

Security Governance in the European Union

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The changed European context after the dissolution of the Soviet Union in 1991 and the task of securing its central, eastern and southern perimeters have provided both the opportunity and necessity for an autonomous EU foreign and security policy disengaged from the particularistic interests of its members. The immediate challenge of institution- and state-building in the former Warsaw Pact states compelled the member states to combine their resources and exertions at the Community level; it subsequently lent the European Commission a greater degree of latitude in shaping the *content* of EU policy, particularly with respect to the disbursement of resources and the rank-ordering of priorities in shaping Europe's milieu. The eastern enlargement and the European Neighbourhood Policy (EPN) ---two major policies of assurance---represent cases of the EU as a successful and relatively autonomous foreign policy actor. Both indicate that the EU can function as an autonomous actor with its "own" foreign policy when a number of conditions are met in whole or part: member state policy preferences are identical rather than merely overlapping or parallel, there are high financial costs or inefficiencies attending independent national policies, and where national elites are shielded by low domestic political costs owing to policy objective opacity and the difficulty of distinguishing success from failure. An important determinant in the assessment of EU security and defence policy is the choice of policy instrument applied by the EU. This

¹ This paper is a modified version of the Conclusion of the book on EU Security Governance (Kirchner and Sperling 2007).

paper seeks to assess the effectiveness of the EU as a security actor by exploring the different economic, political and military instruments employed by the EU in the performance of four different security functions: policies of prevention, assurance, protection and compellence. Assurance, prevention and compellence concern the EU's external environment. Conflict prevention captures efforts to build or sustain institutions mitigating anarchy and contributing to order. Assurance targets post-conflict reconstruction and attending confidence-building measures. Compellence encompasses military interventions, primarily peace-enforcement and peace-keeping. Protection addresses the requirements of internal security.

The present and future roles of the EU as a security actor remain contingent upon the member states' (in)ability to discharge individually the policies of assurance, protection, prevention and compellence as well as their willingness to subcontract those policies to the Union rather than turning to fixed internal, intergovernmental coalitions. That willingness presupposes, however, that the member states will pool more and more of their sovereignty in order to redress the vulnerabilities attending their post-Westphalian condition. A comparison of the salient dimensions of assurance, protection, prevention and compellence reveals the progress that the EU has made towards its emergence as an autonomous security actor and also points to its limitations as one. The EU possesses a much greater degree of freedom from its constituent states in the creation and execution of policies of prevention and assurance, while that freedom remains severely circumscribed or qualified when developing or implementing policies of compellence and protection. This paper seeks to explain why this is so.

Rationale, Goals and Principles of the EU as a security actor.

The rationale for the EU as a security actor supplementing or supplanting the member states reflects five major calculations: first, the EU can aggregate national capabilities, thereby facilitating the economies of scale currently eluding Europe, and release Europe's latent diplomatic, economic and military-strategic power in the service of European security interests; second, the EU, if it were to achieve a foreign policy and security identity, could leverage European security preferences in international negotiations, particularly vis-à-vis the United States; third, the EU provides at a minimum the institutional framework enabling the member states to coordinate and harmonise their security strategies; fourth, the post-Westphalian character of European states has made it manifestly impossible for those states to achieve many of their security objectives autonomously; and finally, the very variety of security challenges confronting the Europeans today presents a particularly acute collective action problem owing to the absence of an uncontested leader or even a stable duopoly or oligopoly that consistently exerts leadership or is unwilling provide a collective security goods in the presence of free-riding.

The EU plays a differentiated role as a security actor owing to the technologies of publicness attending the four categories of security policy.² The milieu policies of prevention and assurance possess a high degree of publicness; the rationale for the EU as

² For a more detailed analysis of the degree of publicness in EU security and defence policy see Dorussen, Kirchner and Sperling 2009.

a security actor is compelling; and the Community method prevents free-riding. The policies of protection and compellence, on the other hand, remain largely intergovernmental, the content of those policies remains contested and heterogeneous, participation in joint EU initiatives or interventions is not compulsory, and free-riding remains an attractive, non-sanctioned option. Moreover, the political costs attending policies of compellence and protection are transparent to the electorate and the benefits are diffuse and asymmetrical. Consequently, the principle of solidarity loses its force as does the rationale for delegating responsibility to the EU, despite the merit of a joint solution from a narrow cost-benefit calculation. Where policies are directed towards milieu goals and where delegating sovereignty to the EU is relatively cost free for the electorate or political elites. However, the rationale for retaining national control over policies wanes and the logic for acting collectively waxes. Where policies require the expenditure of blood as well as treasure, where security policy initiatives transparently alter the domestic social contract (e.g., notions of privacy), it is more likely that electorates will insist that political elites retain sovereign prerogatives and the collective action problem remains.

Deeper integration within those four policy domains is propelled by overlapping security calculi that have, in turn, raised the profile of the EU as a security actor. In each case, there is broad agreement among the member states that joint action mediated by the EU is superior to mere intergovernmentalism. Yet the specific challenges facing the EU and the differentiated objectives of its member states create different opportunities and barriers to the harmonization of national policies and the eventual adoption and execution

of security policies possessing the coherence of the single market or European monetary union, either substantively or procedurally (see Table 1).

