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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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NOTE

From : Secretariat

To : Committee for Civilian Aspects of Crisis Management

Subject : EUPM : issues identified and conclusions drawn in view of the refocused mandate for the continuation in 2006-2007

Delegations will find attached the document on EUPM: issues identified and conclusions drawn in view of the refocused mandate for the continuation in 2006-2007.

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Introduction

The European Union Police Mission (EUPM) is one of the four ESDP Missions launched in 2003. Originally set-up for three years, EUPM has been continued for another two years by a Council Joint Action in November 2005.

The experience of three years of operation and the transition to a continued Mission with a re-focused mandate, bring about a requirement to identify strategic and operational issues that may inform the further planning and development of the continuation of EUPM in 2006 and 2007.

The Council and Secretariat guidance, assisted by the following issues and conclusions, will be taken into account in the review of the Mission OPLAN, to take place during the first months of operation of the continued Mission.

This paper reflects a summary of the perceptions of and experiences obtained by the Mission at the end of three years of operation, including the planning and transition process to a continued Mission. The goal of the paper is to provide an overview of the main issues identified, critically assess them and consider possible remedies within an amended OPLAN and, where appropriate, highlight them for the benefit of future ESDP Missions. It is divided into four sections:

1. Conceptual challenges;
2. Implementation;
3. Extension and transition arrangements;
4. Co-ordination aspects.
5. Administrative and logistical matters

Recommendations for the continued Mission will conclude each of the five sections.

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1. Conceptual challenges

EUPM's mandate stipulated that the Mission should aim “*to establish sustainable policing arrangements under BiH ownership in accordance with best European and international practice, and thereby raising current BiH police standards*”. Early on in the Mission, two main difficulties were identified:

- The police structures in BiH range from de-centralised and fragmented to highly centralised and bureaucratic, requiring the consent of ministries and higher officials for decisions. The practical implementation of programmes and projects to support this aim necessitated a complex decision making process of BiH police officials from the entities, Brcko District and State-level agencies, through a Police Steering Board (PSB). The PSB theoretically allowed for local ownership; however the process was managed in practical terms by the EUPM, as BiH police services were not in a position to set the agenda.
- Political interference in policing in BiH manifested itself in the implementation of projects.
- Assistance to the BiH police needs to be seen in the context of other ongoing assistance programmes (notably in the Rule of Law and security sector reform areas), and as part of an EU comprehensive approach. An integrated approach, working closely with other IC partners, is necessary e.g. to tackle political interference and address problems whose solution go beyond police technical competencies.

Recommendation - *In seeking to address issues of fragmented and inflexible police decision-making structures and police management, hampered by political interference in decision making, it is recommended that emphasis be placed on BiH police reform and on inspections of local police, under the direction of the the EUSR.*

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Closer EU co-ordination should also build on the Comprehensive Policy for Bosnia and Herzegovina, adopted by the European Council in June 2004, which calls for functions carried out by more than one actor in Bosnia and Herzegovina "to the extent possible [to] be pooled under the EUSR.."

Pooling of EUPM and EUSR core staff working on police restructuring and press and public information will enhance coherence and strengthen the chain of command, in addition to rationalising structures

The EUPM programmatic approach was a valuable tool in seeking to increase the capacity of BiH law enforcement agencies (LEAs) through the principle of local ownership. However, in concentrating on the monitoring and mentoring function (of projects), EUPM at a local level became detached from operational policing by local LEAs and had difficulties in sufficiently monitoring the applied, practical use by local police of the tools and structures put in place through projects. It therefore became complicated to truly determine the effectiveness of local police capabilities, particularly in areas such as serious, major and organised crime, since EUPM experienced difficulties in pushing the development of the local police at a practical level.

Recommendation – *That the EUPM mandate increase its monitoring of local police operational activity, supported through increased use of inspections, to assess the practical development of LEAs.*

That local ownership of projects, in conjunction with Memoranda of Commitment, be used to continue the capacity building approach, continuously monitored from a capability building perspective by EUPM.

That - towards this end - the EUPM's monthly assessment reports include a section on challenges identified, allowing for frank and timely assessment of problems arising during the course of implementation.

