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INTERNAL-EXTERNAL SECURITY POLICY COORDINATION

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Internal-external security policy coordination in the European Union

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'. . . *For a prince should have two fears: one* within, *on account of his subjects; the other* outside, *on account of external powers. From the latter one is defended with good arms and good friends; and if one has good arms, one will always have good friends. And things inside will always remain steady, if things outside are steady, unless indeed they are disturbed by a conspiracy, and even if things outside are in motion, provided he has ordered and lived as I said, as long as he does not forsake himself he will always withstand every thrust . . .'*

Niccolò Machiavelli, *The Prince*, XIX-2

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CONTENTS

FOREWORD

The terrorist attacks of 11 September against the United States have destroyed lives, troubled consciences and upset economies, but they have also struck a blow against our conceptual frameworks and our capacity to understand the world we live in.

In the political field, the traditional distinction between the internal and the external spheres – and particularly between internal and external security – which was for long under discussion, has perhaps been the first victim. In the new international context that is emerging after the terrorist acts in New York and Washington, security policies will have to be conceived, elaborated and analysed largely as a continuum, stretching from ground level to macro-strategic balances. The already recognisable trend towards deeper and more systematic internal-external security policy coordination will be dramatically accelerated and strengthened.

Some important signs of such strenghtening and acceleration are already evident, such as the creation of the Office of Homeland Security, announced by President Bush in his speech to the Joint Session of Congress on 20 September, or as the inter-pillar Action Plan adopted by the European Council on 21 September. But a more radical restructuring of the map of power and institutional competences is likely to take place at the global level.

This paper was written before the terrorist attacks and reflects the situation prior to that tragic turning point. Nevertheless, it shows trends and identifies problems which are also likely to characterise – probably in an even stronger form – the future stages in European security policy coordination.

SUMMARY

The blurring of the distinction between internal and external security, and the connected impulse towards better coordination between the correspondent policy fields, are among the fundamental structural changes in international relations that have occurred during the last decades. Such overall trends were accentuated and made particularly evident in Western Europe by progress in supranational integration. The gradual emergence of the EU as an area of freedom of circulation has fostered a common perception of internal security priorities and the intensification of technical and political cooperation in this area. In Western Europe, more than elsewhere, the 'external' (extra-EU) dimension of 'internal security threats' has been increasingly emphasised. Nevertheless, until very recently, surprisingly little attention has been given in the EU to the issue of internal-external security policy coordination. This paper analyses it from two distinct points of view. First [Ch. 2], the institutional dimension is tackled through an overview of the ongoing coordination efforts and the main shortcomings at the different levels of the EU decision-making structure. Subsequently [Ch. 3], the political dimension of internal-external security coordination is considered, mainly through the juxtaposition of the different approaches to European security which tend to prevail in the internal security policy community, on the one side, and in the 'external relations' community on the other. Such dualism is illustrated with particular reference to such a crucial test-case as border management in the framework of the enlargement process. Finally [Ch. 4], the prospects for the development of a 'holistic' approach to European security are briefly analysed.

CHAPTER ONE: THE EMERGENCE OF THE PROBLEM OF INTERNAL-EXTERNAL SECURITY POLICY COORDINATION IN THE EU

In Machiavelli's vision, internal and external threats to the power embodied by the Prince were clearly distinct. Internally, the ruler should fear conspiracy; externally, he should dread aggression by foreign powers. The Florentine also acknowledged interdependencies between these two fundamental categories of political risks: as a matter of fact, external peace would foster internal stability, and vice versa. But policy-making in the two fields was based on different sets of tools and responded to (at least partly) different logics.

In the following centuries, in all Western Europe, such relative autonomy of internal and external security policies was even strengthened by the development of the nation-state and the increasing specialisation of administrative bodies and public security agencies (national polices, on the one side, national armies, on the other).[1]

Recent trends towards an ever stronger internationalisation of economic and social processes have blurred the traditional distinction between internal and external security (and related policy fields) worldwide.[2] In Western Europe, however, and especially in the last twenty years, the conceptual convergence of the two faces of security has perhaps been more evident than elsewhere.

As a matter of fact, since the late 1970s, Western Europe has experienced a major transformation in the notion and perception of security as a political value and policy goal. In connection with the progress in European integration and the gradual dissolution of the 'existential' external threat represented by the Communist bloc, two parallel processes of a) 'Europeanisation' and b) 'externalisation' of what were traditionally labelled as national/internal 'threats' (or 'internal security' issues) have taken place.

a) *Europeanisation.* During the 1980s, the Schengen agreement (signed in 1985 and followed in 1990 by the much more influential 'implementation convention') and the Single European Act (1986) each pushed forward the transformation of the European Community into a unified space in which freedom of circulation is the rule and restrictions to it are the exception.

This unification of the European space was presented in the dominant political discourse as a major positive achievement, which had nevertheless some negative implications. Lifting controls and restrictions to intra-European circulation of capital, goods and persons would create – it was said – new opportunities for crime and other forms of illegal activities. Internal

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[1] On these developments, see for instance, D.H. Bayley, *The Police and Political Development in Europe*, in C. Tilly (ed.), 'The Formation of National States in Europe', Princeton University Press, Princeton (N.J.), 1975.

[2] For a literature review on the relations between globalisation processes and security, and on the emergence of what the author calls 'intermestic security' (to designate policies aimed at dealing with non-military 'threats' which are neither exclusively domestic nor purely international in nature) see V.D. Cha, *Globalization and the Study of International Security*, Journal of Peace Research, Vol. 37, No. 3, May 2000, p. 391 ff.. For a useful 'guide' to the rather confuse and moving landscape of the 'non-traditional literature' in the field of security studies, see S. Smith, *The Increasing Insecurity of Security Studies: Conceptualizing Security in the Last Twenty Years*, in S. Croft and T. Terriff (eds.), 'Critical Reflections on Security and Change', special issue of *Contemporary Security Policy*, Vol. 20, No 3, December 1999, p. 72 ff.. Another overview is provided by T. Terriff, S. Croft, L. James and P.M. Morgan, *Security Studies Today*, Polity Press, Cambridge, 1999.

security risks, which until then had been apprehended and tackled at the national level, within the reassuring enceinte of state borders, now needed to be redefined and countered at the European level. With a somewhat puzzling linguistic twist, internal security was now defined and treated as a European matter.

b) *Externalisation.* In the meantime, through a series of distinct but connected cultural processes, all the main traditional 'internal threats' were re-conceptualised, and the external (extra-European) origin or dimension of each of them was greatly emphasised, both in qualitative and in quantitative terms. The main aspects of that process of *externalisation of internal security* can be summarised as follows:

in spite of the persistence of various forms of terrorism in several European countries, the non-European, transnational components of political terrorism have gained greater relevance in public opinion and political discourse;
international migration, within which the irregular/undocumented/illegal component has become progressively more important, has started to be perceived and treated as a security threat;[3]
globalisation and the collapse of law enforcement systems in the former Communist countries have boosted the internationalisation of criminal organisations. However, the relative importance of the transnational component in organised crime (and of the 'imported' component of 'petty' crime) has been largely overestimated and overemphasised, due to a complex set of political reasons.

The Europeanisation and the externalisation of internal security have had a revolutionary impact on structures, methods and contents of the policy-making process in the field of justice and home affairs.

Europeanisation of the (perceived) threats has been the central incentive (and crucial legitimising argument) to reinforce and institutionalise existing European cooperation in that field. This was done in several stages and at different levels: first in the Schengen framework, then under the third pillar of the EU, and finally in the inter-pillar context of the 'area of freedom, security and justice' outlined in Amsterdam.

But beyond the reinforcement of intra-European cooperation, the externalisation of internal security issues has created an opportunity for national law enforcement agencies, whose activities were traditionally concentrated within national borders, to project a growing share of their institutional and operational efforts into the international arena.

