

New Security Challenges and the Need for New Forms of EU Cooperation: The Solidarity Declaration against Terrorism and the Open Method of Coordination

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ABSTRACT *The new transnational security threats, such as terrorism, challenge traditional methods of European Union cooperation. In the era of threats to inter-state peace the Union engendered security through 'passive' integration in the form of the abolition of European borders. Today the EU is increasingly given the responsibility for creating security and safety, both externally and internally, by the means of 'active' security instruments such as the European Security and Defence Policy and the Solidarity Declaration of 2004. The challenge is that these policies and principles require a vision beyond that of a free market, common threat perceptions and effective coordination of the crisis management capacity of EU member states. This article argues that the practical needs following this qualitative step, such as the strategic engagement of new security actors and levels of EU governance on a long term basis, are very similar to the ones that the Open Method of Coordination has attempted to resolve in EU cooperation in the field of welfare policies. It suggests that this method should be used also to strengthen the Union security policy and crisis management capacity.*

New Security Challenges for European Multi-level Governance

New Threats and New Policies

The new global security challenges in recent years have had a significant impact on European security.¹ New transnational threats (terrorism, ethnic conflicts, transnational criminality, natural disasters) are challenging national as well as international policies and institutions for security.² The necessities of transnational crisis management in a globalised world are compelling also the EU to

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take on a new security responsibility. The developments are taking place with extraordinary pace. In the last couple of years the EU has established a European Security and Defence Policy (ESDP), including military and civil crisis management capacities, internal safety and emergency preparedness measures, rapid alert and response systems,³ a Solidarity Declaration against terrorism,⁴ a Security Strategy and a programme on strengthening freedom, security and justice.⁵ In the aftermath of the Asian tsunami disaster in 2004 the EU adopted an Action Plan aimed at strengthening Union capacity in the area of humanitarian aid, civil protection, consular cooperation and military assistance to humanitarian and rescue operations.⁶ In 2004, the Union started a process for the adoption of a European programme for critical infrastructure protection, a response that was speeded up after the London bombings in 2005.⁷ The crisis management capacities, which are located in all three EU pillars, today make the Union responsible both for internal and external dimensions of security and citizens' safety.⁸ The result is that the EU is incrementally building up a capacity in fields ranging from military peacekeeping missions on other continents, over measures to prevent the further spread of the avian influenza and responses to the challenges of terrorism, to food and shipping container safety. At the same time, the more 'implicit' organisational crisis management capacities of the Brussels-based EU institutions are being strengthened; more specifically their capacity to prevent, prepare for, cope with and learn from crisis in all kind of fields of Union competence.⁹ Union involvement in the management of transnational breakdowns and critical incidents is predicted by many observers to increase due to the growing vulnerability of modern society in a border-free Europe.¹⁰

Challenges for Strategy and Capacity

However, the Union's growing responsibility in the safety and security field is not the result of any grand design. The new security and safety instruments are evolving without much discussion and analysis of what exactly the vision and role of the Union should be. How should a sustainable and well-targeted preparation and coping capacity be organised? When should the EU be involved? What is to be considered an 'EU crisis'? For what purpose and how should the ESDP capacities be used? What is to be secured? In short, what is 'EU security' and what capacities are needed? In the area of ESDP, the Union's listing of civilian and military national resources was only a first step in the creation of an effective common capacity. There are many organisational and conceptual questions still waiting for an answer, such as to what extent the ESDP should be created as an autonomous system in relation to the Common Foreign and Security Policy (CFSP) and more closely interwoven with the 'internal' security work of the Union.¹¹ The practical implementation of the Security Strategy, particularly the financial requirements for the world

role it stakes out, needs to be elaborated.¹² The complexity is underlined by the fact that the Strategy states that ‘internal and external aspects are indissolubly linked’.¹³ There is also a lack of a European strategy with regard to the use of force.¹⁴ In the field of civil crisis management there have been difficulties to meet the ESDP capacity goals with regard to civil administrators, lawyers and police.¹⁵ In fields of internal, or rather transboundary, EU safety, such as civil protection cooperation, many problems remain to be solved with regard to the setting of EU goals and standards for national resources.¹⁶ This is why the Union is advised by Boin and Rhinard to elaborate a clearer philosophy and strategy on crisis management, to better define what kind of crises should be Union responsibility and to launch crisis management training and exercises.¹⁷