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2. Implementation

The aims and objectives of EUPM were progressed via its programmatic approach, with international personnel working alongside local police officers to monitor and mentor the implementation of those locally owned projects. Although this approach was key in developing a structured mechanism for capacity building, experience suggests the following areas for improvement:

- Projects were devised in accordance with identified good practice from among EU expertise. However, issues pertinent to each individual location were not always factored into the preparation and thus occasionally underestimating social, economic and demographic variances. In particular, the aim of standardising police procedures and practices against a backdrop of fragmented policing structures proved problematic. Localised legislative and procedural frameworks further complicated matters. The problem was identified within the Mission and as a result localised Project Implementation Plans were required for all locations. Practical implementation was complicated, however, since projects were by then at an advanced stage.
- The BiH LEAs did not assign officials full time to oversee project implementation; this being an additional task for officers. This approach, together with the general lack of specialized personnel in different areas of expertise, encumbered project implementation. The issue was aggravated by a shortage of suitably experienced and trained international personnel in EUPM co-locations to monitor and mentor local officials in the programmatic approach.
- There were identified inconsistencies across the various locations in terms of the efforts in local implementation and the seriousness with which programmes were treated. The Mission had no effective independent recourse to sanctions in cases of non-cooperation. The possibility to draw upon the High Representative's January 2003 Decision on Police Disciplinary Proceedings - designed specifically to support the EUPM in dealing with obstruction and police misconduct - was never used.

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- There were a large number of projects introduced. As a result, local officers and EUPM were often faced with trying to implement basic level and highly advanced projects at the same times, without guidance on the order of priority. A phased approach might have helped introduce clarity.

Recommendations – *That, in future programmatic missions, local LEAs be fully educated in the proposed programme approach at the outset and police officials pushed to identify responsible dedicated personnel to oversee local implementation.*

That local circumstance be applied to project development to be factored in at the outset. In particular, resource and finance availability must be considered.

That project implementation be prioritised to avoid overload for local officials and to ensure that projects are introduced at appropriate times.

That consistency in policing performance and approach be addressed by way of emphasis on the police reform process and on close inspections of the local police.

That Mission personnel be suitably experienced, qualified and skilled to address the particular objectives of the mandate, with contributing states provided with sufficient information to enable the proper selection of personnel.

That Mission personnel be adequately informed and trained within the Mission, on arrival and on an ongoing basis, to allow them to contribute effectively to the achievement of the mandated objectives.

Through greater use of the Inspection element of the mandate, EUPM should encourage local police in matters of capability building and professional standards and be in a position to deal with non-compliance in conjunction with the Chain of Command.

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The BiH experience shows the need for international support to the whole rule of law system both through support to ongoing judicial reform efforts and to major criminal investigations. The OHR/EUSR's rule of law department and, in due course, the EUSR's Judicial Advisory Unit has the leading role in co-ordinating this support. The link between police and prosecutors is critical in any country; BiH faces a particular challenge because it has recently introduced both a new Criminal Code and a new Criminal Procedure Code.

Recommendations – *Under the co-ordination of the OHR/EUSR, EUPM will provide the maximum support to major criminal investigations by working from the police side to develop intense co-operation and co-ordination between local police and prosecutors. In order to do this, the follow-on mission to EUPM has been designed to include a Criminal Justice Interface, for the duration of the mission, to facilitate relations between police and prosecutors in close co-ordination with the HR/EUSR's team.*

Careful consideration should be given to the possibility to support EU police missions, by a rule of law mission, or a rule of law component within the police mission to work on the police/criminal justice system interface. Any measure taken by the EU, should obviously carefully take into account ongoing efforts by the IC.

Challenging communication within the Mission manifested itself in a number of ways. Project implementation reporting (computerised benchmarking) was relatively slow and time-consuming, with information being available for analysis and onward reporting over a month out of date.

Internal communication tended to be limited, leading to various, sometimes duplicated, chains of reporting and a lack of sufficient awareness of Mission objectives, its mandate and its progress.

Recommendations – *That clear and short communication and reporting structures be implemented to ensure that information is received at Headquarters for distribution and attention in a timely, efficient manner.*

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That communication from Headquarters to all Mission locations be facilitated to ensure understanding of the mandate and objectives, of the role of personnel in that mandate and ongoing Mission progress.

3. Extension and transition arrangements

The new requirements of EUPM, when compared with the functions and workings of IPTF, represented a significant change in approach. Personnel with specific skills and abilities, rather than generalists, were needed from the contributing states. If the Mission is to employ the appropriate personnel in the right positions to progress its mandate, job descriptions should be prepared and sent to contributing states at a very early stage.

Recommendation – *That detailed role specifications be devised for distribution to contributing states in order to facilitate the selection of appropriately skilled personnel.*

Consistency in personnel is of great benefit in achieving the longer term goals of the Mission. Police restructuring and reform are deeply political processes. Frequent personnel rotations without sufficient provision for hand-overs caused time and momentum to be lost needlessly on key reform projects.

This was compounded by a lack of coordinated, updated and ongoing training and Mission communication, with new arrivals given limited training on the Mission and little further information at a later stage.

A third facet of this issue is that of a Mission institutional history. Fragmented reporting structures, complex chains of command and a lack of internal monitoring meant that historical records were limited. This lack of institutional memory became apparent as staff rotated, when knowledge was often lost to the Mission, in some cases irreparably.

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Recommendations – *The minimum tour of officers should be at least one year. Joint training, including by Member States, before deployment may be considered.*

Planning for early calls for contribution allowing a handover period between departing and arriving personnel, in conjunction with improved Mission training might prove to be helpful.