The external projection of *internal* security agencies has generated an increasing overlap, and occasionally open competition, with the policy communities and public agencies traditionally invested with the task of ensuring *external* security.[4]

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[3] On this crucial development, see, for instance: O. Weaver, B. Buzan, M. Keistrup, P. Lemaitre, *Identity, Migration and the New Security Agenda in Europe*, Pinter, London, 1993; J. Huysmans, *Migrants as a Security Problem: Dangers of 'Securitizing' Societal Issues*, in R. Miles, D. Tränhardt (eds.), 'Migration and European Integration: the Dynamics of Inclusion and Exclusion', Pinter, London, 1995; D. Bigo, *L'immigration à la croisée des chemins sécuritaires*, in 'Revue Européenne des Migrations Internationales', 1998 (14) 1, p. 25 ff.; A. Ceyhan, *Migrants as a Threat: a Comparative Analysis of Securitarian Discourse: France and the United States*, in V. Gray (ed.),' 'A European Dilemma. Immigration, Citizenship and Identity in Western Europe', Bergham Books, Oxford, 1999.

[4] On the conceptual, political and operational convergence of internal and external security in Europe, since the late 70s, see D. Bigo, *When Two Become One. Internal and External Securitisations in Europe*, in M.

In the national context, such potential for overlap, competition and/or conflict has been apparent for years. At the European level, although the 'internal security' pillar was officially created almost a decade ago, open reflection on these issues started only very recently, triggered by the major developments that concerned both 'second pillar' and 'third pillar' institutional structures and policies since the entry into force of the Treaty of Amsterdam.

So, despite the fact that 'the idea of a link between internal and external security is a logical consequence of the process of European integration',[5] only very recently did the European Heads of State and Government recognise explicitly – in that groundbreaking document which the Tampere Conclusions constitute – that internal and external security policies need to be coordinated:

'The European Council underlines that all competences and instruments at the disposal of the Union, and in particular in external relations, must be used in an integrated and consistent way to build the area of freedom, security and justice. Justice and Home Affairs concerns must be integrated in the definition and implementation of other union policies and activities'.[6]

But, as these lines suggest, internal-external security policy coordination is and must be of a complex nature and needs to operate in two directions. On the one hand, external security policy tools should be used in a way which is compatible, or even better synergetic, with internal security policy objectives. On the other hand, internal security policies should contribute to the general political objectives of the Union's external policy:

'JHA is essential given the worldwide challenges facing the Union, such as restoring the rule of law, controlling migratory movements and combating organised crime. Above and beyond the strategic importance of a particular country, a global approach is required.'[7]

The Prince's two arms are now working simultaneously, across borders, in an increasingly integrated reality: they should act in a coordinated and harmonious way, not only without being of mutual hindrance, but also being of mutual help.

Kelstrup and M.C. Williams, 'International Relations Theory and the Politics of European Integration. Power, Security and Community', Routledge, London-New York, 2000, p. 171 ff.

[5] A. Politi, *European Security: the New Transnational Risks*, Chaillot Papers, n. 29, October 1997, Institute for Security Studies, Western European Union, Paris, 1997, p. 10.

[6] Tampere European Council (15-16 October 1999), *Presidency Conclusions*, point 59.

[7] Council of the European union, *European Union priorities and policy objectives for external relations in the field of justice and home affairs*, doc. 7653/00 JAI 35, Brussels, 6 June 2000, p. 6.

CHAPTER TWO: THE INSTITUTIONAL DIMENSION OF INTERNAL-EXTERNAL SECURITY POLICY COORDINATION – THE NEED FOR MULTILAYER 'CROSS-PILLARISATION'

The problem of internal-external security policy coordination in the EU has two distinct but closely connected dimensions: institutional/procedural and political/substantive.[8] At the first level (dealt with in this paragraph), the key question is about the most efficient and transparent methods to avoid overlapping, competition and contradiction between pillars, and ultimately about the *raison d'être*, in the long run, of the 'pillar system' itself.

At the substantive level (which will be the object of the next chapter), the fundamental issue is represented by the coexistence, within the EU's increasingly complex external relations system, of different and sometimes contradictory 'security cultures' and 'security models'. The key question, in that case, will be about the concrete possibility of developing more comprehensive security strategies and progressing towards an effective and sustainable 'holistic approach' to European security.

The 'pillar system' built in Maastricht very soon became the target of academic criticism for its constitutional ambiguity and its inherent potential for inter-institutional conflict and policy inconsistencies. The structural need for some form of inter-pillar (or cross-pillar) coordination soon emerged:

'. . . the pillar construction was first and foremost characterised by competing policy methods, introducing new asymmetries, inter-institutional tensions and risks of fragmentation. It also introduced problems of delineations and interfaces between pillars, in other words, "inter-pillarisation" issues . . . Inter-pillarisation is and will remain a sensitive issue because the pillar system is the result of an ambiguous compromise between two visions of European integration which are antithetical over the long term: on one side, a process of polity-building around a supranational Community; on the other side, a battle to maintain or renovate national units through the constitution of a Europe of the States.'[9]

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[8] Similar issues are hotly debated in the United States where, in comparison with Europe, the implications for civil liberties of the deepening relations between internal security ('law and order') and external security ('national security') agencies seem to be a matter of greater scholarly attention and political concern:
'Transnational threats are major security threats for the 21st century. They are characterized by their global nature, which means, by definition, that these threats straddle both the domestic and foreign spheres. Whereas responsibility for U.S. national security threats in the past clearly belonged to the military and responsibility for domestic security belonged to law enforcement, these clear-cut divisions no longer exist. This poses some profound constitutional and security challenges. On the one hand, institutions that have developed separately must now learn to work together and to blend their strategies in order to ensure our nation's security. On the other hand, the division of military and law enforcement function is closely linked to the preservation of our liberties, and the task of merging them is fraught with hazards. In the very act of preserving our security, we run the risk of forfeiting some of our liberties. Blending law enforcement and the military is thus a vital but dangerous balancing act' (C.W. Pumphrey, *Introduction*, in C.W. Pumphrey (ed.), 'Transnational Threats: Blending Law Enforcement and Military Strategies', Strategic Studies Institute, U.S. Army War College, Carlisle (PA), November 2000, pp. 1-2).

[9] E. Philippart, *Deconstruction and reconstruction of EU pillars: the Euro-Mediterranean Partnership and the Middle East Peace Process*, Paper presented at the Third Pan-European International Relations Conference ECPR-ISA (Vienna, 16-19 September 1998), pp. 2-3.

But, as was recently recognised by the Council itself, the advances in integration in both the second and the third pillars (with its splitting and partial 'communitarisation') which followed Amsterdam have made risks of fragmentation all the more concrete and, correspondingly, the need for cross-pillar coordination all the more urgent:

'. . . continued diversification of the Council's activities, including the establishment of military and civilian crisis management structures and implementation of an ambitious programme of work agreed at Tampere to create an area of freedom, security and justice, confirm the tendency towards increased segmentation of work with the attendant risk of contradiction, incoherence and inefficiency.'[10]

The problem of internal-external security policy coordination at the EU level is currently being dealt with separately in different policy frameworks, corresponding to two broad categories of policy situations which are kept quite distinct in the current debate on EU external action. I refer to *crisis management* as opposed to *'everyday' policy-making*.[11]

The issue of civil-military coordination in a crisis management framework has already been widely debated in academic and political circles. At the EU level, it can be noted that Art. 25 TEU (as modified by the Nice Treaty[12]) and subsequent policy documents recognise clearly the coordinating power of second-pillar bodies, namely of the Political and Security Committee (PSC), including over the civilian components of future EU Petersberg missions:

'Close civil-military co-ordination will be ensured, as appropriate, through the relevant EU crisis management structures and procedures, in particular the PSC. The Commission will be fully associated with this work.'[13]

At the more operational level, cross-pillar cooperation for the purposes of crisis management is already under way. Beginning with the French presidency, the third pillar's Working Group on Police Cooperation has been deeply involved in setting the criteria for the selection,

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[10] *Preparing the Council for enlargement*, Report from the Secretary-General/High Representative to the European Council, doc. 9518/01, document attached to the Presidency Conclusions of the Göteborg European Council (15-16 June 2001), point 5.

[11] It could be asked whether, beside these two fundamentally distinct modes of external action (crisis management and 'everyday' policy-making), a third mode is represented by *conflict prevention* as such. The Commission's approach, as exposed in the 'Communication on Conflict Prevention' [COM(2001) 211 final, 11 April 2001], is based on a distinction between 'long-term' and 'short-term' conflict prevention. Whereas the first concept is extremely broad and comprehensive, and in the case of many among the most unstable non-EU countries it would seem to cover most of current EU's external action, the notion of short-term prevention seems to flow together in that of crisis management as developed in the ongoing debate on the future of ESDP. The view of the Council, as expressed in the 'European Union Programme for the Prevention of Violent Conflicts' (Council doc. 9537/1/01 REV 1, annex to the Göteborg European Council Presidency Conclusions), seems to formalise more the notion of conflict prevention (particularly when talking of 'conflict prevention strategies': point 8), which would allow to construe it as a *tertium genus* in EU modes of external action, between crisis management and 'everyday' policy-making. However, the whole debate on these issues at the EU level is maybe still too magmatic to allow, or even to justify, such analytical efforts.