[Table 1 about here]

Principles

The policies of protection, prevention, assurance and compellance are interdependent and pursued concurrently; it is also as clear that economic instruments and military force can be employed to achieve not dissimilar goals. There is an elective affinity between the different security governance functions facing the EU and the range of policy instruments appropriate to performing them; most EU member states have a pronounced normative preference that subordinates military force to the economic and diplomatic instruments persuasion and dissuasion. The policies of compellence---and the auxiliary objective of pushing forward the integration (or merely interoperability) of member state military forces---retain importance not only owing to the continuing utility of force to alleviate particular categories of threat, but in recognition that defence integration is the penultimate step prior to political (con)federation. A core component of state sovereignty remains the ability to defend against external attack and protect national values and interests, by force if necessary. Consequently, the sovereignty principle still forms a residual and fundamental barrier to defence and political integration. As in the case of protection, the sovereignty norm inhibits deeper integration just as the solidarity principle propels integration forward. Moreover, it underscores the instrumental rather than substantive importance of subsidiarity as the principle guiding EU governance, particularly in the area of security.

The countervailing principle of solidarity acknowledges an underlying collective responsibility for jointly fulfilling common security tasks. It entails a positive obligation in the event of an attack to ‘mobilise all instruments at their disposal, including military resources, to assist a member state or an acceding State in its territory’. This principle of conduct nonetheless defers to national prerogatives when it comes to the assessment of a member-state’s interest: the nature and quantity of assistance provided to a member state experiencing an attack is non-specified and strictly voluntary. Article 42.7 of the now stalled Lisbon Treaty lent the solidarity principle constitutional status. Thus, solidarity and sovereignty are the two principles setting the floor and ceiling of security policy integration and collective action; it delimits the boundaries of the EU as a security actor with prerogatives superceding those of its members. The sovereignty principle outweighs the solidarity principle in the policies of protection and compellence, while the converse characterizes the policies of assurance and prevention.³

The subsidiary and procedural principles intermediate the contra-imperatives of sovereignty and solidarity in the formulation and execution of EU security policies. The procedural principle governs the vertical division of labour within the EU once states determine that the EU is the appropriate actor to address some common action problem.

³ The subsidiary ‘principle of mutual responsibility’ complements solidarity: states accepted that their national security policies should not be confined ‘to maintaining their own security, but...focus also on the security of the Union as a whole’. This principle placed a positive obligation on the member states to consider the EU-wide security ramifications of national policy decisions and contributed to a collective understanding of the content and form of threats.

To date, the procedural principle governs the rationalisation of the EU decision-making process, particularly the avoidance or accommodation of overlapping policies between pillars I (assurance and prevention), II (compellance) and III (protection), the clear definition of member state and Union competencies. Despite the neat division of horizontal and vertical competencies, the security challenges facing the EU have initiated the cross-pillarisation of the various security strategies, particularly between Pillars II and III (e.g., CBRN threats) and Pillars I and III (e.g., judicial cooperation in combating terrorism). What remains an open question, however, is whether the process of cross-pillarisation will effect the gradual intrusion of the community method into pillars II and III, or whether the community method will be diluted owing to the countervailing pull of sovereignty.

The four categories of security policy share these major principles, sometimes explicitly animating policy initiatives and sometimes implicitly as a matter of settled practise and constitutional agreement. Prevention and assurance policies, which are conducted within the binding legal framework of Pillar I, are less vexed by the tension inherent between sovereignty and solidarity, while that tension is unresolved in the areas of compellance and protection, located in Pillars II and III, respectively. These categories of security policy are also governed by principles specific to each (see Table 2). Even a cursory examination of Table 2 reveals that in fact the principles governing compellance and protection are preoccupied with the barriers erected by sovereignty to collective action and the emergence of the EU as a security actor, while the principles governing

prevention and assurance identify relations of causation and the ways in which policies will be implemented and assessed.

[Table 2 about here]

Goals.

Although the number and type of security challenges have multiplied over the entire course of the post-war period, the process of securitization accelerated after the end of the Cold War. The rapid proliferation of security threats represents a fundamental change in the contemporary security environment; viz., the altered relationship between the agents and the targets of threat. The intractability of the security threats arises from non-state actors as the chief antagonists threatening European security; the need for security policies executed jointly is matched by the intractability of the security environment. Traditionally, states have had the option of using military force against a well-defined enemy, another state. War was conducted on battlefields between opposing armies; civilians (in theory, if not practice) and the economic infrastructure were only secondary theatres of war. States are no longer the sole target or agent of threat; security threats are more likely to emanate from dysfunctional societies or failing states; non-state actors are more likely to wage 'war' against civilians and societal infrastructure, rely upon terrorism to do so, and pursue a nonnegotiable agenda. Nonetheless, traditional forms of conflict still persist along Europe's perimeter and beyond. The EU and its member states have not only had to develop a broad array of policies tailored to the expanding number of security pathologies targeting internal tranquility and external stability, but strike a

politically sustainable balance between the sovereign prerogatives of the member states and the abnegation of those prerogatives to meet collective threats (see Table 3).

