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**Civilian CSDP Compact**  
**Mini-concept on possible civilian CSDP efforts to address security challenges**  
**linked to irregular migration**

**Executive Summary:** This mini-concept outlines possible ways to assist the authorities of host States of civilian Common Security and Defence Policy (CSDP) missions in their efforts to tackle security challenges linked to irregular migration through the activities of civilian CSDP missions. Possible action encompasses a variety of support options, ranging from strategic advice and capacity building (notably through operational advice and the strengthening of operational capacities) to (semi-)executive (substitution) tasks, in clearly defined and justified cases. Since some of the security challenges identified in the context of irregular migration are also linked to the broader issues of organised crime and border management, recommendations derived from previous corresponding mini-concepts could also apply in a complementary manner. The cooperation with Justice and Home Affairs (JHA) agencies and international actors relevant in this field, such as the International Organization for Migration (IOM), the UN High Commissioner for Refugees (UNHCR), the International Labour Organisation (ILO) and the United Nations Office on Drugs and Crime (UNODC) is of crucial importance. Support from civilian CSDP missions should always be needs based as well as country and context specific and should build on and be coherent with relevant existing EU policy frameworks, cooperation, operations and dialogues with

## Introduction

The Civilian CSDP Compact<sup>1</sup>, as adopted by the Council and Member States in November 2018, highlights that civilian CSDP missions should contribute *inter alia* to the EU's wider response to tackling new security challenges, including those linked to irregular migration. As noted in the civilian CSDP Compact and the subsequent Joint Action Plan by EEAS and Commission services<sup>2</sup>, the EEAS will develop specific concepts for civilian CSDP stemming from the new security environment (mini-concepts<sup>3</sup>), which could also form the basis for new lines of operation or pilot projects.<sup>4</sup>

Migration has become a prominent feature of current global and European affairs. Migration presents opportunities for migrants as well as for destination countries. Europe aims at being an attractive destination for the talent and entrepreneurship of students, researchers and workers, thus helping to create the right conditions for Europe's economic prosperity. Whilst migratory movements have always existed, the scale and modalities of flows may pose complex challenges to

<sup>1</sup> Adopted on 19 November 2018 by the Council, along with the Representatives of the Governments of the Member States, meeting within the Council, and subsequently endorsed by the European Council on 13-14 December 2018.

<sup>2</sup> SWD(2019) 173, 30 April 2019.

<sup>3</sup> See FFT EEAS(2019) 617 for a general introduction to mini-concepts.

<sup>4</sup> The tasks which the mini-concepts envisage do not go beyond the civilian nature of CSDP missions. The mini-concepts do not envisage changes to the current manner of funding such missions.

countries along the routes, in particular when related to irregular migration. For this reason, the Global Strategy for the European Union's Foreign and Security Policy<sup>5</sup> promotes a more effective migration policy, with a special focus on resilience in origin and transit countries of migrants and refugees. The Strategic Compass<sup>6</sup> states explicitly that civilian CSDP missions are crucial in the EU's wider response to security challenges through non-military means, including those linked to irregular migration.

In September 2020 the Commission published the New Pact on Migration and Asylum<sup>7</sup>, currently under discussion, which seeks to set out a fresh start in migration management with partner countries. In fleshing out its comprehensive, tailor-made, mutually beneficial migration partnerships with priority third countries, the Union will also rely on the contribution of CSDP missions and operations where the fight against irregular migration or migrant smuggling is part of their mandates. Complementing existing missions, such as EUCAP Sahel Niger and EUBAM Libya, Operation EUNAVFOR MED IRINI is now under way in the Central Mediterranean and helps to disrupt smuggling networks.