[12] According to the new art. 25 TEU, the Political and Security Committee 'shall exercise, under the responsibility of the Council, political control and strategic direction of crisis management operations'.

[13] *Police Action Plan*, Annex to the Presidency Report to the Göteborg European Council on European Security and Defence Policy, document attached to the Presidency Conclusions of the Göteborg European Council (15-16 June 2001), Point III.9. In another annex to the Göteborg Report, it is also recognised that 'The PSC plays a major role in enhancing consultations with third states also in the context of police' [*Contributions of non-EU States to EU police missions in civilian crisis management*, Annex to the Presidency Report to the Göteborg European Council on European Security and Defence Policy, document attached to the Presidency Conclusions of the Göteborg European Council (15-16 June 2001), point 7].

training and equipping of the 5,000 (or more) police officers that will form the law enforcement 'arm' of the future EU crisis management apparatus.[14] Some interesting, although still rather general, suggestions for civil-military coordination in EU crisis management are also contained in the document on EU Exercise Policy annexed to the Göteborg Conclusions,[15] where it is stated that:

'Ensuring . . . the effective co-ordination between civil and military instruments is one the main objectives in testing crisis management procedures so that they can be adapted in the light of experience' (point 4).

Developing cross-pillar coordination in crisis management contexts is certainly a crucial and delicate matter, on which expertise is lacking and research is still at an early stage, struggling against solid (inter)disciplinary barriers. But this will not be the topic of the next pages: in this paper I will focus rather on the wider issue of internal-external security policy coordination in 'everyday' policy-making.

In spite of its systemic relevance for the functioning of the EU as a whole, the issue of cross-pillar coordination in the security field has been largely neglected by academic research so far.[16] My overview of the main open questions and recognisable trends in cross-pillar security policy coordination will be centred on the intergovernmental decision-making 'chain' (stretching down from the European Council to the Council committees and working groups), which is still the backbone of the policy-making process in the field of security, in both the second and the third pillars. This does not mean that other EU institutions, namely the Parliament and the Commission, are not confronted with security policy coordination challenges. However, these are less tangled and – for the time being – less politically relevant than those which have to be met in the institutional enceinte of the Council.

The Tampere extraordinary European Council, held under the Finnish presidency in October 1999 and devoted entirely to the development of an 'area of freedom, security and justice' (AFSJ) in the EU, represented in itself the highest possible recognition that, along with steady and strong political backing, such an ambitious enterprise needs an equally strong dose of coherence and consistency, both inside the JHA field and in its relations with other EU policy areas. The comprehensive and innovative output of the Tampere summit, associated with the very proactive attitude and the planning capabilities shown ever since by the Commissioner in charge, were an important factor in ensuring a certain degree of internal coherence in JHA policies over the past two years. But the steering function assumed by the European Council was perhaps less successful in raising the level of cross-pillar security policy coordination during the same phase. This could be a privileged task for the Laeken European Council, which will be partly devoted to a mid-term assessment[17] of the progress made in the establishment of an AFSJ in the EU.

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[14] A first achievement is represented by the document on 'EU selection criteria for police officers, their equipment, and requirements for their training in the context of civilian crisis management', 5038/3/01 ENFOPOL 1 REV 3 COR 1, 2, 7 May 2001.

[15] The document was first approved by the Council on 14 May 2001.

[16] Even the essays recently collected in A. Missiroli (ed.), *Coherence for European Security Policy: Debates-Cases-Assessments*, Occasional Paper n. 27, Institute for Security Studies, Western European Union, Paris, May 2001, focus mostly, although not exclusively, on different forms of inter-institutional coordination in a crisis framework.

[17] The Laeken European Council will take place halfway between the entry into force of the Amsterdam treaty (1 May 1999) and the target date for the partial 'communitarisation' (see Title IV EC Treaty) of the old, wide-encompassing third pillar, set in 2004.

However, the European Council – given the growing concern that 'it is not overloaded with matters which should be dealt with by the Council as a matter of routine, and that it is in a position to fulfil its proper leadership role by providing the necessary impetus for the development of the Union and defining general political guidelines'[18] – surely cannot be the sole body responsible for internal-external security policy coordination. An upgrading of the capacity of the Council itself to ensure the consistency and coherence of its own activities in the security field is unquestionably needed.[19] Reflection on how to attain such a goal has until now developed at three different levels: a) institutional arrangements concerning the functioning of the Council itself as a decision-making body; b) institutional arrangements concerning the bureaucratic pyramid below the Council (COREPER, Committees, Working Groups, Working Parties); c) arrangements taking place at the operational level.

The chameleon-like nature of the Council, a unique and unitary body with a lot of different and interchangeable souls, is one of the trickiest issues in the current debate on the future stage(s) of institutional reform. But, while waiting for deeper and more radical changes, several adjustments are being tested in order to lower the risk of dispersion and contradiction in the present working of the EU's main legislative body. In the first place, following a recommendation by the Helsinki European Council, an attempt was made to revitalise the General Affairs Council's coordinating role by dividing systematically its agenda into two parts: external relations and horizontal questions including overall policy coordination. But, as the Secretary General/High Representative has recently observed,

'. . . these changes are of a more formal and procedural rather than operational nature, and appear to have only marginally strengthened the authority and impact of the General Affairs Council on horizontal matters.'[20]

Secondly, in a simultaneous and complementary way to the reduction of the number of Council formations (to sixteen), 'back-to-back' arrangements[21] were encouraged, in order to foster coherence in the internal working of the Council. Besides, other procedural solutions were experimented, such as the holding of joint sessions of different Council formations (of particular interest is the 'jumbo' ECOFIN-JHA Council held in Luxembourg on 17 October 2000, which focused quite effectively on the fight against financial crime and money-laundering)[22] and the attendance at General Affairs Council meetings of defence ministers when ESDP issues are on the agenda. For the specific purposes of internal/external security policy coordination, it would probably be useful to test this latter solution (in particular cases

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[18] *Preparing the Council for enlargement*, Report from the Secretary-General/High Representative to the European Council, doc. 9518/01, document attached to the Presidency Conclusions of the Göteborg European Council (15-16 June 2001), point 7.

[19] For a genealogy of the notions of consistency and of coherence applied to the European Security policy, see A. Missiroli, *Introduction*, in A. Missiroli (ed.), 'Coherence for European Security Policy: Debates-Cases-Assessments', Occasional Paper n. 27, Institute for Security Studies, Western European Union, Paris, May 2001, p. 4 ff.

[20] *Preparing the Council for enlargement*, Report from the Secretary-General/High Representative to the European Council, doc. 9518/01, document attached to the Presidency Conclusions of the Göteborg European Council (15-16 June 2001), part II, point 10.

[21] In the Eurocratic jargon, the expression designates the practice to convene two Council formations dealing with related topics one immediately after the other.