[Table 3 about here]

Two imminent threats to European security and stability arise from the persistence of intrastate conflict and disintegration along its perimeter, most particularly in southeastern Europe. The policies of assurance and prevention are intended to ameliorate the root causes of both. Assurance policies generally address the immediate needs of regions recovering from civil conflict; the primary policy goal is to provide sufficient humanitarian assistance to improve the lives of individuals in war-torn societies and to facilitate the transition to self-government and the rule of law. The policies of prevention represent “second stage” security policies----they consolidate the process of state-and nation-building---as well as a prophylaxis against social unrest or disintegration.

Creating a European area of freedom, security and justice is the core task of the policies of protection. Although the rationale for undertaking such policies to enhance European security is unambiguous, it is likewise uncontested that the policies of protection are the most domestically intrusive security policies on the EU agenda. The EU has undertaken to harmonize the institutional and legal infrastructure of its member states.

The bailiwick of compellence is the traditional one of mediating interstate conflicts and deterring or defending against the violation of territorial integrity. Although the

traditional concern with territorial defence continues to occupy national authorities, that threat is no longer a primary, let alone immediate, preoccupation. Rather, national defence efforts are directed towards meeting the responsibilities for regional and global management assumed in the *ESS*. The EU seeks a force projection capability enabling it to intervene in armed conflicts where the EU and its member states have critical interests. Despite the on-going pursuit of an effective expeditionary capability, the EU has restricted itself to the modest goals of acquiring an autonomous planning and decision-making capability that would allow 'Europe' to act independently of the United States where European interests diverged from those of the United States or where the United States simply did not share the European threat assessment.

The empirical analyses indicates (Kirchner and Sperling 2007) that the EU has not been willing or able to assume exclusively the attributes of a 'civilian' or a 'normal' power in the current threat environment. Perhaps unsurprisingly, Europe's post-Westphalian states and the EU face a less tractable security environment in the post-Cold War international system; the complexity of the contemporary security environment is bewildering, although not as imminently lethal as the prospect of mutually assured destruction that regulated Soviet-American rivalry in the postwar period. The variety of security challenges and goals falling under the complete or partial jurisdiction of the EU also points to a capability-mix trap into which the EU could fall *if* too great an investment is made in the acquisition of force projection capabilities at the expense of addressing the root causes of conflict and instability outside Europe. The EU must acquire a military capability commensurate with Europe's economic wherewithal and consistent with its

geopolitical interests. If the EU is to emerge as a full spectrum security actor, it must not only be capable of implementing all four categories of security policy, but be able to do so with equal aplomb.

Institutional Innovations

The four categories of security policy have generated two general categories of institutional innovation: those that consolidate the leadership role of the Commission in policy implementation; those that create policy and institutional infrastructures that facilitate the development of policy networks between national authorities responsible for implementing Union initiatives. The policies of assurance and prevention conform to the first form of innovation, while protection and compellence conform to the second.

The policies of prevention and assurance, governed by the Community method, are financed through the EU common budget. The exception is the European Development Fund (EDF), which assists African, Caribbean and Pacific countries and does not come under the general Community budget; instead, it is funded by the member states, covered by unique financial rules, and managed by a specific committee. Institutional innovations in the policies of prevention have primarily assumed the character of instruments managing the pre-accession process (IPA) and implementing the European Neighbourhood Policy (ENP) and development and cooperation policies, such as the Lomé and Cotonou conventions, the Development Cooperation Instrument (DCI)⁴, the

⁴ The DCI provides assistance to South Africa, and 47 developing countries in Latin America, Asia and Central Asia, and the Middle East (only those countries not covered by the ENPI or the EDF. However, the DCI supports the restructuring of sugar production in 18 ACP countries.

European Community Aid Cooperation Office (ECHO), the European Community Humanitarian Aid Office (EDHIR), the Instrument for Stability (IFS), formerly the Rapid Reaction Mechanism (RRM), , and the Committee (funding) for Asia and Latin America (ALA). All these instruments are either located in or administered by the Commission. Similarly, the core institutional developments found in the policies of assurance are the Stabilisation and Association Process (SAP) and the Stability Pact for South Eastern Europe, both of which were initiated in response to the disintegration and civil conflicts that erupted in the former Yugoslavia, but now include all the Balkan states. Taken together, the institutional innovations supporting the policies of assurance and prevention function as Community instruments for implementing collective policies within the existing Community framework. These instruments and institutions do not so much expand Community competencies as reinforce the effectiveness of the Union as a foreign policy actor, particularly with regards to the shaping of the external milieu.

Institutional changes attending the policies of protection and compellence, however, have expanded the role of the Community in their formulation and execution; it has created an institutional infrastructure that provides the foundation not only for autonomous EU action externally (compellence), but the eventual transition to the Community method and common funding of single policies for both. The establishment of Eurojust and the addition of criminal law to the competencies of the European Judicial Network have contributed to two developments: increased opportunities for intra-EU cooperation and continuous progress towards harmonizing penal law and judicial practices. Police cooperation with respect to the fight against terrorism and organized crime has been

likewise facilitated by a set of institutions, particularly the expansion of Europol's competencies to address crimes with an international dimension and terrorism, the creation of the EU Chief of Police Task Force, and the European Union Police College (CEPOL). These networks provide a mechanism for better communication and cooperation between police and judicial authorities within the Union, two developments particularly critical to any effort to police and prosecute terrorists on an EU-wide basis. The EU has also expanded the number of Community institutions responsible for monitoring different facets of internal security policies, including epidemiological surveillance (the ECDC and RAS-BICHAT), policing external borders (FRONTEX), and infrastructure security (ENISA and CIWIN). The common polices that these institutions monitor, in turn, prepare the Union to assume sovereign responsibilities and acclimating the member states to that eventuality.