Challenges for Decision Making and Institutions

There are also more fundamental institutional challenges. Due to national sovereignty and subsidiarity concerns there are in most of the Union security and safety policies no formal obligations to implement EU crisis decisions and capacity goals. Thus, EU crisis management capacity is to a large extent ultimately relying on the willingness and ‘know-how’ of the multitude of European actors and levels to pool resources and assist each other. The 2004 Solidarity Declaration against terrorism only calls upon the EU member states to act jointly ‘in a spirit of solidarity’ if one of them is the victim of a terrorist attack.¹⁸ Under the so-called Community mechanism for civil protection a member state in which the emergency has occurred can make an appeal to other members which ‘shall ... identify in advance intervention teams which might be available for such intervention’¹⁹ in the form of search and rescue teams, fire-fighters, evacuation and emergency relief.²⁰ Consequently, EU policies and instruments are highly dependent not only on the assets formally listed by central governments, but also on effective, practical coordination of a broad spectrum of ‘security’ actors, such as national forces and agencies, transgovernmental agents, regional and local authorities, civil society and private sector (business). Today, efficient European security governance needs to involve a great number of non-state actors who could be acting autonomously vis-à-vis states.²¹ Unfortunately, there are currently few signs of a division of labour and resources between member states for a more efficient creation of a common capacity. This difficulty can be due to the fact that most of today’s security and safety capacity, such as fire brigades or search and rescue services, is locally organised and that the potential gains of European cooperation are very limited. However, there are also indications of national obstacles and resistance to the new EU security and safety goals. In some sectors there has even been an unwillingness to implement EU crisis decisions among the member states (e.g. in the field of food safety) that could lead to uncertainty with regard to national expectations of future

Union involvement. There has in many cases been a lack of clarity and trust between the European actors who will need to take part in the implementation of the new EU security policies.²² The tsunami in 2004 revealed the reluctance to coordinate efforts among the member states. The EU mechanisms were seen as only an extra asset on a par with, and even second to, other international organisations, such as the Red Cross and the UN. At the same time Union involvement provided ample proof that the EU could potentially offer great added value in areas of communication, financial support and 'know-how' based on earlier experiences of international coordination. Its role could best be described as an 'extra-national' facilitator for local, regional and national instruments (humanitarian aid, civil protection, transport).²³

The Challenge of National Diversity

The challenges of creating EU capacity are not only due to the increasing number of actors and the voluntary basis of the instruments, but also to national diversity in crisis management structures. The difficult task of the EU mechanisms is to coordinate actors in a multi-level system where the division of competences between the local, regional and national levels vary. The coordination devices meet very different national systems and interests which makes outcomes highly unpredictable. Sweden, for example, has a tradition of small ministries and large and autonomous governmental agencies for emergency management. Also the UK has a decentralised system for crisis management activities, such as fire fighting and civil protection. Poland has been a strong advocate of the EU's military capacity and is concerned with crises that could emanate from non-member neighbours in the East. The country is currently preparing a new central system for handling catastrophes and emergencies. In Germany, the responsibility for crisis management with regard to major catastrophes is divided between the federal state, the regions (*Länder*), the communities and the local level. The organisation of civil defence is delegated to the *Länder* level, while the local level is responsible for medical and technical assistance in case of crises and for planning. The Netherlands has a national coordination centre for crisis and emergencies. The country has advocated a strong coordinating role for the European Commission and has made proposals for a generic crisis management instrument at EU level. The Netherlands is in favour of establishing a coordination centre that, in time, could lead to an operational EU crisis organisation.²⁴

Purpose: Proposal for the Strengthening of EU Coordination

In sum, the EU is increasingly given the responsibility for creating security and safety, both externally and internally, by means of 'active' security measures such as the ESDP and the Solidarity Declaration. The challenge is

that these policies and principles require a vision beyond that of a free market, common threat perceptions and strategies and effective coordination of the crisis management capacity of EU member states. The point of departure of this article is that the problems regarding the practical requirements following this qualitative step, such as the strategic engagement of new security actors and levels of EU governance, have been underestimated so far. There is now an urgent need for a deepened discussion of concrete means and methods for the implementation of the new EU security policies and principles. The purpose of this article is to suggest a method for strengthening EU security strategies and the coordination of European levels of administration for an EU crisis management capacity. The proposal is based on an application of the Open Method of Coordination (OMC)—currently used in EU social cooperation—to the needs stemming from the EU Declaration on solidarity against terrorism. The reason for proposing OMC is the conviction that there are clear limitations to how much Union security can be strengthened through central EU coordination for rapid response or the introduction of binding commitments for member states. Instead, what is needed are tools able to further long term common outlooks, involve more levels of national administration and non-governmental actors and put pressure on member states to harmonise their systems and implement common decisions without posing a threat to national sovereignty. The need for new and more ‘open’ forms of EU cooperation is only underlined by the great diversity in the field, both with regard to national emergency structures and sector-specific needs.