Finally, in order to respond to the challenges stemming from irregular migration in the second half of 2021, the Commission and the High Representative issued the Joint Communication "Responding to state-sponsored instrumentalisation of migrants at the EU external border" on 23 November 2021.<sup>8</sup>

### **Background on irregular migration**

While it is broader in scope, the theme of irregular migration will be seen, in the context of this mini-concept, from the perspective of transit countries and countries of origin – within the remit of CSDP action - and will be analysed in terms of the impact it can have on these countries' internal security, not least when it is accompanied by activities related to the facilitation of migrant smuggling and trafficking in human beings.

In line with the recommendations made in the European Agenda on Migration ("Agenda"), the EU has launched over the past years a number of initiatives to enhance its overall response focusing in particular on migrant smuggling and on trafficking in human beings (THB). It is important to underline in this regard that THB is not a migration related phenomenon per se, nor that it necessarily entails the crossing of borders. As a complex crime, it is linked to multiple other crimes facilitating the different stages of the trafficking chain, of which migrant smuggling is only one example. THB is a grave violation of human rights, with as only goal to obtain financial profits through exploitation. Migrant smuggling is specifically linked to the irregular movement of people across borders or the facilitation of irregular stay in a given country. Trafficking in human beings and migrant smuggling can therefore not be used interchangeably, not least, as the legal consequences of each offence are different.

Regarding THB, the EU Strategy towards the eradication of trafficking in human beings 2012-2016<sup>9</sup> is a comprehensive policy instrument that follows on from the Anti-trafficking Directive

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<sup>5</sup> Shared Vision, Common Action: A stronger Europe: "A Global Strategy for the European Union's Foreign and Security Policy", 28 June 2016.

<sup>6</sup> Doc. Ref. 7371/22, 21 March 2022.

<sup>7</sup> COM(2020)609 final, adopted on 23 September 2020.

<sup>8</sup> JOIN(2021) 32 final.

<sup>9</sup> COM(2012) 286 final, adopted on 19 June 2012.

2011/36/EU<sup>10</sup>. The Strategy expands on issues identified in the Directive and focuses on prevention, protection, prosecution and partnerships. This document was followed by the December 2017 Communication from the Commission “Reporting on the follow-up to the EU Strategy towards the Eradication of trafficking in human beings and identifying further concrete actions”<sup>11</sup>, which includes as a priority to intensify a coordinated and consolidated response, both within and outside the EU. The 2017 Communication mentions explicitly the contribution of CSDP missions under this priority. The Communication notably indicates that “[...] the EU will step up its external action targeting criminal organisations involved in trafficking in human beings. This includes action taken under the mandates of the Common Security and Defence Policy missions and operations, also involving priority countries, including for counter-terrorism activity in the Middle East, North Africa and the Western Balkans”. Trafficking networks abuse asylum procedures, and use reception centres to identify potential victims. The early identification of potential non-EU victims is a specific theme of the Commission’s approach towards the eradication of trafficking in human beings, as set out in the recent Security Union Strategy.<sup>12</sup> On 14 April 2021, the Commission adopted the new EU Strategy to tackle Organised Crime<sup>13</sup> which mentions the fight against THB on several occasions. The Commission proposed alongside a dedicated EU Strategy on Combating Trafficking in Human Beings 2021-2025<sup>14</sup> to address the specificities of this crime. The Strategy mentions explicitly the contribution of CSDP missions and indicates that “the civilian and military missions under the Common Security and Defence Policy lead efforts to disrupt organised criminal networks involved in smuggling of migrants and trafficking in human beings”.

Regarding migrant smuggling, the Commission adopted in May 2015 a five-year EU Action Plan against migrant smuggling<sup>15</sup>, which was complemented by a comprehensive set of operational measures adopted by the Council in December 2018. A renewed EU action plan against migrant smuggling 2021-2025<sup>16</sup> was adopted on 29 September 2021. The new Action Plan proposes to develop dedicated and tailor-made Anti-Smuggling Operational Partnerships with partner countries or regions along migratory routes towards the EU, as part of the EU’s broader migration partnerships. The Action Plan specifically mentions CSDP missions and the enhanced cooperation between CSDP and EU agencies to link up internal and external security issues.