[22] Such procedural arrangement have been ruled out ('save in exceptional circumstances') by the Helsinki European Council of December 1999 (see Annex III to the Conclusions, *An Effective Council for an Enlarged Union. Guidelines for Reform and Operational Recommendations*, item 13).

and with a well-defined agenda) through the participation of JHA ministers at the GA Council.[23]

After Amsterdam, the incorporation of the Schengen *acquis* in the EU and the reform of the third pillar (with its partial 'communitarisation') required a radical reshuffling of the working structure of the Council in the field of JHA. The resulting architecture is complex and it has not been tested enough to allow an overall assessment.[24] What can be said, however, is that justice and interior ministries have largely preserved their traditional predominance in the face of attempts to reinforce the coordinating role of COREPER over the JHA galaxy, which is now spreading across the first (Title IV EC) and third pillars:

'The discussion over the post-Amsterdam JHA structure of the Council provided an opportunity for an initial skirmish over how the Council's powers would be exercised in practice. As regards Title IV EC, the biggest winners are justice ministries, who have carved out separate powers by means of a special committee [the Committee on Civil Law Matters] which need only report to COREPER, not interior ministries. The interior ministries have successfully defended their turf from foreign ministries by ensuring that Title IV matters are coordinated by the new SCIFA [the Strategic Committee on Immigration, Frontiers and Asylum], not COREPER.'[25]

Nevertheless, the issue of cross-pillar coordination at the preliminary stages of the Council's decision-making is still open, particularly as far as coherence between the second and third pillars is concerned. In dealing with the external dimension of the Union's work in the JHA field, the important Council document endorsed by the Feira European Council states:

'The role of COREPER is crucial in this respect since it is the only Committee in a position to assess the overall objectives of the Union's external policy. In order to ensure coherence, COREPER, where appropriate on the basis of the information provided by the Commission and the relevant working groups or Committees, including the senior level groups in the respective areas (CATS, SCIFA, Civil Law Committee), will on a regular basis assess and give guidance on the development of the external dimension of the Union's work in the JHA field . . . Assistance of the JHA/Relex Counsellors will be available to the COREPER.'[26]

From the evidence, the turf battles that are taking place at national level in all Member States (MS) over assuming and/or preserving guidance on the external dimension of internal affairs have now been transferred to Brussels.

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[23] The reflection at this level is still unfinished and quite open; further progress is expected probably at the Laeken European Council:
'The Secretary-General will present, preferably to the Laeken European Council, detailed suggestions for further action to ensure an effective Council, based on better preparation of Council meetings, effective coordination between different Council formations and more efficient working methods after enlargement so that the European Council can take the necessary decisions by June 2002' (*Presidency Conclusions*, Göteborg European Council, 15-16 June 2001, Point 17). Among the different possible solutions to ensure a better coordination between second and third pillar, a stream of thought inside the Council's bureaucracy is favourable to confer to the Secretary General/High Representative also a role as Mr. JHA, i.e. the capacity to represent and manage externally the Union's interests in the field of internal security.

[24] A useful graphic reconstruction of the whole bureaucratic pyramid is supplied by J. Monar, *Justice and Home Affairs*, Journal of Common Market Studies, Annual Review, vol. 38, September 2000, p. 137.

[25] S. Peers, *Justice and home affairs: decision-making after Amsterdam*, European Law Review, 25 (2000), n. 2 April, pp. 190-191.

[26] Council of the European union, *European Union priorities and policy objectives for external relations in the field of justice and home affairs*, doc. 7653/00 JAI 35, Brussels, 6 June 2000, p. 3.

To conclude on this point, it is interesting to note that – along with procedural solutions aimed at improving cross-pillar coherence from above (*top-down coordination*) – arrangements are being put in place in order to foster coherence from below, by means of interdisciplinary and 'inter-agency' dialogue at the early stages of the policy-making process (*bottom-up coordination*). This is happening especially through the incorporation of JHA expertise and priorities in the everyday activity of the working groups and other bodies dealing with external action[27] as well as through other interdisciplinary exercises – such as that conducted within the High Level Working Group (HLWG) on Asylum and Immigration created at the end of 1998.[28]

Finally, a few words should be said about the efforts at coordination made at the operational level. All bodies entrusted with operational missions are now increasingly being encouraged to take into account the inherently comprehensive (and consequently cross-pillar) nature of EU's external action while performing their specific duties. This, for example, was the appeal recently addressed by the Council to the network of MS and EU external representations:

'it is . . . desirable that Member States' diplomatic and consular missions and Commission delegations in third countries should be more aware of justice and home affairs issues and cooperate closely in affirming their external dimension.'[29]

On the one hand, therefore, EU bodies invested with responsibilities in the field of CFSP and external relations at large are urged to develop a deeper sensitivity to JHA issues. On the other, however, EU organs and offices entrusted with specific JHA executive tasks are also increasingly expected to take systematically into account the impact of their activities on the broader system of the Union's external relations. At this level, in fact, the interplay can be very significant – as shown, for instance, by the establishment of structured relations between Europol and several third parties,[30] or by the recent Council decision to create a 'network of national immigration liaison officers to help control illegal immigration through the Western Balkans region'.[31]

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[27] 'The mandate of geographical and thematic merged Working Parties of the Council extends, where appropriate, to the JHA dimension, receiving for that purpose substantive input from the existing structures, in particular formal JHA working groups' (Council of the European union, *European Union priorities and policy objectives for external relations in the field of justice and home affairs*, doc. 7653/00 JAI 35, Brussels, 6 June 2000, p. 3).

[28] On the HLWG, see F. Pastore, *Le rivoluzioni incompiute della politica migratoria europea*, in 'EuropaEurope', n. 6, 2000; see also J. Van Selm, *Comprehensive Immigration Policy as Foreign Policy?*, in S. Lavenex and E. Uçarer (eds.), 'Externalities of Integration: the Wider Impact of the Developing EU Migration Regime', Lexington Books, forthcoming. After two years of activity, the HLWG produced an assessment of its own work which was contained in a Report, first approved by the GAC on 4 December 2000 and later endorsed by the Nice European Council (7-9 December): see the annexes to the Presidency Conclusions.

[29] Council of the European Union, *European Union priorities and policy objectives for external relations in the field of justice and home affairs*, doc. 7653/00 JAI 35, Brussels, 6 June 2000, p. 11.

[30] During its session of 28-29 May 2001, the JHA Council reached political agreement on the signing of three cooperation agreements between Europol on the one hand, and Norway, Iceland and Interpol on the other.

[31] See the Council conclusions on 'Illegal migration flows through the Western Balkans region', adopted by the JHA Council, 28-29 May 2001.

CHAPTER THREE: THE POLITICAL DIMENSION OF INTERNAL-EXTERNAL SECURITY POLICY COORDINATION – THE TEST-CASE OF THE MANAGEMENT OF FUTURE EU EXTERNAL BORDERS

Just like other overarching political concepts (such as 'freedom' or 'equality'[32]), 'security' is an 'essentially contested concept'.[33] The variability of the concept is not just – as is obvious – a function of the political orientation of the subject. Notions of security are also deeply influenced by broader cultural attitudes, which are clearly very much affected by the socio-economic, and especially *professional* environment where the subject lives and works.

This seemingly redundant premise is aimed at formulating a central hypothesis: different policy communities have different security 'cultures' and tend to follow (more or less consciously) different security 'models' and security 'logics'. Such cultural polarisation is particularly apparent in the comparison between 'internal security' agencies (police, in the broad sense) and 'external security' ones (diplomats dealing with international security, on the one hand, and military experts and officers on the other – especially in the case of Western Europe during (at least) the last fifteen years).

Since the Copenhagen European Council of June 1993 the dominant European approach to external security has explicitly been an *inclusive* one, and with the signature of the Stability Pact for South-Eastern Europe this approach has been projected – ideally at least – to a pan-European scale.

But even before 1993 – indeed, we could say since the very foundation of the European Communities – a security culture based on integration as a method for 'structural' conflict prevention was strongly represented in Western Europe,[34] although powerfully complemented by the rather different vision embodied in the North Atlantic Alliance.

Since the mid-1980s, in conjunction with the two connected processes of Europeanisation and externalisation of internal security we have referred to (see ch. 1), a fundamentally *exclusive* and *defensive* approach to European internal security issues has instead become predominant. Such security *Weltanschauung* was embodied in a multiplicity of partly overlapping

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[32] In spite of the fundamental analogy, nobody would talk today of a 'freedom policy' or of an 'equality policy', as we talk of 'security policy'. And, similarly, no country in the world has a 'National Freedom Agency' or a 'State Equality Council', although institutional bodies specialised in (various aspects of) 'security' exist almost everywhere. Such paradox has probably to do with the fact that, unlike 'security', the non-sectorial nature of other fundamental political values and policy goals (such as 'freedom' and 'equality') is usually taken for granted. The historical and sociological reasons for this difference would be worth examining.

[33] B. Buzan, *Peoples, States and Fear. An Agenda for International Security Studies in the Post-Cold War Era*, Lynne Rienner, Boulder (Colo.), 1991, 2nd edn., p. 7.

