



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 18 May 2005

**8373/3/05
REV 3**

LIMITE

**COSDP 234
PESC 321
CIVCOM 98**

PUBLIC

NOTE

From : Secretariat
To : Delegations
Subject : Generic Standards of Behaviour for ESDP Operations

In view of the PSC meeting on 19 May, delegations will find enclosed a revised version of the Generic Standards of Behaviour for ESDP Operations, taking into account the advice given by the EUMC and CIVCOM.

In accordance with PSC guidance, the document will be used when planning for future ESDP operations.

It is suggested that these standards should also be applied, as appropriate, to personnel involved in other types of EU presence in areas of operations, in order to ensure consistency in the EU's approach.

It is also recommended that further work should be undertaken in areas related to standards of behaviour. Further consideration should also be given to the implementation of other specific aspects of the UN Security Council Resolution 1325 on women, peace and security and to the protection of civilians in general.

Generic Standards of Behaviour for ESDP Operations

Introduction

On 18 November 2003, the PSC took note that CIVCOM had agreed draft guidelines on protection of civilians in EU-led crisis management operations¹. The generic standards of behaviour developed in this paper should be seen as complementary to these guidelines.

On 17 February 2005, the PSC agreed an aide memoire for commanders on standards of behaviour for Operation ALTHEA. The aide memoire has been included as an appendix to Annex E of the OPLAN with an associated requirement to inform the PSC as to its implementation.

Subsequently the PSC requested the Secretariat to develop a generic document on standards of behaviour to be used when planning for future ESDP operations and advised that it should be based on extant documents. This document responds to the PSC mandate.

Aim

The aim of this document is to establish generic standards of behaviour in order to ensure that all categories of personnel involved in ESDP operations, mentioned hereafter as "personnel"², maintain the highest personal standards of behaviour. In this regard it:

- sets out generic standards of behaviour to be adhered to by all personnel

- and provides principles for the implementation and further development of the generic standards of behaviour.

¹ Doc 14805/03

² Within the meaning of this document, personnel consists of the following categories:

- Military personnel seconded, in the framework of the operation, by Member States, Third States and EU Institutions
- Civilian personnel seconded, in the framework of the operation, by Member States, Third States and EU Institutions
- Internationally contracted civilian personnel
- Locally contracted civilian personnel

1. Generic standards of behaviour

Mission specific EU agreed standards of behaviour already exist for the military operation ALTHEA in BiH and for civilian operations already launched which use codes of conduct. The proposed generic standards of behaviour will ensure commonality of approach.

All categories of personnel are expected to maintain the highest standards of behaviour. It is of particular importance to pay attention to the past behaviour of civilian staff recruited directly by the Head of Mission or the Force Commander.

The standards of behaviour will have to be tailored to the specific operation but they will cover all relevant standards to ensure the appropriate behaviour of personnel both with regard to each other and to the local population. The standards will thus contribute to the moral cohesion of the operation.

The standards of behaviour are complementary to the legal obligations of personnel in accordance with international law and the law of the contributing state. Not adhering to the required standards of behaviour is misconduct and may result in disciplinary measures. This is independent of possible criminal procedures.

The generic standards of behaviour are to be found in the document at Annex.

2. Principles for the implementation and further development of the generic standards of behaviour

- *Command*

The engagement of commanders and senior management, at all levels of the command chain, is vital to ensure that standards of behaviour are implemented and adhered to. The Council General Secretariat should ensure, within its remit, that the Operation Commander or the Head of Mission are suitably advised on the implementation of the standards of behaviour. Depending on the size and nature of the operation, the Force Commander or the Head of Mission could designate a member of the staff to advise him/her on the implementation of the standards of behaviour.

- *Documentation*

The planning documents for every future ESDP operation should contain provisions for the implementation of standards of behaviour. These provisions should be based on this document including its Annex, adapted as required to suit the operation. The Council General Secretariat should ensure, within its remit, that the generic standards of behaviour are adapted where necessary and incorporated into the relevant planning documents of each operation.