The EU member states have also made important progress towards creating an EU profile if not competency in the shaping and operational implementation of the policies of compellence. A clear institutional hierarchy has been established that enables the EU to execute the Petersberg tasks: the Political and Security Committee, the High Representative for the CFSP, and the Council of Ministers decide when and where the EU should intervene; the EU Military Staff and EU Military Committee are responsible for the operational command of EU forces participating in a military intervention. The EU Planning Cell at NATO Headquarters, in conjunction with the Berlin-plus arrangements, have increased the EU capability for making autonomous decisions and leading military operations with or without NATO assets. Two other institutional

developments have increased the short-term and long-term ability to wield military force autonomously: first, the European Rapid Reaction Force and the Battlegroup Initiative created the wherewithal to deploy troops quickly and for extended periods of time where Europe's interests are threatened; second, the European Defence Agency could eventually function as the arbiter of procurement policies for the individual member states and as the instrument for protecting the European defence industrial base and enhancing the global competitiveness of European defence contractors. The EU Joint Situation Centre (SitCen) monitors and assesses events and situations worldwide on a 24-hour basis with a focus on potential crisis regions, terrorism and WMD-proliferation. The SitCen also provides support to the EU High Representative and other senior officials as well as for EU crisis management operations; its primary task is providing a common intelligence base for the member states, particularly with respect to counter-terrorism, and the handling of communications security issues.

The policies of protection are largely arrived within the context of intergovernmental negotiations, while the policies of compellance are subject to Joint Action. Unanimity persists as the decision-making rule; Community institutions function as facilitators of common action, rather than as the driving force of common action; and responsibility for implementation remains with the member states and immune to the infringement process in the face of non-compliance. The Union institutions developed to implement framework decisions and security strategies do not encroach upon the sovereign prerogatives of determining the content or execution of security policies. Yet, these

institutions *have* increased the ability of the member states to act jointly and enhanced the role of the EU in areas once exclusively reserved for the member states (see Table 4).

[Table 4 about here]

Assessing the EU as a security actor

Two specific questions will be addressed in this section: how does the expectation-capabilities gap operate in the EU?; and what is the degree of policy effectiveness of the EU in field of security and defence?

1. How does the expectation-capabilities gap operate in the EU ?

As Christopher Hill famously noted, the EU faces a ‘capabilities-expectations gap’: the economic wealth and diplomatic presence of its member-states has not been converted into a workable and effective EU foreign policy (Hill 1993: 103-30).⁵ While the constitutional and institutional innovations introduced by the Amsterdam Treaty of 1997 promised greater foreign policy cohesion and cooperation, the absence of common security and defence policies is inevitably assessed as the major failing of the EU. The empirical evidence presented by Kirchner and Sperling (2007) strongly suggests that the EU has indeed emerged as a significant, consequential and autonomous actor.

⁵ The capabilities-expectations gap also generates a capabilities-expectations paradox; viz., the more the EU achieves in the area of foreign and security policy, the more will be expected of it. It is likely that expectations will inevitably outstrip capabilities. See Sperling 2001: 143-44.

Community institutions exercise considerable autonomy in formulating the policies of prevention and assurance and enjoy considerable latitude in the execution of those policies. Even though those policies are financed out of the common budget, the Commission and other Community institutions still require member-state acquiescence and cooperation to implement them effectively. The policies of protection and compellance remain, with the exception of border control for those states that have acceded to the Schengen *acquis* and Prüm Convention, firmly within the purview of member states, despite their compromised sovereignty. The logic of the post-Westphalian condition that the member states find themselves has not overpowered the Westphalian impulse to retain policy autonomy in the areas of internal protection and defence. The Commission, in effect, possesses the prerogatives attending the *Resortprinzip* in the policies of prevention and assurance; it possesses the ability to implement policies without interference from the member states and has acquired the legal standing to ensure member state compliance once the Commission and Council agree on the content and form of policy. The Commission enjoys neither the prerogatives of the *Resortprinzip* nor the agenda setting prerogatives of the *Richtlinienkompetenz*---the right to establish the content and form of policy---in the areas of protection and compellance. The EU remains a contingent security actor, but its autonomy from the member states varies from significant (assurance and prevention) to limited (compellance)

2. What is the degree of policy effectiveness of the EU in field of security and defence?

Yet any assessment of the EU's success or failure as a security actor in these four security policy arenas remains heavily dependent upon the yardstick employed to do so. The most demanding yardstick would define success in terms of policy outcomes: Have EU policies of assurance produced democracies and market economies? Have EU policies of prevention stopped civil conflicts before they have emerged or mitigated their savagery when they erupt? Have EU policies of protection reduced the success of criminal enterprises operating in and around Europe or thwarted terrorist attacks? Have EU policies of compellence created a Europe with force projection and high-intensity warfare capabilities commensurate with the aggregated economic, technological, and diplomatic resources of its member states?