[34] As constantly reminded in official documents, the European Communities themselves are a successful example of 'structural' conflict prevention by inclusive means: 'The international community has a political and moral responsibility to act to avoid the human suffering and the destruction of resources caused by violent conflicts. The European Union is a successful example of conflict prevention, based on democratic values and respect for human rights, justice and solidarity, economic prosperity and sustainable development. The process of enlargement will extend this community of peace and progress to a wider circle of European States' (*European Union Programme for the Prevention of Violent Conflicts*, doc. 9537/1/01 REV 1, attached to the Presidency Conclusions of the Göteborg European Council (15-16 June 2001), pt. 1).

intergovernmental cooperative frameworks (Trevi; Schengen; Maastricht's third pillar), which formed a very peculiar, homogeneous and (in spite of its institutional clumsiness) cohesive 'internal security regime'.[35] The fundamental features of such a security regime were the following:

lifting of systematic police controls on movements of people and goods at internal borders;
strengthening of international police cooperation, particularly in (internal) cross-border regions (regulation of cross-border pursuit, joint police stations, joint patrolling in cross-border areas, etc.);
pooling of police data and information among national law enforcement bodies (Schengen Information System (SIS); Customs Information System (CIS); Europol's 'computerised system of collected information');
harmonisation and reinforcement of external border controls, conceived as a 'system of concentric security lines'.[36]

With the entry into force of the Treaty of Amsterdam, the European internal security regime has entered a dynamic phase of transformation, marked primarily by a stronger role for EU institutions (incorporation of the Schengen *acquis* in the EU; 'communitarisation' of immigration and asylum policies) and by a stronger political drive for the development of the judiciary dimension of European cooperation in the field of law enforcement (European Judicial Network; Eurojust).

These recent developments are bringing new institutional (the Commission and the European Parliament) and professional actors (prosecutors, judges) closer to the core of the European JHA's political arena. This increased pluralism could foster a significant evolution of the (so far predominant) exclusive and defensive approach to European internal security issues. Whatever the future may bring, however, over the past decade these two security 'logics' – the political-diplomatic one, fundamentally inclusive, and the law enforcement one, which puts greater bias on exclusion, i.e. removal and/or containment of the perceived threats – have diverged or even collided on different issues and on several strategic choices.[37]

Before giving some specific examples of this inherent tension, the general picture should be completed with a brief reference to another element which is bound to have a growing influence on European policy-making in the field of security. I am referring here to the emergence of a military 'security culture' in the European political space. It is probably premature – and goes certainly beyond the scope of this paper – to speculate on how the different MS's military 'cultures' will interact, among themselves as much as with other professional 'security cultures', in the definition of a joint European approach to security. But the issue is undoubtedly of great political importance and analytical interest. Here, one can

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[35] For the use of the concept of 'security regime' to designate the European 'area of freedom, security and justice', see J. Monar, *Justice and Home Affairs in a Wider Europe: The Dynamics of Inclusion and Exclusion*, Economic and Social Research Council, 'One Europe or Several' Programme, Working Paper 07/00, Sussex European Institute, 2000, pp. 11-12.

[36] The definition is contained in an interesting strategy paper addressed by the Schengen Working Group I (Police and Security) to the Central Group, on 24 November 1998, [SCH/I (98) 86, 2nd rev.]. For a comparative overview on the most recent evolution of border controls in Europe, see G. Brochman and T. Hammar, *Mechanisms of Immigration Control*, Berg, Oxford, 1999; G. Sciortino, *L'ambizione della frontiera. Le politiche di controllo migratorio in Europa*, Franco Angeli, Milano, 2001

[37] On the professional 'security culture' of Member States' police officials operating in an international environment, the fundamental reference is still represented by D. Bigo, *Polices en réseaux: l'expérience européenne*, Presses de Sciences Po, Paris, 1996.

merely point out that a fertile research approach could be one centred on a comparison with the United States, where 'new security issues' have often been addressed by the military establishment on the basis of rather questionable paradigms:

'As a largely conservative community, some within the "national security" establishment persist in thinking about the problems of risk society using conceptual understanding wedded to simple modernisation and Cold War rhetoric and rationality. They attempt to reduce the irredeemably global problems of risk society to an "either-or" logic and represent risks as enemies, draw boundaries against this enemy, and then apply instrumental rationality to "solve" the threat they pose. One can find evidence of this countermodern tendency in certain contemporary geopolitical crises where global threats are territorialized as threats from "rogue states".'[38]

The extreme example of such logic – which leads to giving resolute, concentrated, military-like responses to non-military and diffuse risks – is probably represented by the Clinton's administration cruise missile attacks against supposed terrorist facilities in Afghanistan and Sudan (August 1998), conceived as a reaction to terrorist attacks against US embassies in Africa and as a form of preventive self-defence against future actions announced by intelligence reports. Another prominent example of this tendency to militarise 'soft security' issues is represented by the longest war in which the United States has been involved since the Second World War: the costly and highly controversial 'war on drugs'.[39]

It seems unlikely that similar, military-centric approaches to internal security issues will ever prevail in the European context.[40] As in the United States, however, the professional 'security culture' embodied by military élites will surely become more influential in the definition of the strategic contents of European security and, in particular, in the framing of internal-external security policy coordination.

As stated above, there are several areas of EU policy in which an inherent tension between a fundamentally exclusive internal security approach and a more inclusive CFSP logic has emerged during the last years. One could think, for instance, of the diverse approaches to the use of JHA-specific conditionality tools and parameters in 'polluted' (by corruption and organised crime) institutional contexts, such as Russia and part of the western Balkans. But the area in which divergences and contradictions between internal and external security

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[38] G. O. Tuathail, *Understanding Critical Geopolitics: Geopolitics and Risk Security*, in C.S. Gray and G. Sloan (eds.), 'Geopolitics, Geography and Strategy', special issue of 'The Journal of Strategic Studies', vol. 22, numbers 2/3, June/September 1999, p. 121.

[39] It is not easy to set a starting date for the US 'war on drugs'. However, from the political and institutional point of view, a crucial turning point was 1986, when President Ronald Reagan declared illicit drugs 'a threat for national security', thereby enabling himself to mobilise the Army without an explicit authorisation by the Congress.

[40] A distinction should be made, though, between military-centric approaches to internal security issues (such as those referred to in the text), which seem in general highly questionable and unlikely to prevail as such in the EU, and various forms of Military Assistance to Civil Authorities (MACA) in the domain of international law enforcement. For a passionate *plaidoyer* of the latter model – based on the analysis of some interesting (though sometimes debatable) examples ranging from the French anti-terrorism operation 'Vigipirate' to the Italian anti-Mafia operation 'Vespri siciliani' and the WEU-MAPE mission in Albania – see A. Politi, *European Security: the New Transnational Risks*, Chaillot Papers, n. 29, October 1997, Institute for Security Studies, Western European Union, Paris, 1997, especially p. 55 ff.. The fundamental difference between the two models is that, in the MACA one, there should be a 'clear military subordination to law enforcement agencies' operations and intelligence requirements' (Politi, op. cit., p. 61). This is a somewhat specular model to that described above in the text (par. 2), for the use of police assets in EU crisis management.

conceptions have become more apparent is probably represented by the complex set of issues and dilemmas connected with the management of the EU's external borders during (and following completion of) the current process of European enlargement.

It is well known that the whole debate on this topic revolves around the rigid and wide precondition for accession set out in Article 8 of the Schengen Protocol attached to the Treaty of Amsterdam:

'For the purposes of the negotiations for the admission of new Member States into the European Union, the Schengen *acquis* and further measures taken by the institutions within its scope shall be regarded as an *acquis* which must be accepted in full by all States candidate for admission.'