The Commission has been funding Common Operational Partnerships (COP), where relevant authorities of EU Member States and partner third countries work together to improve their capabilities to prevent and fight against migrant smuggling and trafficking in human beings.

The 2019 Regulation on the creation of the European network of immigration liaison officers<sup>17</sup> enables a more effective cooperation, exchange of information and pooling of resources among immigration liaison officers deployed to third countries by the Commission, EU Agencies and Member States working on various migration-related issues including combating migrant smuggling.

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<sup>10</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims.

<sup>11</sup> COM(2017) 728 final, adopted on 4 December 2017.

<sup>12</sup> The EU Security Union Strategy, COM(2020) 605 final, adopted on 24 July 2020.

<sup>13</sup> COM(2021) 170 final, adopted on 14 April 2021.

<sup>14</sup> COM(2021) 171 final, adopted on 14 April 2021.

<sup>15</sup> COM(2015) 285 final, adopted on 27 May 2015.

<sup>16</sup> COM(2021) 591 final, adopted on 29 September 2021.

<sup>17</sup> Regulation (EU) 2019/1240 of the European Parliament and of the Council of 20 June 2019 on the creation of a European network of immigration liaison officers

Implementing one of the measures adopted by the Council in 2018<sup>18</sup>, the EU Agency for Criminal Justice Cooperation (Eurojust), launched the Focus Group for Prosecutors on Migrant Smuggling in May 2020. It will serve as an important hub to periodically connect the key judicial actors at national level in the EU Member States who are responsible for tackling migrant smuggling crimes, to support their joint operational response.

In this context, a particular emphasis has been placed on the exchange of information. Europol's European Migrant Smuggling Centre (which incorporated its Joint Operational Team Mare) has been providing an effective hub for action since its establishment, not least through its Information Clearing House. The Centre's main task is to support law enforcement and border authorities in coordinating complex cross-border anti-smuggling operations. It was complemented in July 2019 by a Joint Liaison Task Force on Migrant Smuggling and Trafficking in Human Beings, so that liaison officers from EU Member States can now work even closer on common investigations.

The European Multidisciplinary Platform Against Criminal Threats (EMPACT) enables Member States, supported by EU institutions, bodies and agencies, to tackle threats posed by organised and serious international crime. Third countries, international organisations, and other public and private partners are also associated. In May 2021, the Council adopted the Conclusions setting the 2022-2025 EU priorities for the fight against serious and organised crime through EMPACT, including the fight against trafficking in human beings and migrant smuggling.

Trafficking in human beings and migrant smuggling are addressed at EMPACT through operational action plans (OAP), run by the representatives of law enforcement authorities (LEA) and carried out by several partners (LEAs of Member States, EU agencies or third countries). Each OAP is structured on eight common horizontal strategic goals. One of these goals is the external dimension which aims at enhancing the cooperation with third countries.

### **A CSDP contribution - underlying principles**

These various endeavours were all undertaken in a way that ensures the protection of human rights of migrants and refugees. Human rights and gender equality are indeed fundamental principles of the European Union. Article 21 (1) TEU acknowledges the universality and indivisibility of human rights and fundamental freedoms, as well the principles of equality and solidarity. The CSDP is conducted in accordance with those principles. It is acknowledged that the complex drivers of irregular migration are also linked to conflict and instability, exclusion, lack of legal pathways to seek protection and economic opportunities. In this context, a number of groups or communities, including internally displaced, homeless, minorities, minors, and women at risk may be more likely to fall victim of THB, notably for the purpose of forced labour and sexual exploitation. Direct threats to migrants' and refugees' human rights may also be present at border controls. These include denial of access to asylum<sup>19</sup>, violation of the principle of non-refoulement<sup>20</sup>, refusal to provide access to health care, demand for bribes, harassment, physical violence and sexual abuse in return for passage etc. The risks faced by migrants and refugees can also be gender-specific. There

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<sup>18</sup> Ref. 15250/18, adopted on 6 December 2018.