The validity of these questions, however, rests on the political end station envisioned for the EU. If the EU remains a form of political organization that falls far short of a (con)federal state possessing fully the sovereign prerogatives now held by its members, then a different yardstick for assessing its success or failure as a security actor is in order. But to assess the EU as *if* it were a state or *ought* to seek the full range of sovereign prerogatives attending statehood, creates an unreasonable and unattainable standard. The more fruitful approach to the problem of assessment would question whether the EU adds value to the security efforts of the member states, mitigates the collective action problem intrinsic to the four categories of security policy, and has achieved its programmatic objectives governing the behaviour of the member states. On such an accounting, the EU has been a relatively successful and important actor.

One of the key milieu objectives assumed by the EU has been providing support and incentives for those states in its 'neighbourhood' to adopt desirable political and economic reforms. One strategy for achieving that goal has been the offer of membership if the targeted state meets the Copenhagen criteria. For states that are ineligible for membership, the EU has developed Action Plans tailored to the shortcomings of the target states and the member states have delegated responsibility for implementing and managing those policies to the Commission. Nonetheless, the challenge of translating financial and technical assistance, privileged access to the internal market, and political dialogue into compliance with human rights, democracy, the rule of law and good governance remains beyond the exertions of the EU or its individual members----the efforts of the United States and the panoply of aid organizations falling under the umbrella of the UN system attest to the difficulty, if not futility, of an external actor to foster political or economic reform without the willing participation of the targeted state or society.

In addition to its regional efforts, the EU supports regional integrative or cooperative organizations outside Europe, particularly those possessing a clear mandate to prevent conflict such as the Economic Community of West African States (ECOWAS) and the African Union (AU). The EU has also mediated intra-societal or interstate conflicts, created favourable contexts for the implementation of ceasefire agreements, sponsored confidence-building measures between regional antagonists, provided emergency aid in support of the electoral process when threatened by internal disruptions or lack of domestic capability, and contributed to the demobilization of combatants in conflict-torn

societies. For an overview of the various EU financial instruments for policies of prevention, see Table 5.

[Table 5 about here]

With regard to policies of assurance, the EU has been particularly effective in helping to rebuild the war-torn societies in the Balkans. Two key instruments, the SP and SAP, were relied upon to strengthen civil society and state building, promote democracy, enhance regional stability, and bring the Balkan countries within the EU orbit. The successful grafting of EU values and norms onto the social and political fabric of these countries is central to the overall objective of regional stability and an instrumental goal for meeting the Copenhagen criteria. In the western Balkans, the EU-funded programmes have improved the physical, social and economic environment, and have created or improved the institutions of civil society. This support has supported, if not produced, democratically elected governments, which in turn have contributed to regional stability. While it would be untenable to credit success to the EU alone, it would be as negligent to underestimate the impact that the EU has had on the political development of the region. Arguably, the EU's regional policies in its own 'neighbourhood' have contributed to good governance and rule of law domestically, the improved capacity of civil institutions, and created a network of bilateral and multilateral commitments creating the foundation for the long-term stability along its eastern and southern periphery.

The EU's post-conflict interventions are not limited to the European regions or to the supply of technical and financial assistance. Interventions include not only EU rule of

law and police missions that train national judiciaries (e.g., EUJUST Themis and EUJUST Lex), police forces (e.g. EUPOL Proxima and EUPOL COPPS), security forces (e.g., EUSEC Congo) and border guards (EUBAM Rafa and EUBAM Ukraine and Moldova), but serve as a bridge between a successful military peace-keeping operation and the restoration of civil order (e.g., EUPM Bosnia). For a complete listing of the ESDP civilian missions, their number and periods of engagement, see Table 6.

[Table 6 about here]

The policies of protection occupy the middle ground between the policies of assurance and prevention. Whenever the Schengen *acquis* is modified in the strengthen the policing of common external frontier, particularly in the fight against terrorism, the collective action problem is resolved by the Community method and enforced by the Commission's ability to institute infringement proceedings. The other categories of policy---penal law, judicial process, police and judicial cooperation, and the variety of issues falling under the rubric of protection---remain intergovernmental. The policies of protection present an acute collective action problem; the EU has only been partially successful in carving out an autonomous role for itself in shaping policy and coaxing its member states to comply with the variety of framework decisions and action plans governing a policy domain including health security, information and network security and money laundering. Even more difficult have been efforts to reconcile or harmonize penal law and judicial process, two policy domains that electorates expect to remain national in character. The EU, therefore, waivers between independence and dependence from the member states in seeking to create an area of 'justice, freedom and security'.

The EU has been successful, however, in securitizing these policy domains, particularly the protection of critical infrastructure, bacteriological or viral contagions and financial crimes linked to organized crime or terrorism. The internalization of security has created an understanding amongst the member states that heretofore components of national sovereignty have become the legitimate targets of EU legislation. Yet, the transposition of framework documents into national law remains dependent upon the good faith of the member governments; neither the Commission nor European Court of Justice has the legal standing to sanction infringements. Non-compliance remains problematic. Article 226 TEC is not applicable in JHA and the states are not yet willing to accede to the Commission's proposal to rely upon the bridging clauses of Article 42 TEU and 67(2) TEC to lend the Commission the ability to sanction infringements of Hague Programme legislation.