Since the entry into force of this rule, the obligation to adopt and implement in an integral manner a broad, costly, ill-defined and ever-expanding set of norms, organisational standards and administrative practices – as the 'Schengen-plus' *acquis* is – has become one of the most controversial and problematic aspects of the entire accession negotiations. I will not dwell upon the details of the accession process in the field of Justice and Home Affairs.[41] Rather, I will focus here on what, in a narrow JHA perspective, could be viewed as a 'side-effect' of the transfer of the Schengen-EU *acquis* to the future Central and East European MS: namely, the *destabilising potential of re-introducing a 'hard' border in what, after 1989, had gradually evolved into an area of (relatively) liberalised movement of persons.*[42]

Many authors, in the last few years, have pointed out that a rigid implementation of Schengen rules and standards at the future external borders of the EU could produce (and indeed, up to a

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[41] For that purpose, beside the Commission's periodical Progress Reports, see ICMPD-ÖFM, *Auswirkungen der EU-Ostwerveiterung auf die Zuwanderung in die Europäische Union unter besonderer Berücksichtigung Österreichs*, study produced on behalf of the Austrian Federal Government, Vienna, November 1998;A. Subhan, *Migration and Asylum in Central and Eastern Europe*, Working Paper, Civil Liberties Series, LIBE 104 EN, European Parliament, Directorate General for Research, February 1999, available on www.europarl.eu.int/workingpapers/libe/104/; J. Monar, *Justice and Home Affairs in a Wider Europe: The Dynamics of Inclusion and Exclusion*, Economic and Social Research Council, 'One Europe or Several' Programme, Working Paper 07/00, Sussex European Institute, 2000; J. Monar, *Enlargement-Related Diversity in EU Justice and Home Affairs: Challenges, Dimensions and Management Instruments*, WRR (Scientific Council for Government Policy), Working Documents, W 112, The Hague, December 2000; R. Balfour, L. Einaudi, F. Pastore and L. Rizzotti, *L'impatto dell'allargamento sui movimenti di popolazione*, in Dipartimento Affari Economici della Presidenza del Consiglio, 'Allargamento a est dell'Unione europea: sfide e opportunità per l'Italia', Roma, February 2001; M. den Boer and G. de Kerchove, *A Hurdled Admission: The Integration of the Candidate Countries into the Area of Freedom, Security and Justice*, in V. Kronenberger, 'The European Union and the International Legal Order – Discord and Harmony', T.M.C. Asser Institute, The Hague, 2001 (forthcoming).

[42] 'In the 1990s, the walls that had divided Europe since the end of the Second World War ceased to exist. One was the boundary between the bloc of socialist states and Western Europe. The other, far less frequently mentioned, was the heavily guarded border between the USSR and Moscow's satellite countries. As a result of the complex forces that brought down these walls, a unique area of liberalised movement of persons emerged in Central Europe. […] The open borders policy was a part of a wider policy of maintaining good relationships with neighbouring countries pursued by the Governments of Central European states. Such regional and bilateral cooperation has been encouraged by the West since the fall of the Berlin Wall. This is generally seen to have played a significant role in preventing destabilisation in the region, as occurred following the First World War in Central and Eastern Europe, and has happened in the Balkans in the 1990's' (J. Apap, J. Boratynski, M. Emerson, G. Gromadzki, M. Vahl, N. Whyte, *Friendly Schengen Borderland Policy on the New Borders of an Enlarged EU and its Neighbours*, Centre for European Policy Studies-CEPS – Batory Foundation, joint paper presented at the conference on 'New European Borders and Security Cooperation: Promoting Trust in an Enlarged European Union', Brussels, 6-7 July 2001, p. 2).

certain extent, has already produced) undesired effects in terms of: a) hampering local economic development and curbing commercial circuits in cross-border regions; b) triggering political frictions at 'recent' borders between formerly united States (e.g. Slovenia and Croatia); c) heightening ethnic discriminations and inter-ethnic tensions in cross-border regions inhabited by ethnic/national minorities, or by transnational minorities such as the Roma; d) more generally, reducing interaction between national civil societies and increasing cultural segmentation.[43] A well-pondered and authoritative warning against such risks connected with the 'Schengenisation' of the future EU external borders has also come from a semi-official working group set up jointly by the European University Institute and the Forward Studies Unit (now Group of Policy Advisers) of the European Commission. The Report drafted by the working group, chaired by the former Italian premier Giuliano Amato, concluded quite bluntly that:

'The EU's external border cannot be treated simply as a physical line on the ground to be defended solely by the apparatus of repression. The attempt to make it impermeable is doomed to ineffectiveness and can increase instability by disrupting economic and cultural ties between neighbours. The external border has an enormous impact on the states on the other side, and this consideration should be at the centre of the Union's own foreign policy objectives. A concerted and coherent approach, reaching across the Union's three pillars, is necessary to deal with many of the problems related to border management that are at present dealt with as if it were possible to stop them at the border.'[44]

These lines, and more generally the literature to which I have just referred, show very clearly the recent rise in the degree of scientific and (to a lesser yet growing extent) political awareness of the inherent tensions that exist between internal security-driven and external security-driven uses of such fundamental policy tools as border controls[45] and visas[46] for the regulation of population movements across future EU external borders.

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[43] For more details, see: M. Anderson and E. Bort (eds.), *Schengen and the Southern Frontier of the European Union*, International Social Sciences Institute, Edinburgh, 1998; M. Anderson and E. Bort (eds.), *The Frontiers of Europe*, Pinter, London, 1998; E. Bort, *The Frontiers of Mitteleuropa: Problems and Opportunities at the Eastern Frontier of the European Union*, in M. den Boer (ed.), 'Schengen Still Going Strong. Evaluation and Update', European Institute of Public Administration, Maastricht, 2000; H. Grabbe, *The Sharp Edges of Europe: Security Implications of Extending EU Border Policies Eastward*, Occasional Paper No 13, Institute for Security Studies, Western European Union, Paris, March 2000; H. Grabbe, *Extending Schengen: Europe's Micro-Security Agenda*, International Affairs, Vol. 76, No 3, July 2000. For a more general inquiry into the 'fuzzy' nature of EU's policies towards its border regions and 'near abroad', see T. Christiansen, F. Petito and B. Tonra, *Fuzzy Politics Around Fuzzy Borders: The European Union's 'Near Abroad'*, in 'Cooperation and Conflict. Nordic Journal of International Studies', Vol. 35, No 4, December 2000, p. 389 ff.

[44] G. Amato and J. Batt, *The Long-Term Implications of EU Enlargement: the Nature of the New Border*, final report of a Reflection Group set up jointly by the Robert Schuman Centre of the European University Institute (Florence) and the Forward Studies Unit of the European Commission, EUI, Firenze, April 1999, p. 61.

[45] For a very stimulating critique of traditional border controls as a tool to improve internal security, see S.E. Flynn, *Beyond Border Control*, in 'Foreign Affairs', Vol. 79, No. 6, November/December 2000, p. 57 ff. While recognising that the security concerns which motivated traditional, systematic border controls in the past still exist, Flynn argues that 'efforts to bolster regulatory, enforcement, and security operations at busy borders may result in a cure worse than the disease. [*The reason being that*] Such endeavours place governments on a collision course with easy trade, which is key to the sustained expansion and integration of the global economy' (p. 58). Flynn's conclusion is that 'confronting new threats without disrupting business requires a three-part paradigm shift' (*ibid.*) based on the following moves: a) 'countries must tighten security within the international transportation and logistics system'(*ibid.*); b) 'states must urge international companies to develop transparent systems for tracking regional and global commercial flows'(*ibid.*); c) 'border agencies need faster and stronger capabilities to gather intelligence and manage data' (*ibid.*). It is interesting to note that similar strategic moves characterised the evolution of the intra-European border

How should these tensions be managed in order to prevent them from seriously undermining *inter alia* the whole enlargement process? How will it be possible to keep the immigration control and law enforcement functions currently exercised by external border controls and visa procedures without relinquishing the important role played in economic development and the stabilising function of porous boundaries[47] in Central and Eastern Europe?

The first step should probably consist in *not overemphasising* the potential for disruption of an upgrading of border controls and migration management systems at the future European borders.

'All too often, the justice and home affairs aspect of the enlargement process is depicted in wholly negative terms. Images are conjured up of Fortress Europe or of a new Iron Curtain dropping across Eastern Europe, disrupting relationships between countries, which have hitherto enjoyed close ties. The reality is entirely different. The Union's objective is to construct an area of peace, stability and prosperity, which extends beyond the borders of the enlarged Union. In my view, the principles that underpin the area of freedom, security and justice reflect the common aspirations of most people. The citizens of the EU's neighbouring regions doubtless expect much the same from their public institutions as do their counterparts in the Union. It is in the Union's own interest to be surrounded by democratic states with competent and effective administrative and legal systems. Organised crime knows no frontiers; trafficking in women, the drugs trade and illegal migration are trans-national problems. These challenges cannot be tackled effectively at the national level alone, but require concerted action between states.'[48]

These words are certainly part of Commissioner Vitorino's proactive communication strategy. But it is true that, in some recent contributions to the debate, the disruptive consequences of the introduction *ex novo* of Schengen standards for border management have probably been overstated. From this point of view – although the situation at each border is different, and comparisons should be drawn with some caution – it is worth considering that Schengen

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control system since the signature of the Schengen agreement (carriers' sanctions, Schengen Information System, etc.).