In streamlining reporting structures and improving internal communication, it must be ensured that institutional memory is retained to avoid situations of knowledge being lost.

Following the approval of the Concept of Operations for the European Union Police Mission (EUPM) from January 2006 onwards, the Council Secretariat, in close cooperation with EUPM, had undertaken important steps to ensure the staffing of EUPM through seconded national experts with as much continuity as possible. It was crucial to ensure that the necessary operational capability would be in place on 1 January 2006. A Joint Task Force of the Secretariat and the EUPM Personnel Team worked on a phasing-out plan for the period of the rest of the current EUPM mandate (31 December 2005) aiming at keeping selected current EUPM police personnel in the Mission under its new mandate until April/May 2006.

The extension request was a central element of the transition personnel package, Contributing States responded positively in this regard.

However, the request for extensions and the two successive calls for contributions being issued in the first quarter of the refocused Mission obviously had an impact on the capacity of the Mission to be fully operational by the beginning of 2006.

Recommendation – *An early planning process is crucial, including the timely identification of a core team, working in close cooperation with all respective players in Brussels and in theatre, as the first period of operations came to a close.*

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4. Co-ordination aspects.

Two main institution building issues; training and donations, should have been co-ordinated in a more coherent and centralized manner, instead of relying on ad hoc arrangements. In order to consolidate the progress of LEAs and further develop them, there is a requirement to coordinate more closely with international community bodies. This was begun to some extent in the third year of EUPM, through the Donor Coordination Cell and this process should be strengthened.

Recommendation – *Donations and training be systematically coordinated, including with Member States, in close cooperation with partner agencies, via the Donor Co-ordination Cell.*

There was a general lack in certain areas of coordination between EUPM, in its programmatic approach, and other international agencies with corresponding interests. The opportunities to work in partnership to provide a holistic approach to issues such as human trafficking were not exploited to the fullest extent.

Recommendation – *That closer integration and partnership approaches, including with Member States and their LNOs, should be adopted*

The police restructuring process in BiH impacted considerably on the Mission's activities, since it was fundamental to progress in all other areas. Involvement in the process must be crucial to any new OPLAN.

The approach adopted by EUPM in setting up a dedicated working group which worked closely with the EUSR/HR in furthering the police reform process was a key development and should be continued.

The 7 Key Principles developed to address the fight against organised crime in the latter stages of EUPM represent a valuable tool in coordinating the joint efforts and sharing of information between the local police and EUFOR. The efforts of EUPM in future should take this tool and actively develop its coordination and liaison roles in order to be a key player in the fight against such criminality, under the direction of the EUSR. This would be in conjunction with a more

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operationally-focused mandate in which the activities of LEAs are more closely and actively scrutinised by international professionals.

Recommendation – *That the new mandate emphasises the fight against organised crime as a key area of activity, under the general direction of the EUSR, utilising the Mission’s coordination and liaison roles to develop effective joint operational activity between international/EU military and police instruments of crisis management.*

The primacy and leadership role of police missions in the ESDP efforts to support local police in the fight against organised crime should be clearly established from the start of all respective missions.

5. Administrative and logistics matters

The budgetary implementation mechanism of the Mission is based on the principle that most of the decisions adopted by the HoM having financial implications (launch of tender files, award of contracts,) are controlled ex-ante by the Commission. This is time-consuming for both the Mission and the controllers. This circumstance, together with the fact that no deadlines are given to answer these requests of approval submitted by the Mission can result into operational needs of the Mission are not met in time. Neither appeal mechanisms (other than the European Court of Justice) nor silence procedures are applicable to these cases.

Recommendation - *The HoM is awarded a budget to carry out his mission and employs procurement specialists to carry out this function. Control of whether the Mission correctly follows procedures might better be performed during the independent external audit. It may be considered appropriate for the Mission to be classed in the “Ex-post” category when approaching its procurement needs.*

The tender procedures the Mission has to apply are formally complex and administratively demanding for the suppliers. The local market in Bosnia-Herzegovina is neither sophisticated nor broad enough to grant a formally-acceptable level of answer to these tenders, especially when delays to submit offers are short. Due to these reasons, the Mission has been obliged to declare

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unsuccessful a certain number of tenders, and to re-launch them. This has led to delays in covering some Mission's needs.

Recommendation - *The specific obligations of the mission in terms of procurement rules should be assessed realistically in line with the condition of the local market.*

The issue of the final destiny of surplus items from the first three years of operations should have been more in line with the Concept paper on procedures for the termination, extension and refocusing of an EU civilian crisis management operation (doc. 5136/06).

Recommendation - *The Commission and the Secretariat should develop greater consistency and cohesion in matters related to procedures for the termination, extension and refocusing of Missions.*

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