One way in which the EU has been able to distance itself from the member states and exert an autonomous influence, however, is in the establishment of EU sponsored networks that intermediate relationships between national authorities, judicial or police, or eliminate the barrier posed by national borders to direct contacts formally segregated by strict jurisdictional boundaries formed by national frontiers. The EU has also asserted a kind of autonomy with the progressive harmonization of judicial and penal law within the Union and the creation of legal instruments valid throughout Europe, particularly the European arrest warrant, the European evidence warrant, and the guaranteed mutual

access to a standardized criminal data base. The growing reliance upon these legal instruments and the cooperation engendered by Europol, Eurojust and the Police Chiefs' Task Force will inevitably compel the application of the Community method to JHA, at least in those areas touching upon serious crime and terrorism. While the concrete achievements may appear limited in terms of results that are subject to measurement (the number of joint investigations or prosecutions, the level or incidence of serious crime and terrorism, or the failure to transpose precisely framework decisions, regulations or directives), the EU gained member state acknowledgement that it has an important role to play in crafting these policies and a critical role in coordinating member state policies.

The policies of protection are most vexed by the underlying security policy paradox confronting the EU and its member states: the necessity of joint action to meet the threats to internal security are unquestioned by the governing elites, yet the policy initiatives in this domain directly touch upon the daily lives of the national electorates in spheres impinging upon national political and legal cultures as well as prerogatives that governments are protect from EU encroachments. The policies of protection constitute the most important security domain today in view of the palpable threats posed by terrorism and organized crime. Moreover, the existing technology of publicness suggests that greater EU independence from the member states, most easily achieved with the introduction of the Community method into Pillar III, would ameliorate the collective action problem currently plaguing policy initiatives designed to enhance internal security on a Union-wide basis.

Perhaps surprisingly, the EU pursuit of common security policies falling under the rubric of the policies of compellence has been relatively successful. The success of those policies is surprising for at least two reasons: first, with the notable exceptions of Britain and France, the majority of the EU member states have gravitated towards a ‘civilianised’ foreign policy culture; second, the retention of sovereign prerogatives in defence has been oftentimes treated as the final barrier to the ‘ever closer union’ of the European peoples. The success enjoyed by the EU---witnessed by the growing number, size and variety of military interventions since 2002 (see Table 7)---reflects the recognition that Europe must play a larger regional and global role *if* it is to protect European interests and retain a close and mutually beneficial relationship with the United States.

[Table 7 about here]

Only the EU---with the critical support of Britain, France and now perhaps Germany---can coordinate the defence policies of its member states and thereby guarantee the long-term survival of a European defence industrial base and provide the necessary assurance that an intra-Union division of labour in force structure or weapons systems acquisition will not expose individual member states to an unacceptable level of risk. The EU provides the forum for mediating the intergovernmental negotiations and institutionalizing intergovernmental bargains.

In the wake of the Anglo-French St. Malo Declaration, the EU has enhanced Europe's military capabilities with the establishment, *inter alia*, of the Helsinki Headline Goals, thirteen battlegroups (the majority of which are multinational), the European Defence Agency, and an emerging institutional structure enabling the EU and the member states to decide jointly when to employ military force as well as the command and operational infrastructure to do so. The exercise of the military option under an EU flag nonetheless hedged and depended upon the good offices of the major member states. The EU member states have not pledged themselves to collective defence, the solidarity clause of the pending Lisbon Treaty notwithstanding. Despite the progress made towards the operational integration of the member state armed forces, the EU at present remains a coordinating mechanism for formulating and executing policies of compellance; the member states appear content to accept the trade-off between the dubious benefit of retaining national prerogatives at the considerable cost of diminished diplomatic leverage, economic inefficiency, and military ineffectiveness.

The Europeans have met the American challenge to assume greater responsibility within the European security space and progressively delineated a new division of labour within the Atlantic Alliance, particularly as it pertains to the projection of force in southern Europe and Africa. Europe claimed responsibility for executing the Petersberg tasks within Europe and has committed itself to act on behalf of the UN under a Charter VII mandate, while relying upon NATO and the United States for meeting Article 5 obligations and conducting high-intensity warfare 'out of area'.

Conclusion: The European Union and the Governance of Europe's Security

The EU occupies a central and unique role in the governance of European security. The Council and the Commission have not only created a plethora of quasi-autonomous networks and institutions sapping the policy and sovereign prerogatives of the member states, but replaced the hierarchy of the Westphalian order with post-Westphalian heterarchy. This system of governance has not yet produced a clear division of labour between the EU and its member states, but it has gone beyond a system of governance where the EU and its member states simply govern the security environment concurrently and in parallel. (Ekengren, Matzén and Svantesson 2006: 119-20). Instead, some policies remain largely reserved to the state (compellance) or have been claimed by the EU (assurance and prevention) or have an indeterminate and shifting status (protection). Thus, the EU performs as an increasingly autonomous security actor *and* functions as a clearing station for member-states in their collective efforts to meet an array of security challenges. The EU has been given (or seized) responsibility for coordinating member state policies across the four security domains; the success of those coordination efforts, however, remains subject to member state acquiescence on most decisions touching upon the projection of force and the criminal justice system. The European governance system lends credence to those who argue that a state-centric analysis of contemporary security policy obscures more than it reveals. The EU member states have sanctioned the

institutionalization of principles eroding sovereign prerogatives in an effort to resolve the collection action problems attending the provision of security in the 21st century.