[46] The fundamental functions and aims of visa procedures in Western democracies (and in Western Europe in particular) have changed dramatically in the last fifteen-twenty years. Until the mid-1980s, visas were primarily used as a foreign policy and external security policy tool; since then, visa policy has been increasingly (indeed predominantly) oriented to migration control and internal security objectives. This shift is illustrated very well by the following quotation: 'The determination of those third countries whose nationals are subject to the visa requirements, and those exempt from it, is governed by a considered, case-by-case assessment of a variety of criteria relating *inter alia* to illegal immigration, public policy and security, and to the European Union's external relations with third countries, consideration also being given to the implications of regional coherence and reciprocity' (*Council Regulation No 539/2001 of 15 March 2001 on listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement*, Official Journal of the European Communities, 21 March 2001, L 81, p. 1). The remark contained in this footnote is based on the contents of a joint presentation made by Elspeth Guild and Didier Bigo at the recent CEPS – Batory Foundation conference on 'New European Borders and Security Cooperation: Promoting Trust in an Enlarged European Union' (Brussels, 6-7 July 2001).

[47] For an interesting conceptualisation of the distinction between *borders* and *boundaries* (but one could also speak of 'soft' and 'hard' borders, or analogous expressions) in a policy-oriented perspective (focused on crisis management and post-conflict reconstruction), see P. Ottis and J.C. Bebel, *Borders and Boundaries: Drawing Lines Which Keep the Peace*, in 'International Peacekeeping', Vol.6, No.3, Autumn 1999, p. 31 ff.

[48] Speech given by the European Commissioner responsible for JHA, Antonio Vitorino, at the CEPS-Batory Foundation conference on 'New European Borders and Security Cooperation: Promoting Trust in an Enlarged European Union' (Brussels, 6-7 July 2001).

borders were recently erected between Italy and Slovenia, Greece and Turkey, and Finland and Russia, without any major negative consequence on regional stability and cross-border economic relations.

Besides, there are some positive, stabilising effects of moving Schengen borders eastward which have until now been neglected and should, on the contrary, be analysed carefully. I will just give two examples:

1) some of the interstate borders which are bound to become stretches of the future EU external frontier (between Poland and Ukraine, Romania and Ukraine, Slovenia and Croatia, some of the Baltic States and Russia) are still partly undefined from the geographical point of view and not agreed upon at the political level. The 'Schengenisation' process will clarify these 'grey' situations, thereby adding to international legal security and eliminating potential sources of interstate controversy;

2) some of the CEE candidate countries (Hungary, Poland, Slovenia) and Turkey are no longer just transit countries; they are already also becoming destination countries (at least *temporary* destination countries) for unauthorised migration flows of a different kind.[49] The upgrading of the border controls and migration management systems of these countries will certainly reduce a likely source of future internal social tensions and a factor of potential xenophobic political propaganda and mobilisation.

That said, a need for internal-external security policy coordination in this field certainly exists, and it is a very strong and urgent one. The Schengen 'orthodoxy' is still prevailing, particularly in JHA ministries and in the law enforcement community. But it is encouraging to observe that, albeit with a serious delay, a debate on how to make some aspects of the Schengen *acquis* more 'flexible' in order to make Schengen fully compatible with the overall strategic objectives of enlargement has finally started. Different approaches are emerging, concentrating mainly on two distinct dimensions of flexibility:

i) *Flexibility in the management of the Schengen transition phases*. It is now widely accepted that the Schengen *acquis* will be implemented by new Member States in two stages: first, the rules on external border controls have to be applied satisfactorily (the judgement pertains to current MS); only after that will controls at the future internal borders be lifted.[50] As the experience of other countries which were admitted only recently as full members of the Schengen 'club' (Italy, Austria, Greece, the Scandinavian countries) has shown, the political

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[49] According to the Polish Ministry of Labour and Welfare, for instance, 100,000 to 150,000 undocumented foreign workers would enter Poland every year (estimates quoted in International Organization for Migration and United Nations, *World Migration Report 2000*, IOM, 2000, Geneva, p. 170).

[50] In his speech given at the CEPS-Batory Foundation conference on 'New European Borders and Security Cooperation: Promoting Trust in an Enlarged European Union' (Brussels, 6-7 July 2001), Commissioner Vitorino has expressed that quite clearly: 'The Schengen rules make clear that a separate and unanimous decision will be needed before the Schengen *acquis* can be implemented in full, including the key issue of lifting internal border controls. Schengen countries will only take this decision when they are convinced that the new member states meet all the necessary requirements to implement the full Schengen *acquis*. This can only happen after a positive evaluation in accordance with the appropriate Schengen rules. *In reality, the full implementation of the Schengen provisions immediately after accession is unlikely to be possible for technical and operational reasons*' (emphasis added). At the same conference, Udo Hansen, a top official of the German Border Guard (*Präsident des Grenzschutzpräsidiums Ost*), has taken the audience by surprise and created some disappointment among representatives of the candidate countries, by stating unofficially that a ten years' transition period (since the day of the accession) would probably be needed before Germany could lift controls at its Eastern borders.

nature of the final decision on admission can be a source of tension.[51] This could turn out to be even more true in the context of enlargement. It is therefore frequently pointed out that the transition phases for full admission to the Schengen area should be managed flexibly – for instance, by granting the new MS access to the SIS or by abolishing controls at internal air borders even *before* the more significant act of lifting controls at land borders.[52]

ii) *Flexibility in the management of future EU external borders based on privileged regimes for specific categories of third-country nationals.* Proposals are being made at different levels, based on granting privileged cross-border circulation regimes for particular groups who are likely to be most seriously hit by the eastward shift of the Schengen external frontier. A clear distinction should be made between two versions of such types of proposals:

on the one hand, ethnically-based arrangements (targeting primarily members of national/ethnic minorities living in a non-EU country, who have cultural, social or family attachments in a new Member State) can be envisaged.[53] Similar arrangements – based, for instance, on the concession of long-term, multiple-entry visas to registered representatives of a given minority – would raise serious problems of compatibility with the non-discrimination rule inscribed among the fundamental principles ruling all EU activities and policies. Besides, ethnically-based flexibility arrangements would probably meet very serious problems when it comes to implementation and would risk opening a Pandora's box of ethnically-based claims and counterclaims;

on the other hand, selective arrangements can be envisaged which would not be based on ethnic but rather on territorial and/or economic criteria. Such types of flexible arrangement would facilitate, for instance, the concession of multiple-entry Schengen visas (or even of long-term national visas) to inhabitants of border regions and persons involved in pre-defined economic and social activities (business; sport and artistic events; international NGO activities, etc.).[54] Similar arrangements would certainly be compatible with the basic features of the Schengen *acquis* and with fundamental principles of EU law. Obviously, managing

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[51] On the Italian case, see F. Pastore, *L'expérience italienne dans la mise en oeuvre de Schengen,* in K. Hailbronner - P. Weil, 'Von Schengen nach Amsterdam. Auf dem Weg zu einem europäischen Einwanderungs- und Asylrecht', Bundesanzeiger, Köln, 1999, pp. 43-49.

[52] See for instance J. Monar, *Enlargement-Related Diversity in EU Justice and Home Affairs: Challenges, Dimensions and Management Instruments*, WRR (Scientific Council for Government Policy), Working Documents, W 112, The Hague, December 2000, pp. 59-60.

[53] The Hungarian law on 'Hungarians Living in Neighbouring Countries', adopted by the Hungarian Parliament at the end of June 2001, has been criticised in neighbouring countries as an attempt at evading Schengen regulations by granting special benefits to registered representatives of Hungarian minorities (a 'Certificate of Hungarian Nationality is envisaged at article 19) living in neighbouring countries. In fact, the text does not deal with border management issues (it only provides substantial travel benefits at the expenses of the Hungarian State: see art. 8). Furthermore, it is clearly stated that 'The provisions of this Act shall be applied without prejudice to the obligations of the Republic of Hungary undertaken in international agreements' (art. 2^2) and that 'From the date of the accession of the Republic of Hungary to the European Union, the provisions of this Act shall be applied in accordance with the treaty of accession of the Republic of Hungary and with the law of the European Communities' (art. 27). Therefore, this recent legislative move by the Hungarian authorities, although questionable from a political point of view and legally disputable in a public international law perspective (it can be argued that some of its provisions produce illegal extra-territorial effects), does not seem to challenge EU's fundamental principles and the JHA *acquis*.