OMC has the potential to meet all these challenges. The reason for focusing on the Solidarity Declaration is its character of overarching principle for many of today’s most central EU aims and capacities in the security area. It declares nothing less than that ‘the [Member States] shall mobilise all the instruments at their disposal, including military resources’ to ‘prevent the terrorist threat’, ‘protect democratic institutions and the civilian population’ and ‘assist a member state . . . in the event of a terrorist attack’.²⁵ There is currently clearly a need for analysing fundamental institutional questions due to the strong ambition to develop the Union from its traditional ‘passive’ role as a provider of security through organs promoting economic integration into an ‘active’ security and safety actor. A shift that in the long run might be explained as a development from the role of being a driving force behind the ‘Deutschian’ European security community into fostering a ‘secure European community’ held together by expectations of mutual assistance among community members in times of threats and crisis.²⁶ The current article first discusses the possibilities and constraints for complex policy making in EU multi-level governance in general. This serves as a background for the following analysis of shortcomings, advantages and potential of OMC and the Solidarity Declaration. The work ends by sketching an application of OMC in central fields related to the Declaration, such as EU civil protection cooperation.

Multi-level Governance

Governance has generally been equated with the emergence of norm and rule-like systems and problem-solving devices.²⁷ Research on 'multi-level' governance in the EU has shown how policymakers at different levels participate in new networks of governance, and that there is congruence of the actors' perspective on the principles of policy making.²⁸ The concept has put emphasis on transnational and transgovernmental *Politikverflechtung* ('policy networking') rather than intergovernmental bargaining.²⁹ The many participants in EU policy making, such as national and European administrations or business and trade union organisations, are in many fields fused into truly European policy processes.³⁰ The problem-solving capacity of this system has however been questioned.³¹ One consequence is the emergence of a complex multi-level administration where national agencies act as local agents of EU policy making and implementation.³² In this 'European administrative space' there is still a high degree of national variation of administrative structures even though the adaptation to European standards has come far. Different parts of public administration reveal different dynamics in this regard.³³ The interconnectedness of EU and national governance is multi-faceted and a key to success in each policy area is to find coherent mechanisms able to leave room for national decisions and organisational structures while at the same time offering area-related opportunities for EU institutional evolution and organisational learning.³⁴

The Union's foreign policy has been characterised as a multi-level system owing to the bargaining game between the EU and the member states.³⁵ Yet it has also been claimed that European foreign policy is not just multi-level with regard to decision making, but also in its external output and outcome.³⁶ The Union's external identity is characterised as a 'system of governance': 'multi-level, multi-nodal, non-hierarchical, knowledge-based,³⁷ closely linked to other international organisations.³⁸ EU security governance transcends the division between external and internal security by projecting and extending its internal governance structures to its neighbourhood through the CFSP and ESDP. This work is characterised by an increasing number of actors and a growing multilateralism. Here, the main questions concern how and to what degree EU institutions shape the national interest in line with other states' security interests.³⁹ Wagner predicts that the multi-level character of the EU will pose problems in crisis management due to few incentives for the member states to delegate power to supranational institutions. There is simply very limited need for stronger community organs, binding commitments and sanctions in emergency situations where member states have little to gain from defecting from agreements on common actions and mutual assistance. Thus, more efficient crisis management, at least in CFSP, is primarily a question of how well Union mechanisms can facilitate the rapid coordination game among member states.⁴⁰

Many lessons can be drawn from multi-level governance research into meeting the security challenges outlined in the preceding section. The findings point to the importance of creating mechanisms and arenas able to ‘fuse’ European security agents into one policy process for efficient implementation of common rules and preparation for rapid coordination. Stronger supranational organs and sanctions against member states might not be the best way forward given the particular incentives and defecting dynamics referred to above and the strong sovereignty concerns. Instead, the Union should try to foster a multi-level community administration for European policy processes based on mutual respect for the subsidiarity principle according to which the EU and the national level should try to avoid interference into each other’s competences as much as possible. Such an administration needs to be able to quickly turn central decisions into rapid assistance at appropriate levels and favour long term organisational learning and the building of mutual trust in EU organs and among member states. To what extent can OMC and the Solidarity Declaration against terrorism provide for this?