- *Complaint procedures*

Each ESDP operation will need to establish a fair and unbiased complaint procedure, utilising existing procedures where available and appropriate. It is the responsibility of commanders and senior management to ensure that their personnel are aware of complaint procedures.

- *Reporting mechanisms*

Clear reporting mechanisms should be established for each ESDP operation and for each category of personnel. In parallel to any national reporting system that may be established, serious incidents should be reported through the EU chain of command, in accordance with the specific reporting procedures established for each operation.

- *Disciplinary measures*

Procedures for disciplinary measures for misconduct differ for civilian and military personnel. The generic standards of behaviour are not intended to replace, restrict or extend national regulations. In the interest of transparency, Member States, Third States and the EU Institutions should report on disciplinary actions taken, as appropriate.

- *Training*

Pre-deployment training of personnel, carried out nationally as well as by the EU, should include training and education on prescribed standards of behaviour. Particular attention should be given to international law, including international humanitarian law and human rights issues, gender issues and child rights issues. Specific training activities should be developed within the framework of the EU Training Concept in ESDP, drawing on EU

guidelines on children and armed conflict and existing manuals developed for instance by the UNICEF and DPKO.

- *Co-operation with international organisations and dialogue with partners*

The EU does not operate in isolation. Other international actors such as the UN, the OSCE and NATO have valuable experience on which to draw. Consultations with them, with a view to an exchange of information and experience, are therefore important in the future development of standards of behaviour and wider related issues. The issues could also be raised in dialogue with partners. A dialogue with the UN should also include the follow up and possible implementation of the recently proposed UN strategy to eliminate future sexual exploitation and abuse in UN peace keeping operations. Exchange of information and experience with NGOs would also be useful.

- *Lessons learned*

Each ESDP operation will have its own specifics and the standards of behaviour will have to be adapted accordingly. Coherence between operations, both civilian and military, should be maintained. The standards of behaviour and the methods to implement them should be incorporated into the lessons learned on ESDP operations. These generic standards of behaviour may be adjusted as a consequence of lessons learned.

GENERIC STANDARDS OF BEHAVIOUR FOR PERSONNEL IN ESDP OPERATIONS

1. INTRODUCTION. Personnel in ESDP Operations come from varying cultures and legal systems and represent different levels of training and experience. Nonetheless, in pursuance of their mission, all personnel are to apply the same standards of personal and professional behaviour. The maintenance of the highest personal and professional standards is crucial in order to engender and maintain confidence and trust in the EU.
2. AIM. The purpose of these standards of behaviour is to provide guidance to senior management and commanders on the standard of behaviour expected of personnel involved in ESDP operations, mentioned hereafter as "personnel". They are not intended to replace, restrict or extend national regulations.
3. APPLICATION. All personnel should fully adhere to the standards of behaviour. Failure to adhere to the standards of behaviour may constitute grounds for the initiation of disciplinary actions. The inculcation and maintenance of appropriate standards of behaviour by personnel is a core responsibility of commanders and senior managers at all levels. The education of and guidance to personnel in order to underpin these principles is required. It is a function of leadership to respect and protect the rights and interests of subordinates and also of those with whom they interact. It is imperative that all personnel are fully aware of not only their rights and obligations but also of the appropriate standards of behaviour. Personnel must understand why they are expected to adhere to the standards of behaviour in the discharge of their duties. It is the duty of commanders and senior managers at all levels to ensure that these values and standards are accorded high priority, are fully explained to personnel and are applied consistently. Instances of unacceptable behaviour should be met by prompt and decisive action. Commanders and senior managers must themselves lead by example and discharge in full their duty of care.

4. SCOPE. The standards of behaviour are complementary to the legal obligations of personnel. Personnel must apply the provisions of international law, including, when applicable, the law of armed conflict, and the laws of the contributing state. As a rule, personnel will also respect local law unless the execution of the mission requires otherwise.