<sup>19</sup> Cooperation with the European Union Agency for Asylum (EUAA) could be relevant in specific cases in order to ensure the adherence to best standards and practices in the field of asylum processes and if EUAA's third-country support takes place in a country where a civilian CSDP mission performs related tasks.

<sup>20</sup> As a core principle of international refugee law, the principle of non-refoulement provides that no one shall expel or return ("refouler") a refugee against his or her will, in any manner whatsoever, to a territory where he or she fears threats to life or freedom, as enshrined in Art. 33 of the Geneva Refugee Convention and Protocol.

are specific tools to mainstream human rights and gender in the context of civilian CSDP missions. In line with the EU's "lessons and best practices of mainstreaming human rights and gender into CSDP military operations and civilian missions", they must be taken into account in all phases of the mission. It is therefore necessary that support to host States to tackle security challenges related to irregular migration will be carried out in a conflict-sensitive and gender responsive manner, taking human security and the security of host countries' communities at its core, and on the basis of a solid understanding of the context in which the EU operates<sup>21</sup>, while fully respecting the international legal framework that provides protection to migrants and refugees. All envisaged activities follow the "Do No Harm" approach, aiming to ensure that projected interventions do not exacerbate divisions between institutions and communities, and worsen existing grievances.

Finally, the negative impacts of climate change in the context of migratory movements are worth mentioning. It is widely acknowledged that variability in climate, degradation in environment and uneven distribution of resources can act as conflict multipliers or even conflict triggers. From a human security perspective, the consequences result in challenges in sustaining adequate living conditions – particularly in States with struggling public institutions and limited safety nets. For CSDP missions, the growing number of climate and ecological risks across Africa (e.g. food insecurity and a higher incidence of malnutrition) are of particular concern, considering almost half of the civilian missions (41%) were conducted – or are ongoing – on the continent since 2003<sup>22</sup>. The secondary effects of rising temperatures across these areas are likely to translate into a number of risks that, in turn, can exacerbate tensions or conflicts and have an impact on mobility dynamics and migration.

### **Current civilian CSDP efforts**

The EU and its Member States have mandated CSDP missions over the past years to address security challenges related to irregular migration at sea or ashore in both countries of origin and transit. Support from Member States and cooperation with their projects are of utmost importance in this field. Furthermore, great emphasis has been placed on the need to enhance cooperation between CSDP and JHA agencies to ensure that internal and external security issues are appropriately linked up. This has led to the launch of several initiatives with Europol, the European Border and Coast Guard Agency (Frontex) and Eurojust notably in the field of information sharing. A prominent example here is the Information Clearing House (ICH) embedded within the European Migrant Smuggling Centre (EMSC) where Europol, Frontex, Operation EUNAVFORMED Irini and Interpol (for operation Irini) exchange operational information within their respective mandates to tackle migrant smuggling. Another example is the Crime Information Cell (CIC), initially established within Operation Sophia in conjunction with Frontex and Europol. While this initiative, with its unique set-up, allowed for a structured and innovative exchange of operational information, other CSDP missions only exchange strategic information with JHA agencies, often following an *ad hoc* approach (the EUCAP Sahel missions, or EUBAM Libya, which cooperated with Eurojust, for example). Current discussions, stemming also from the Civilian CSDP Compact and the mini-concept on organised crime, aim at giving a firmer, more sustainable basis for exchange of information applicable to more CSDP missions.

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<sup>21</sup> EEAS(2016) 990: Report on the Baseline Study on Integrating Human Rights and Gender into the European Union's Common Security and Defence Policy.

<sup>22</sup> The CSDP in 2020 – The EU's legacy and ambition in security and defence, chapter 6, (2020). EU Institute for Security Studies.