Open Method of Coordination

Multi-level Governance by Objectives

The implicit goal of the Solidarity Declaration is to transform the Union’s traditional multi-sectoral instruments for ‘passive’ conflict prevention into an ‘active’ security and crisis management policy. The EU has pursued a similar objective since 2000 in the field of welfare policies. Here the coordination aims at deepening economic integration, in the form of a border-free market, encompassing also ‘actively’ pursued political goals, such as full employment and a knowledge-based economy.⁴¹

The main element of OMC are the *EU Guidelines*, adopted by the EU Council with majority voting, as a means to allow the Union to set out common long term goals in the area and specific timetables for their fulfilment. The EU objectives are to be met by member states with the help of a system of common quantitative and qualitative indicators that allows for comparison, benchmarking, learning from best practices and naming and shaming in case of national failures to fulfil the goals. The method is based on EU Commission-led coordination of *National Action Plans* (NAP), where member states translate the Union guidelines into national and regional policies. The idea is that the EU objectives should leave sufficient room for manoeuvre in the implementation of common targets so as to allow for national diversity and flexibility. The aim of the method is to provide for a monitoring and learning process, where regular peer reviews function as the only sanction. There are no legal sanctions. OMC has often been said to provide for European governance by objectives. The fact that there are no binding rules means that the EU has to compensate for this through strict monitoring. So far, it seems that an almost constant Union

influence over the interpretation of common objectives and national instruments is required for EU coordination of member states' policies. The method implies a 'partial delegation of power' from the member states to the EU.⁴²

The essentially intergovernmental-oriented approach of the method has created new tasks and roles for the EU institutions. A new balance is, for example, evolving between the Council and the Commission.⁴³ The method has been able to regulate a distribution of powers different from the existing three EU pillars. Although the method in the form of the Employment Title is firmly based in the EC Treaty and thus in 'pillar one', it has been conceived of as an emerging and informal *new form* of EU governance.⁴⁴ It has this qualitative potential because it expresses a new balance in the relationship between the institutions of the EU and between the Union and member states. Also the EU committee system and social actors are displaying new patterns of involvement due to the process of elaborating the EU guidelines and the NAPs. The Employment and Labour Market Committee consults European social partners and national social partners are consulted in the NAP work. Partnerships between the social partners at the European, national, local and enterprise levels are expected to contribute to consensus formation and problem solving in employment policy.⁴⁵ Sub-national actors, local and regional authorities and social partners have been seen by de la Porte as instrumental in implementing the European employment objectives and as a new type of interplay between levels of governance.⁴⁶ This way of operating has led to new cooperation patterns, such as new forms for the deliberation of choices of measures and how these should be prioritised. The projects and partnerships developed in connection with the EU structural funds are an apt illustration of the new dynamics emanating from the complex multi-tiered system of policy making of which OMC is today a part.⁴⁷ For a long time structural policy has 'provided subnational governments and the Commission with new political resources and opportunities in an emerging multi-level policy arena'.⁴⁸

Member State Compliance and Multi-level Participation

The key analytical question has been whether it is possible to have national policy change driven by the normative pressure of EU objectives and monitoring, so-called peer pressure, in the absence of coercive mechanisms. Different foci have produced different answers. Some scholars have recognised little national change due to OMC.⁴⁹ Critics have pointed to the 'democratic experimentalism' of OMC in its blurring of the division of responsibility and accountability between the EU and member states.⁵⁰ OMC has been critically analysed through a multi-level governance perspective in areas such as innovation and immigration policy. In the former, the problem has been that the method so far has not fully exploited its potential to involve 'all relevant actors', such as representatives of regional parliaments or administrations and entrepreneurs, for guaranteeing a coherent approach to EU measures.

Moreover, the EU guidelines which member states are expected to fulfil have not been shaped with sufficient account of the diversity of national innovation systems, which has been an obstacle to the appropriate transfer of best practices from one member state to another.⁵¹ In immigration policy the Commission has chosen OMC as the only way forward for coordinating national policies in an area where member states have strong sovereignty concerns. However, through OMC guidelines the EU has managed to create a tool for policy coordination and long term harmonization that is more efficient than common legislation which could be easier for member states to circumvent. The mutual learning process is interpreted by Caviedes to provide a potential for the exercising of a 'discursive power' on member state governments by domestic political parties and international actors with different views on immigration.⁵² Scharpf, in contrast, point out that the great national diversity in the social policy field requires that OMC be strengthened by also adopting more binding rules and European law. He has suggested a combination of differentiated 'framework directives' and OMC as a way to make member states comply without creating a system that is too rigid and does not accommodate the diversity of welfare policies in Europe.⁵³

Normative Change

Others, who have examined the role of administrative networks created by OMC, have highlighted the cognitive and normative change that has taken place since 2000. Even though national authority over policy is retained, the standardising effects of this EU policy process have been considerable in some sectors where it has been applied (e.g. social policy and research and development). The yearly drafting of guidelines and submission of NAPs has meant that national administrations continuously work on employment issues wearing 'European spectacles'. OMC has meant integration by coordination, and the generation of informal institutions (ideas, routines, norms of conduct, etc.).⁵⁴ The use of 'EU deadlines' for meeting guidelines and common agendas in coordination has been of great importance in the informal harmonisation of member states' norms and ideological outlooks. The great intensity of EU coordination changes the temporal horizons of national administrations, which lose autonomy over the management of time and planning. Government positions are in a constant formation process. National officials confirm the need for 'a continuous pressure and a certain pace' behind the National Action Plans in order not to stop or lose direction.⁵⁵ Adaptation and 'mimetic and normative isomorphism' easily become the main strategy for coping with this situation.⁵⁶