The four security policy domains constituting the empirical core of this study do demonstrate if anything the continuing force and vitality of the sovereignty principle, the persistent privileging of the state when invoking the principle of subsidiarity, and the dominance of intergovernmental bargaining in the two most important security policy arenas, compellance and protection. The empirical evidence also casts doubt on those claiming that multi-level governance has largely displaced intergovernmentalism, at least in security policy (Hooghe and Marks 2005). The EU only acts autonomously in the formulation and implementation of civilian security policies directed towards stabilizing the regional political and economic milieu. The emergence of the Commission as an autonomous actor reflects a confluence of member-state calculations: the Commission can lower the transaction costs of negotiating or implementing policies as compared to the process of intergovernmental bargaining; and the member states are less likely to expend energy and resources protecting sovereign prerogatives in those areas of security policy where the stakes are low enough that foreign policy 'failure' has no immediate or transparent domestic political repercussions. The limited autonomy of the Commission in the formulating or executing the policies of protection and compellance can be largely explained as a byproduct of the EU treaty system: neither ESDP nor JHA are subject to the Community method. Consequently, the Commission---even when the Council reaches agreement on a common policy initiative---remains powerless to enforce those decisions and the decisions themselves usually contain an article providing that the grounds for

non-compliance exist where compliance would jeopardize national security, no doubt an unintended irony.

What accounts for the unevenness in the jurisdictional boundaries established between the state and Union? The Europeans are vexed by a nettlesome policy paradox. The post-Westphalian character of the European state has impelled the Europeans to surrender sovereign prerogatives to the EU in order to meet the challenges of a broadened security agenda. This post-Westphalian impulse coexists with persistent Westphalian national identities, which have prevented the optimal transfer of sovereign prerogatives to the EU. Europe's societies and citizens have not made the transition to a post-national identity that would complement post-Westphalianism. The ratification of the Lisbon Treaty, particularly those articles eradicating the pillar structure of the Union and subjecting all policy areas to the Community method, would be as likely to retard as accelerate progress towards finding joint responses to common threats. Consequently, instead of lamenting the failure of the EU treaty, the EU and its member states should wish the treaty a good riddance and reconsider the persistent presence of national identities. National electorates, despite the inability of any individual European state to provide security alone, still expect their governments to remain directly responsible for ensuring their security from internal and external threats alike.

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Table 1. Rationale for Collective Action

| | <i>Assurance</i> | <i>Prevention</i> | <i>Protection</i> | <i>Compellence</i> |
|---|---|--|---|--|
| <i>Rationale for collective action</i> | Stability and security of western Balkans is intrinsically linked to the EU's stability | Obligation of EU to maintain stability and order in own neighbourhood. Emergence of EU identity with external character Vulnerability of EU to disorder along its perimeter. | Perforated sovereignty of post-Westphalian state Transnational criminal or terrorist organisations are not constrained by national boundaries. | European identity and material resources require global presence Resource optimisation in defence spending Solving intra-EU leadership gap Autonomy from US |

Table 2. Principles of action

| | <i>Assurance</i> | <i>Prevention</i> | <i>Protection</i> | <i>Compellence</i> |
|------------------------------------|-----------------------------------|--|--|--|
| <i>Principles of action</i> | Regionalism Conditionality | Regionalism Effective multilateralism Development and stability are interdependent | Sovereignty Solidarity and mutual responsibility Subsidiarity Procedural Multilateralism | Sovereignty Unanimity or constructive abstention Solidarity Preventive engagement |

Table 3. Policy challenges and goals

| | <i>Assurance</i> | <i>Prevention</i> | <i>Protection</i> | <i>Compellence</i> |
|------------------------------------|--|--|---|---|
| <i>Principal policy challenges</i> | Intra-state conflict resolution and building institutions of civilian society | State- and nation-building | Institution-building within EU | Interstate conflict resolution |
| <i>Principal policy goals</i> | Humanitarian assistance and reconstruction of infrastructures in CEE (1992-97) Supporting regional stability via support for democracy, rule of law, and minority rights (1997 – present) | Address root causes of instability Regional integration Crisis management capability | Increased police and judicial cooperation Approximation of penal law and judicial process Border security Infrastructure security Health security | Acquire necessary capabilities (political, planning, operational, and material) to discharge Petersberg Tasks |

Table 4: Institutional evolution of the EU as a security actor

| | <i>Assurance</i> | <i>Prevention</i> | <i>Protection</i> | <i>Compellence</i> |
|--|---|-------------------|-------------------------------|----------------------------------|
| Major institutional innovations | Stabilisation and Association Process | IPA | Eurojust | Political and Security Committee |
| | European Agency for Reconstruction | ENPI | European Judicial Network | EU Military Committee |
| | | Europeaid | Europol | EU Military Staff |
| | Stability Pact for South Eastern Europe | ECHO | Chief of Police Task Force | EU Planning Cell at NATO HQ |
| | | IFS | European Union Police College | European Defence Agency |
| | EIDHR | FRONTEX | European Rapid Reaction Force | |
| | EDF | RAS-BICHAT | Battlegroup initiative | |
| | ALA | ENISA | Situation Centre | |
| | | | CIWIN (proposed) | |

