paragraph 23, that constructive abstention would not be applicable to launching operation. This is not the case under Article 23, as stated above; constructive abstention can be used.

The launching of a crisis management operation should always be made unanimously, as rightly confirmed in the paragraph. The notion of “relaxed constructive abstention”, is vague and confusing, and should not be included in the text. The Member States referring to constructive abstention should continue to be allowed to take part in meetings of the Council bodies (e.g. PSC), thus the last sentence of the paragraph should be deleted.

Proposal for text

The launching of an operation would be decided unanimously but with the application of the rules on constructive abstention. [Delete: albeit relaxed.] Member States not wishing to participate in an operation would be encouraged not to oppose it but to abstain. [Delete: Once the operation was launched, the abstaining States would not participate in decision-making concerning the implementation of the operation.]

Paragraphs 47 - 48

These paragraphs base the need for “firmer commitment” defence policy on the diversity of Member States as regards the level of capabilities and the willingness to commit “even to tasks already enshrined in the Treaty”. This reasoning does not reflect to my mind the actual state of the Union today. All Member States, with the exception of Denmark, have accepted the Petersberg tasks included in the Amsterdam Treaty and agreed at the Helsinki European Council to the establishment of the Helsinki Headline Goal. The process to attain necessary military and other capabilities to attain it is already well under way.

The crisis management activities of the European Union should continue be based on common decisions and carried out by the maximum number of Member States possible. In any case, the comparison to the introduction and management of the euro is in paragraph 47 and the notion of “defence Eurozone” in paragraph 48 are not relevant and should be deleted.

V. Capabilities and armaments: towards a European agency

Paragraph 49

As the establishment of objectives for the ESDP beyond those currently included in the Treaty and elaborated by the European Council is not envisaged in the draft report, the use of a term such as “convergence objectives” is somewhat misleading. The aim should not be to establish binding criteria, rather encourage the Member States to develop their capabilities on a voluntary basis.

Some of the criteria mentioned in paragraph 49 do not reflect objectively the capabilities of the Member States.

Paragraphs 50 - 52

The establishment armaments policy as part of ESDP is an important issue, which I have supported in my earlier contribution to the Working Group (WD 13).

I find the proposals included on the subject of armaments policy in the joint Franco-German paper (CONV 422/02) very interesting. I think basic approach of the Franco-German paper in this subject could form the basis of our recommendations on armament policy. The basic approach should be that all Member States take part in formulating the basis for the armaments policy.

In addition to the recommendation, that an EU agency for armaments would be established, the Report could also take up the Franco-German proposal to establish progressively, step-by-step, common European market for armaments.

The current Community competences should be fully utilized in the development of armaments and capabilities. The Report to make mention use of Community programmes in the field of research and development. The report could also mention the need to make certain amendments and adaptations to Article 296 TEC.

In paragraphs 50 – 52 it is not necessary include details of the workings of the proposed Agency, such as the right of the Head of the Agency to propose specific projects.

Instead of referring to “certain Member States”, paragraph 52 could state: “The implementation of specific projects could be based on the principle of enhanced cooperation.”

New Paragraph 52 bis

Following text on the development of arms exports control policy should be added to the Report:

A logical consequence of integration in the field armaments is the further development of arms exports policy of the Union. It should be ensured that arms exports policies of the EU Member States are consistent with the EU external policy and are in line with its principles and goals. Transparency of the regime is 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.