New Principles of Subsidiarity

OMC has been shown to constitute a ground for the further elaboration of the approach of pragmatic sector-specific coordination in the fields concerned. The

method emphasizes that EU 'extranational' instruments (such as benchmarking, guidelines, codes of conduct, common indicators and statistics) can be applied on all levels, and in flexible forms. The member states could at any time conclude that Union instruments meet their needs for common action; the method provides for mechanisms that can quickly turn EU decisions into parts of truly common management. EU governance by objectives leaves open the question of how and on what level—national, regional, local—goals should and could be achieved; it is decided in a dialogue. In this manner OMC 'radicalises' subsidiarity.⁵⁷ The modified principle might best be captured by the concept of active subsidiarity. In order to function, the method is dependent on broad participation of society throughout the entire process. The Commission plays more the role of a promoter and partner, rather than controller, of national administrations. As a result of the probably unavoidable strong position of the Council vis-à-vis the Commission in this cooperation, the Council Secretariat and the Commission have worked more closely together.

As part of OMC, the EU and the member state institutions are increasingly being shaped to become more complementary, not mutually exclusive. OMC adds a political tool for cooperation. The result is the development of a system of EU governance by both law and political objectives (as in national systems). The method is based on supranational objectives and supervision as well as national legal competence. In this way it constitutes a complement to the 'Community Method' and its distribution of powers. OMC and the new subsidiarity it gives birth to could be best perceived as 'extra-' rather than 'supra-'national. The goal is to strengthen long term mutual respect and understanding between the EU and member states on issues where conflicts of competence could arise. In this way the Union is able to continue its successful pillar solution for avoiding a distribution of powers based on 'subordinated and superior levels'. That is, it makes a distinction between issue areas with regard to the distribution of powers between the EU and the member states. As a consequence, OMC—which does not significantly reduce the sum or political weight of national instruments—has the advantage of making the promotion of EU policy more acceptable to public opinion. The Union could remain in equilibrium with the member states. In this way, an unacceptable degree of centralisation in the Union could be avoided and, in the words of John Pinder, an 'extranational Europe' could be created.⁵⁸

OMC as an Alternative to Flexible Integration

Finally, OMC has turned out to be a more successful formula for new areas of EU cooperation than the treaty-based 'flexible integration' clause (Art. 11 EC and Art. 40–43 EU). The question is to what extent the method has evolved into an alternative to flexible integration in general.⁵⁹ The relatively low level of interest shown by the member states with regard to 'enhanced cooperation'—as

it is also called—is striking. It seems to be a ‘non-starter’ compared to the almost explosive extension into new areas of cooperation for OMC. In cases where all member states are not ready for harmonised binding rules in a certain area, the method—in contrast to flexible integration—allows them to remain as 25 at the table and cooperate despite this fact. It creates a looser form of integration as a second best to the Community method, instead of no cooperation at all among all the member states. This is a great achievement for those who fear a multi-speed Europe with the risk for certain member states that they become marginalised and retain only limited influence in the Union.

The Solidarity Declaration against Terrorism

Aims

The Solidarity Clause in the draft Constitutional Treaty (Art I-43)⁶⁰ was adopted as a political declaration in the aftermath of the Madrid train bombings in March 2004.⁶¹ However, the possible long term use and consequences of the Declaration on solidarity against terrorism are yet to be seen (the Declaration has so far not been applied in practice). Clearly, one of its aims will be to activate and coordinate the capacities of the EU member states for Union crisis management.

The background of the Declaration is the need to meet the new security challenges. One of the greatest threats identified in the Union’s Security Strategy is the use of ‘Weapons of Mass Disruption’ by terrorists, a scenario that would likely result in power cuts, water supply problems and a breakdown in basic infrastructure.⁶² The analysis is that the EU needs a strengthened comprehensive capacity capable of securing the Union from threats from abroad or from within, as well as for safeguarding its citizens from the deadly consequences of major disasters.⁶³ According to public opinion polls, the European public expects an EU-based capacity for emergencies and one for combating terrorism and organized crime within and outside the borders of the enlarged Union.⁶⁴

The Declaration states:

In the spirit of the solidarity clause laid down in Article 42 of the draft Treaty establishing a Constitution for Europe, the Member States and the acceding States shall accordingly act jointly in a spirit of solidarity if one of them is the victim of a terrorist attack. They shall mobilise all the instruments at their disposal, including military resources, to:- prevent the terrorist threat in the territory of one of them;- protect democratic institutions and the civilian population from any terrorist attack;- assist a Member State in its territory at the request of its political authorities in the event of a terrorist attack . . . It shall be for each Member State or

acceding State to the Union to choose the most appropriate means to comply with this solidarity commitment towards the affected State.⁶⁵

The Draft Constitutional Treaty also proposed the establishment of a new Standing Committee on Internal Security.