CSDP engagement in this area has been planned and implemented, based on the concept of human security and without prejudice to the right to claim asylum<sup>23</sup> and the principle of non-refoulement. As stated in the EU Global Strategy, the EU engages in a practical and principled way in peacebuilding, and fosters human security through an integrated approach. Human security serves as a guiding principle and a strategic narrative for EU engagement abroad in general and for CSDP missions in particular.

To date, the scope of activities undertaken in the CSDP framework in relation to migration (see Annex 1 for more details) has ranged from (1) missions that are mandated to support host State authorities in their efforts to control and prevent irregular migration and combatting associated crimes (EUCAP Sahel Niger and EUBAM Libya); (2) missions that are mandated to address border management and/or the fight against migrant smuggling and trafficking in human beings (EUCAP Sahel Mali, EUBAM Rafah); and (3) missions that are tackling one of the root causes for migration, such as general insecurity or a poor rule of law system (EUAM Ukraine<sup>24</sup>, EULEX Kosovo<sup>25</sup>, EUAM Iraq, EUCAP Somalia, EUPOL COPPS and EUAM RCA). In regard to the latter, basically all CSDP missions that have a broader mandate, for example focussing on capacity building of security forces, the rule of law or SSR (all of the remaining missions, with the exception of EUMM Georgia), to support host authorities in building democratic institutions to provide for a secure environment. These missions thus embody efforts to address the indirect and direct root causes of migration, which include insecurity, violent conflict, unaccountable and harmful state security actors, corruption resulting in lack of trust in public institutions and a general lack of rule of law. In all cases CSDP action should be in full synergy with and complementing other EU and Member States activities, such as development- and bilateral cooperation.

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<sup>23</sup> Asylum is granted to people fleeing persecution or serious harm in their own country and therefore in need of international protection. Asylum is a fundamental right; granting it is an international obligation, first recognised in the 1951 Geneva Convention on the protection of refugees.

<sup>24</sup> The mission aims to assist the Ukrainian authorities towards a sustainable reform of the civilian security sector through strategic advice and practical support. However, Ukraine's State Border Guard Service, is one of many beneficiaries. EUAM Ukraine organized various activities to promote IBM in Ukraine, in multiple instances jointly with Frontex. While these training, workshops and seminars focus on border management, Ukrainian migration services are often among the beneficiaries of these activities. In addition, EUAM Ukraine supported the elaboration of Ukraine's IBM strategy. Finally, EUAM Ukraine assisted with the set-up of the Migrant Detention Centre that was handed over to the State Migration Service and Ministry of Internal Affairs. Following Russia's illegal and unjustified invasion of Ukraine, the mandate of the mission was amended to support the Ukrainian authorities more in the field of border management.

<sup>25</sup> Next to the improvement of security challenges in general, EULEX Kosovo also offered assistance and advice to the Department of Citizenship, Asylum and Migration (even if these activities are not in the core of the mandate). The mission helped local authorities to establish fair and effective asylum procedures based both on international human rights law and international refugee law in order to grant protection to individuals and groups fleeing persecution. EULEX Kosovo proposed a number of recommendations during the drafting process of legislation and practices that have been put forward to local counterparts. Furthermore, different templates and various mechanisms have been presented which are now being used by the Department of Citizenship, Asylum and Migration.

<sup>26</sup> **DELETED**



**Annex: current civilian CSDP missions active in the field of security challenges related to irregular migration**

Four missions have currently a particularly relevant mandate when it comes to the issue of irregular migration: EUCAP Sahel Niger and EUBAM Libya (category 1) which support host State authorities in their efforts to address irregular migration; and EUCAP Sahel Mali, EUBAM Rafah (category 2) which are mandated to address border management and/or the fight against smuggling of migrants and trafficking in human beings. The various activities that are implemented by these four missions offer examples and best practices that might be explored for other and future missions. Any modification would have to follow established procedures and are subject to decisions by the Council.

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