5. STANDARDS OF BEHAVIOUR. In order to ensure these standards of behaviour are achieved, adherence to principles such as impartiality, personal integrity, courage, discipline, loyalty and respect for others is essential. Personnel should at all times exercise patience, tolerance, tact, diplomacy, good judgement and common sense. Personnel shall conduct themselves in an acceptable manner both on and off duty. Personnel should adhere to these standards in order to ensure appropriate behaviour in their relations with the local population. This will also contribute to the moral cohesion of the operation.
 - a. To guarantee appropriate relations with the local population.

The clear demonstration of personal integrity will help to establish the credibility and authority of the ESDP operation and it is essential to the establishment of trust with the local population.

The impartial and objective pursuit of the operation's mandate, regardless of provocation and challenge, is essential in preserving the legitimacy of the operation and in maintaining, where appropriate, the consent and cooperation of parties involved. Personnel must be consistent and objective in the discharge of their duties and unfair advantage must not be, nor be seen to be, given to any party, regardless of personal opinion. Personnel shall neither engage personally in political activity within the area of operations, nor publicly express any preference for any political religious or ethnic entity group. Personnel will respond to all requests for assistance in a fair and impartial manner.

Personnel should be aware that both prostitution and the pornographic industry have established links with organised crime and human trafficking. Not only will the patronage of either serve to undermine the moral standing of the ESDP operation, but it will ultimately make the mission more difficult to achieve.

Sexual exploitation and sexual abuse violate universally recognised international legal norms and standards. They constitute acts of serious misconduct and are therefore grounds for disciplinary measures. Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited.

Local society will often be representative of a wide diversity of people of different ethnic groups, religions and cultural backgrounds. Local customs may differ from those of personnel involved in ESDP operations, especially with regard to religion and family. All people must be treated with dignity and respect, regardless of sex, age, ethnic origin, religion, sexual orientation, disability, social or economic status or political views.

Condescending and discriminating remarks or gestures are not to be tolerated. As a rule, local customs should be respected.

Except where duly authorised, personnel must refrain from accepting items of value from members of the local community in order to maintain the neutrality integral to the operation.

b. To guarantee moral cohesion of the operation.

Personnel will represent a diversity of men and women of different nationalities, ethnic groups, religions and cultural backgrounds. All personnel must be treated with dignity and respect, regardless of sex, age, ethnic origin, religion, sexual orientation, disability, social or economic status or political views.

The moral concepts of colleagues will differ, especially in terms of religion and family. Condescending and discriminating remarks or gestures are not to be tolerated.

The right of all personnel to live and work in an environment free from harassment, abuse, unlawful discrimination, intimidation and bullying must be upheld. This especially includes all forms of sexual abuse and sexual harassment but also the display of pornographic material at the work place and its distribution. The use of physical force or

the abuse of authority to intimidate or victimise others, or to give unlawful punishments, is unacceptable behaviour which will undermine trust and respect. Any such behaviour should not be tolerated. The standard determining harassment is not the intent of the alleged harasser but the effect of the behaviour on the alleged victim.

Misuse of drugs can be especially harmful. Those who are involved in drug misuse are a liability, not only to themselves, but also to their colleagues and the local population. Their judgement may be impaired, their fitness reduced, their health damaged, and their performance degraded. In short, they can be neither trusted nor relied upon. Drug misuse poses a significant threat to operational effectiveness. All forms of handling or use of illegal drugs are forbidden. Once again the link between organised crime and drug misuse and the detrimental effect that this has on the attainment of the ESDP operation merits mention here.

Excessive drinking impairs judgement, endangers health, degrades performance and is a major cause of ill-discipline. Alcohol abuse generates a loss of self-control, which can lead to unacceptable behaviour accompanied by criminal violence. For these reasons excessive drinking will not be tolerated. In addition, driving under the influence of alcohol is a serious offence that endangers life and displays a lack of judgement and self-discipline.