Challenges

How can the many levels of national crisis management authorities and civilian–military resources be coordinated and prepared to a point where the required rapid reaction capacity of the Declaration could be fulfilled? How should the EU arrange for crisis management with cross-border effects? To what extent must the legal division of competence between the Union institutions and the member states be clarified? How might trust in mutual assistance be strengthened to a point where member states start adapting their emergency response structures with the purpose of creating a stronger common capacity? Most probably, a prerequisite for making this multi-level crisis management system efficient is that the member states are made to develop in the same direction over a longer period of time. A common outlook on threats and security questions needs to be formed on a long term basis. The national structures need to be coordinated to a degree where member states and Union resources could be turned into quick action. Regional and local authorities—the backbone of civil crisis management and defence in many countries—need to be involved. As argued initially, this can probably only to a limited extent be achieved through traditional forms of EU cooperation. Instead, what is needed is extensive horizontal, trans-sectoral coordination within the Union. The questions are, who will stand for the main coordination responsibility and how should it be carried out in each sector. As concluded earlier, the problems are very similar to other areas where the Union has gone from negative to positive integration: from abolishing obstacles to cooperation to more active policy making for common goals.⁶⁶

Among the practical prerequisites for the Declaration is a need for transnational multi-sectoral infrastructures—material as well as intellectual—among not only the member states, but also candidate and neighbouring states. The structures should be able to produce active, norm and standard setting networks. These should include national administration as well as civil society, private sector (business) and NGOs. The Declaration should build on existing processes of creating EU crisis management capacity in areas such as civil protection (see below) and critical infrastructure. In this sense, Union capacity building is in practice five to ten years ‘ahead’ of security Treaty provisions and the Declaration. This should be remembered when the EU is now entering into a period of ‘implementation’ of the Solidarity Declaration and the closely connected Security Strategy; the new instruments do not aim at replacing other on-going Union activities. Instead they constitute

the more strategic, overarching elements in a sectoralised development that has taken place since the 1990s.

*Potential: From State to Transnational Defence?*⁶⁷

The potential of the Solidarity Declaration is great. It could bridge the two main views on EU defence: collective territorial defence on the one hand, and crisis management for the protection of values and the civilian population on the other hand. According to the Declaration it is important to make use of the multi-sectoral character of the Union in actions *in* the territory of the member states. *In* EU territory acquires a more far-reaching meaning than normally thought of when considering that the Union is soon to include close to 30 member states. The focus of the Security Strategy on stability in the EU neighbourhood also puts the Declaration, particularly its preventive and preparatory potential, in the perspective of a wider Europe stretching towards the Middle East and North Africa. In addition, the EU will most probably deepen its cooperation with Russia in related areas. The Declaration and the future Clause have the potential of dissolving the boundary between internal and external Union security with regard to tools as well as geographical borders. EU candidate states could be involved at an early stage of the accession process. Also third states could relatively easily participate in this non-binding cooperation. The Declaration could make the most of the comparative advantage of the Union's wider European networks in raising the civil and military preparedness for crisis management. EU defence *in* the Union's territory is more easily reconciled with its traditional role of creating long term peace structures than a defence *of* territory. The latter is associated more with traditional military instruments of power, which could be detrimental to relations with certain third countries and for the image of the Union as a world model. The Union could be a defence power while at the same time avoiding a new and potentially destabilising balance of power with neighbouring regions. The former chairman of the EU's military committee, Gustav Hägglund, proposed the development of an 'EU homeland defence', involving also military means.⁶⁸ One thing is clear: today's discussion on civil-military coordination in external EU missions will have its parallel in a debate on the defence in Union territory.

With the Solidarity Declaration and the possible future Solidarity Clause, the Union might, as a first international entity, be able to take a step towards functional security and perhaps a new type of transnational defence in contrast to state defence. The security of Union citizens and societies, not of states, would be in focus.⁶⁹ Such a drive forward towards 'societal' security would help bring the Union closer to its citizens and enhance its public legitimacy. This could have a positive impact on the formation of a Union (defence) identity. This emerging transnational defence approach might be a

first step that with time could also be seen as a model for other parts of the world. Perhaps it could be linked together with similar regional systems for a global defence network for the combating of today's network-based global terrorism. In this way, the Union could in the future perhaps best be described as *a defence union* rather than a defence alliance? This defence union would be in harmony with the Union's traditional transnational character.