Table 5: Budgets for EU Policies of Prevention

| Instrument | Duration of Budget | Total |
|-------------------|---------------------------|---------------------|
| EDF | 2008-2013 | 22,682 billion Euro |
| DCI | 2007-2013 | 16,897 billion Euro |
| ENPI | 2007-2013 | 11,181 billion Euro |
| IPA | 2007-2010 | 5,740 billion Euro |
| ECHO | 2008-2013 | 4,881 billion Euro |
| EIDHR | 2007-2013 | 1,104 billion Euro |
| IFS | 2007-2008 | 126 million Euro |

Sources: EDF: <http://europa.eu/scadplus/leg/en/lvb/r12102.htm>

DCI: http://ec.europa.eu/europeaid/what/delivering-aid/funding-instruments/documents/dci_en.pdf

ENPI: http://www.euroresources.org/guide_to_population_assistance/european_community/enpi_1.html;

IPA: <http://europa.eu/scadplus/leg/en/lvb/e50020.htm>

ECHO: http://ec.europa.eu/echo/files/funding/budget/finances_2008_2013.pdf

EIDHR: http://www.euroresources.org/guide_to_population_assistance/european_community/eidhr.html;

IFS: http://ec.europa.eu/external_relations/ifs/index_en.htm

Table 6.1 Overview: ESDP Civilian Missions

| ESDP | Country | Mission Duration | Assigned Task | Staff |
|-------------------------------|----------------------------|---------------------------|---|--------|
| EUPM | Bosnia/ Herzegov. | 1.1.2003 - 31.12.2009 | Police Mission | 182* |
| EUPOL Proxima | Macedonia | 15.12.2003 14.12.2004 | Police Mission | 170 |
| EUJUST Themis | Georgia | 16.7.2004 – 14.7.2005 | Rule of Law Mission | 10 |
| EUPOL Kinshasa | DR Congo | 8.6.2005 – 15.7.2007 | Police Mission | 37 |
| EUSEC | DR Congo | 1.7.2005 – 30.6.2009 | Assist security sector reform | 40* |
| EUJUST LEX | Brussels/ Iraq | 1.7.2005 – 30.6.2009 | Training Iraqi officials outside Iraq | 25* |
| AMIS II Assistance | Dafur, Sudan | 18.7.2005 – 31.12.2007 | Support for the African Union mission in Dafur | 31 |
| Aceh Monitoring | Aceh, Indonesia | 15.9.2005 – 15.12.2006 | Monitoring the peace agreement | 146 |
| EU BAM Rafah | Palestinian Territories | 15.11.2005- 15.11.2009 | Monitoring the Rafah border (Gaza/Egypt) | 27* |
| EU BAM Moldova/ Ukraine | Moldova/ Ukraine | 30.11.2005- 30.11.2009 | Monitoring the Moldova/Ukraine border | 220* |
| EUPAT | Macedonia | 15.12.2005- 15.6.2006 | Assist with police reform | 30 |
| EUPOL COPPS | Palestinian Territories | 1.1.2006 – 31.12.2010 | Police Mission | 31* |
| EUPT Kosovo | Kosovo | 10.4.2006 – 31.3.2008 | Planning team > Rule of Law Mission | 100 |
| EUPOL AFG | Afghanistan | 15.6.2007 – 15.6.2010 | Police Mission | 230* |
| EUPOL Congo | DR Congo | 1.7.2007 – 30.6.2009 | Follow-up to EUPOL Kinshasa | 53* |
| EU LEX | Kosovo | 8.12.2008 - 8.12.2010 | Rule of Law Mission | 1,900* |
| EU SSR | Guinea- Bissau | 1.6..2008- 30.11.09 | Security Sector Reform | 19* |
| EUMM | Georgia | 1.10.08 - 30.11.09 | Monitoring the peace agreement | 266* |

* marks the mission strength as of January 2009.

Source: Data taken from the website of the Council of the European Union, 'ESDP Operations' retrieved 19th January 2009, from http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=1458&lang=EN

Table 6.9: Overview: ESDP Military Missions

| ESDP Mission | Country | Mission Duration | Assigned Task | Staff |
|-------------------------|-------------------------------|--------------------------------|---|---|
| EUFOR Concordia | Macedonia | 31.3.2003 – 15.12.2003 | Peace support | 400 |
| Artemis | DR Congo | 12.6.2003-1.9.2003 | Peace support for MONUC | 1,800 |
| EUFOR Althea | Bosnia and Herzegovina | 2.12.2004 – 1.3.2009 | Peace support | 7,000 (initially) 2,500 (Jan. 2009) |
| EUFOR DR Congo | DR Congo | 30.7.2006 - 30.11. 2006 | Peace support for MONUC | 2,300 |
| EUFOR CHAD/RCA | Chad and RCA | 28.1.2008 | Military operation to improve security in the region | 3,400 |
| EU NAVAR Atlanta | Somalia | 1.12.08 – 30.11.09 | Military naval operation against piracy | 1,500 serving around 20 vessels and aircraft |

Source: Data taken from a) the website of the Council of the European Union, ‘ESDP Operations’ retrieved 19th January 2009, from http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=1458&lang=EN