The consumption of alcohol whilst on duty must be authorised. On such occasions and during off duty periods alcohol consumption must be moderate. This must be particularly well observed where the consumption of alcohol is contrary to the religion of the local population and therefore where the damage to the perception of the EU caused by its abuse would be exacerbated.

6. CRIMINAL ACTIVITIES. Personnel should report any alleged violations by personnel of human rights and international humanitarian or international criminal law. An investigation of each complaint and where relevant subsequent prosecution should be ensured by the competent authority.

Personnel are to be made fully aware of applicable law. In particular, the following illegal and criminal activities merit highlighting in this document:

- a. Organised Crime. Organised crime is likely to be a major source of much of the instability in the area of the operation. Any support to organised crime, whether intentional or otherwise, contributes further to this degree of instability and renders the execution of the ESDP operation more difficult. This includes everything from purchasing goods on the black market to the indirect/direct support of human trafficking.
- b. Corruption. Personnel will not improperly use their relative position of power and privilege. Personnel will not contribute to corruption by giving or accepting bribes (money, expensive gifts or in services) for the purpose of gaining advantages over other people.
- c. Human Trafficking. Trafficking in human beings includes the recruitment, transportation, transfer, harbouring or receipt of persons using the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or vulnerability or the giving or receiving of payments or benefits for the purpose of exploitation – from prostitution to the supplying of cheap labour³. The personnel must not in any way contribute to trafficking in human beings including for the purpose of sexual exploitation.
- d. Child Abuse. All forms of sexual contact with children as well as child pornography are forbidden⁴. Personnel must not in any way involve themselves in sexual exploitation, abuse and trafficking of children⁵.

Other types of criminal activities will be included, as appropriate, in the relevant planning documents for each operation.

³ Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the UN Convention against transnational organised crime (2000)

⁴ The UN states that "for the purposes of the UN disciplinary procedures for all categories of personnel, a child is defined as anyone under 18 years of age, irrespective of the local age of consent."

⁵ In 2004 EU adopted Guidelines on Children and armed conflict (doc. 15634/03). Subsequently, a Plan of Action was adopted for the implementation of the guidelines (doc.15957/04)

7. LEADERSHIP. The personal conduct of commanders and senior managers will have a direct effect on that of their subordinates. They are to ensure that their own professional and personal behaviour is of the highest standard in order to inspire the same in their subordinates. In addition, they are to ensure that the required standards of behaviour are known and adhered to by their personnel. Failure to do so will result in the breakdown of the moral cohesion of the operation.
8. REPORTING. Instances of misconduct may lead to disciplinary measures and actions, and appropriate reporting procedures should be instigated. In parallel to any national reporting systems that may be established, serious incidents should be reported through the EU chain of command in accordance with the specific reporting procedures established for each operation. It is the right and obligation of all personnel to report cases of serious misconduct and criminal activity.
9. DISCIPLINE.

9.1. Principles.

- a. Military and civilian seconded personnel. With regard to military and civilian personnel, seconded in the framework of the operation, by Member States, Third States or EU Institutions, relevant national authorities or relevant authorities within the EU Institutions will retain full disciplinary jurisdiction over their personnel.
- b. Internationally contracted civilian personnel. With regard to internationally contracted civilian personnel, EU Force Commanders or EU Heads of Mission have full disciplinary jurisdiction over these personnel.
- c. Locally contracted civilian personnel. With regard to locally contracted civilian personnel, EU Force Commanders or EU Heads of Mission have full disciplinary jurisdiction over these personnel.

9.2 Implementation.

- a. For each operation, arrangements concerning discipline will be developed in the relevant planning documents, reflecting the specificity of the operation, especially its chain of command.

- b. It has to be noted that, for civilian operations, following the established practice, the EU Head of Mission would be responsible for carrying out investigations and would decide on the appropriate measures concerning seconded personnel, while the relevant national authorities or relevant authorities within the EU Institutions are responsible for taking appropriate disciplinary action.