EU 'Preparedness' Guidelines and National Action Plans for EU Crisis Management Capacity

In what way could OMC help to engender and shape a multi-level community administration able to realise the potential of the Solidarity Declaration? Applying OMC to the policy fields that will be central for the Declaration, such as civil protection and critical infrastructure protection, the Council would adopt common 'preparedness' guidelines with majority voting for the member states to fulfil. The Union goals could cover everything from member states' plans for production of vaccine against avian influenza to necessary reforms in national agencies for improving the effectiveness of EU alert systems. The guidelines could be seen as a long term complement to the existing short term capacity goals and coordination mechanisms. The member states' efforts could be assessed in annual evaluations on the basis of Council/Commission reports. The Commission should take into account the diversity of national conditions when evaluating the implementation of EU 'preparedness' guidelines. Political recommendations could be issued to states which do not fulfil their commitments according to the EU objectives. The result could be a process of learning, similar to other fields where the method has been applied, and the long term creation of structures able to produce active norm and standard setting networks.

Through the application of OMC the EU could establish a more sustainable system, encompassing regional and local security and emergency actors and providing ground for benchmarking in order to facilitate transgovernmental cooperation. The achievement of 'deeper' national levels of civil and societal defence is crucial for the efficiency of civil crisis management—a field that, to a large extent, has traditionally been characterised by a bottom-up, decentralised non-governmental structure. For example, the existing intelligence and police EU cooperation could with this system be given more 'active' and sturdy policy instruments—and be included in a broader trans-sectoral crisis management framework. The mechanism could include a growing number of not only member state, but also Union institution experts. One important question will concern the formulation of the 'preparedness' criteria that should form the basis of comparison and peer pressure between member states. They should be based on capacity indicators aimed at creating national preparedness for European assistance, a division of labour between member states grounded on

their comparative advantages and stronger incentives to assist for the members possessing the appropriate means.

The Case of Civil Protection

The combination of the Solidarity Declaration against terrorism with the OMC should be carried out with great sensitivity towards sector-specific problems and in relation to concrete shortcomings of existing instruments. For example, one of the problems related to the Union's civil protection cooperation (one of the most central fields for the Declaration) has been the almost exclusive focus on immediate emergency response to the detriment of the management of prevention, preparation and consequences. In the legal basis of the cooperation (Council Decision 2001/792/EC, Euroatom) it is only stated that 'the member state in which the emergency has occurred shall notify those member states which may be affected by the emergency'. Member states 'shall . . . identify in advance intervention teams which might be available for such intervention' (Article 2).⁷⁰

In the aftermath of the tsunami in 2004, the Commission attempted to remedy the shortcomings of the EU civil protection cooperation. It launched a consultation process with the member states on the development of the existing civil protection tools into a broader instrument addressing prevention of, preparedness for and response to disasters.⁷¹ The Commission defined three objectives of Union action: to support and complement member states' action, to promote swift and effective operational cooperation between national civil protection services and to promote consistency in international work. To this end it proposed that member states in some form should declare their 'firm commitment' to cooperate with each other in delivering civil protection assistance and the reinforcement of EU coordination capacities, such as an 'operational planning capacity' of the Monitoring and Information Centre (MIC) of the Commission and a common function on site with the formal authority to coordinate the assistance. The idea was to make the MIC more able to mobilize military means, hire equipment that cannot be obtained by member states, and promote a system of specialized national modules for European use. These standby modules should, according to the Commission, be deployed 'quasi-automatically' on the request of the 'appropriate European authority'.⁷² In their response, many of the member state authorities emphasised the need to respect national sovereignty and the principles of subsidiarity, and warned against any reform that did not strengthen the added value of the EU capacity. According to many member states, the role of the EU was first and foremost to provide coordination support to national interventions. For this reason, many were in favour of the proposals to improve the MIC. There was also a broad consensus on the need to strengthen the Union's capacity in the area of prevention, preparedness and public information. In contrast, most member states hesitated to adopt the idea of creating a standby

capacity for mutual European assistance, not least because they thought the composition of national and European teams needed to be as flexible as possible in a situation where future disasters were ‘unknown’. Different compositions are needed for different interventions and teams should be composed of personnel working with emergencies on a daily basis. The idea of a flexible modular system could, according to some member states, be further discussed.⁷³

Again, the great challenge of developing EU civil protection is an expression of the tensions between the need for common action, national sovereignty concerns and practical sector-specific needs. OMC can help the Union to strike the delicate balance needed in the development of a system of EU governance by both legal instruments, such as the Council Decision for civil protection,⁷⁴ and political and strategic objectives. EU preparedness guidelines could include measures to prevent risks for citizens, the environment and critical infrastructure in the long run. These objectives should be based on common assessments of threats and causes of accidents and supported by crisis scenarios, training schemes, competence requirements for personnel as well as indicators necessary to achieve the interoperability between national systems. The necessary flexibility of national modules for European use could be achieved through a system where the exact composition of the teams is decided on a case by case basis but where Union standards are respected in all national capacities that could possibly be requested. These standards could also take the shape of more demanding indicators to be met in areas of great common concern, such as transportation capacity for European civil protection assistance.

Member states should aim to meet these goals through yearly NAPs or ‘National Preparedness Plans’, closely monitored by the Council and promoted by the Commission. Policy recommendations should be issued to member states which do not fulfil the guidelines and indicators. The result could be a system where the member states through the MIC should not only notify each other of immediate terrorist threats or natural disasters, but should also cooperate closely at earlier stages of crisis management. They should also have the possibility of requesting long term prevention and preparation assistance as well as consequence management support. The members should, through the new arenas and processes created, be given the possibility to share preparedness know-how and best practice experiences. The insights into each other’s NAP work would facilitate member states’ coordination in the preparation of common aid operations that could be sent to the affected area at short notice. More comprehensive National Plans would constitute a more solid ground than today’s ‘capacity lists’ for future discussions of how the EU capacity should be shaped in order to provide the greatest added value and constitute a truly ‘extra-national’ asset. This dialogue could eventually include evaluations of the pros and cons of establishing a permanent, standby EU civil protection force in the long run.

As the first EU civil protection exercises, such as EURATOX 2002,⁷⁵ have shown it will probably be sufficient and more efficient for only a certain number of member states to participate in each case of emergency in order to minimise logistical and coordination problems. A more limited number of states with the most suitable tools would in most emergencies probably be more efficient than to ‘mobilise all Union instruments’, as stipulated in the Solidarity Declaration. Rather than treaty-bound obligations for a certain type of support or formalised ‘firm commitments’, as currently suggested by the Commission, the Declaration combined with OMC could give the necessary practical guidelines for the voluntary EU solidarity, which in practice is probably sufficient for the mobilisation of the European resources and actions needed. The member states possessing the required resources will most probably not hesitate to assist in a system based on increasingly closer cooperation on common goals and resources, peer pressure, policy recommendations and mutual trust. OMC would contribute to raising the political price of not assisting or adapting national emergency structures. Another aspect shown by the first exercises was the crucial need for adequate joint training. The application of OMC could be an important step forward. It has in other areas shown that one of its main strengths is exactly that it provides processes for the sharing of information and the creation of a common body of knowledge among member states through learning from, but also ‘shaming and blaming’, projects, policies, and policy failures. OMC will create strong political pressure on member states to fulfil EU guidelines and participate in joint training and exercises. In the future, the EU might need more overarching articles in its Constitution for the increasingly multi-sectoral Solidarity Clause and ESDP. At this stage, OMC could be seen as a substitute for this, in its provision of a ‘soft law’ solution within an advanced system of coordination, follow-ups and political sanctions.

An Historic Opportunity

After the Cold War, the Union has unfortunately come to suffer the same weakness as nation states when developing its security and defence policy. It has reacted to the latest events and created its tools for fighting ‘the last war’. Today, the risk of an expectation–capability gap is great in a situation of growing Union responsibility and a lack of thorough capacity discussions. The weakness of EU security policies might be seen as a consequence of the fact that the Union has lost its lead in developing international relations, methods and organs for the creation of security. This is also one reason why the EU is today increasingly being compared to traditional international actors and the US. In these comparisons, the risk is that Union policies will always be perceived as creating an expectation–capability gap. Instead, the Union should more clearly develop its comparative advantages and be assessed on the ground of its own unique merits. It should again make the most of its ability to think

innovatively about international security. Central to this work will be the way the Union develops and, not least, implements its new security policies and crisis management capacities. In the 1950s the EU was able to generate security through transnational networking. Fifty years later the question is whether it can also help to create defence and a capacity of mutual assistance through transnational networking and multi-level governance.

The Solidarity Declaration/Clause might give the Union an opportunity to take the lead again towards post-national security systems and communities. In relation to the new terrorist threats, it indicates once again that the Union due to its transnational character is able to think about transboundary threats and solutions in a way that is difficult for nation states. Together with the OMC, the Solidarity Declaration could help create the organisational and human EU infrastructure needed for innovative strategies and the provision of adequate and sufficient EU crisis management capacities—capacities that could serve as a vehicle towards a more secure European community.

Notes

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