[54] For detailed proposals along these lines, see J. Apap, J. Boratynski, M. Emerson, G. Gromadzki, M. Vahl, N. Whyte, *Friendly Schengen Borderland Policy on the New Borders of an Enlarged EU and its Neighbours*, Centre for European Policy Studies-CEPS – Batory Foundation, joint paper presented at the conference on 'New European Borders and Security Cooperation: Promoting Trust in an Enlarged European Union', Brussels, 6-7 July 2001, p. 6 ff.

such selective visa regimes would require a very substantial upgrading of the new Member States' consular services and border crossing arrangements. In order to make this possible, some form of EU responsibility in these areas has certainly to be foreseen: a European Border Guard[55] and Euro-consulates[56] are among the currently most debated solutions to this problem.

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[55] The European Commission has recently asked the Italian government to produce a feasibility study on this idea, which was first launched by the European Parliament and then adopted in the already quoted Robert Schuman-Forward Studies Unit report on *The Long-Term Implications of EU Enlargement* (p. 65).

[56] In their joint paper advocating a *Friendly Schengen Borderland Policy*, CEPS and the Batory Foundation claim that: 'Investment in the infrastructure of border crossings from the EU budget must be increased. Some support must also be extended to the consular services of countries bearing the highest burden of issuing visas and having intensive networks of consular offices in the territories of EU neighbours. It could be the first step towards creating Euro-consulates, which could optimise cost-effectiveness and facilitate access to Schengen visas' (p. 9).

CHAPTER FOUR: TOWARDS A 'HOLISTIC' APPROACH TO EUROPEAN SECURITY?

Both the institutional landscape we have sketched (ch. 2) and the test-case(s) we have cursorily illustrated (ch. 3) show that internal-external security policy coordination is a crucial and urgent strategic necessity for the European Union. But the process of 'cross-pillarisation' – long neglected because it was largely perceived as a predominantly technical issue – is now (at least since Amsterdam) turning out to be much more complex and pervasive than was expected a few years ago. Nevertheless, in spite of initial scepticism,[57] some steps forward have been made and more substantial changes can be foreseen in the next few years at both at the institutional/procedural and the political/substantive level.

Institutional cross-pillarisation will certainly advance. But, along the way, it will have to face major risks of institutional and legal confusion, which will be particularly acute during the process of enlargement and overall institutional reform:

'. . . the implications of increasing recourse to innovative procedures such as the open method of coordination must be carefully assessed in order to avoid blurring the distinction between legal instruments and "soft law", as well as between the Union's and Member States' powers in the follow-up, particularly at a time when the issue of establishing a more precise delimitation of powers is being widely debated.'[58]

In the long run, superseding the pillar structure would certainly be the most rational response to at least a part of such risks. But, if the option of a full 'communitarisation' of the third pillar has been debated for several years and the option is likely to somehow win the day in the foreseeable future,[59] the prospect of a full transfer of CFSP/ESDP into the Community legal and institutional framework still appears remote.[60]

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[57] '… interpillar issues, in terms of jurisdiction and responsibilities in the conduct of cross pillar actions, are generally going to be regarded as highly symbolic of the orientation of the European construction as a whole. These issues will therefore tend not to be treated on the base of their own merits because they will be seen as potential precedents against which political capital has to be spent way beyond the usually limited stakes involved. When interpillar collaboration is taking place, it will be closely monitored for fear of procedural 'contagion' from one pillar to another (creeping communitarisation of intergovernmental pillars or intergovernmental contamination of the community pillar)' (E. Philippart, *Deconstruction and reconstruction of EU pillars: the Euro-Mediterranean Partnership and the Middle East Peace Process*, Paper presented at the Third Pan-European International Relations Conference ECPR-ISA, Vienna, 16-19 September 1998, p. 3).

[58] *Preparing the Council for enlargement*, Report from the Secretary-General/High Representative to the European Council, doc. 9518/01, document attached to the Presidency Conclusions of the Göteborg European Council (15-16 June 2001), part I, point 10.

[59] In its *Resolution on the Amsterdam Treaty* (CONF 4007/97 – C4-0538/97), adopted in November 1997, the European Parliament called on the Council 'to take speedy decisions to ensure that the general rules of the Community method will be applied, as soon as possible, to the communitarised area of freedom, security and justice and to enable further development on Community lines of the Schengen *acquis*' (point 8). Proposals for a full communitarisation of the third pillar were tabled again (in vain) during the IGC which led to the Nice Treaty.

[60] Nevertheless, the question is posed. The Venusberg Group, in its 2000 report on the future of European security, envisages the merging of the first and second pillar for a phase II of its strategy (2015-2030): 'Whilst non-military aspects of EU security would have become firmly entrenched in Pillar I, the separation of military aspects into Pillar II would become increasingly inefficient. This problem would be particularly acute given the budget-driven demands for force specialisation that are already apparent as resources fail to keep pace with demand, reinforcing the need for common military elements. The pressure for harmonisation of the institutional and military aspects of European Defence is likely to be intense' (Bertelsmann Foundation,

Progress in the *political* dimension of internal-external security policy coordination is, to a large extent, a function of the results achieved in institutional cross-pillarisation. Without institutional coordination, policy coordination results only from accidental contingencies or the goodwill of individuals. In many cases, however, the harmonisation of internal and external security approaches has an autonomous dimension that, as argued in ch. 3, is largely connected to the cultural foundations of security policies.

The challenge that the European Union is facing at this level is how to overcome the current polarisation between different sectorial/disciplinary notions of security and aim at a more comprehensive, interdisciplinary approach. It is indisputable that, as an integrated supra-national actor, the European Union has a unique *atout* for the practical realisation of such a vision of 'holistic' security policy:

'The EU can provide security tools that cover the full spectrum of conflict prevention, non-military crisis management, lower-intensity military conflict management and post-conflict reconstruction. This holistic approach to security in effect adds several further options to diplomatic efforts prior to the full military solution that NATO offers and, indeed, thereafter.'[61]

But the risk with such concepts is that their charm often exceeds their workability. Indeed, a risk of conceptual irrelevance is inherent in a 'too' holistic notion of security. In criticising Galtung's and Øberg's 'alternative concept of security – based on four sets of positive goals related to human needs: survival, development, freedom and identity' – Ole Wæver has argued for instance that:

'The result is a holistic program for world society and its development, welfare, and so on. This is a wholly legitimate approach, of course, but does it impinge at all on security debates? Certainly, the central actors and theorists in the field do not feel affected or threatened by this framework.'[62]

In a different context and for different purposes, similar concerns were recently expressed by Javier Solana in his sharp criticism of the European Union's Common Strategies (CS) as formulated so far:

'The wide scope of the CS and the particular, sometimes detailed concerns of individual Member States resulted in a "Christmas tree" approach based on the "lowest common denominator" where Member States and the Commission insisted on covering all possible aspects of relations, including so many different issues in the CS that in the end it became difficult to distinguish priorities from questions of secondary importance.'[63]

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ed., *Enhancing the European Union as an International Security Actor. A Strategy for Action*, Bertelsmann Foundation Publishers, Gütersloh, 2000, p. 73).

More recently, in its *Report on the Treaty of Nice and the future of the European Union (2001/2022 (INI)* (FINAL 5-0168/2001, rapporteurs: I. Mendez de Vigo and A.J. Seguro), approved on 4 May 2001, the Committee on Constitutional Affairs of the European Parliament proposed that, in its forthcoming resolution on the Nice treaty and the future of the EU, the EP express its regret that 'the pillar structure of the treaty has been retained and that, above all in the sphere of CFSP, unnecessary duplicate structure have been established' (point 16).

[61] Bertelsmann Foundation, ed., *Enhancing the European Union as an International Security Actor. A Strategy for Action*, Bertelsmann Foundation Publishers, Gütersloh, 2000, pp. 29-30.

[62] O. Wæver, *Securitization and Desecuritization*, in R.D. Lipschutz (ed.), 'On Security', Columbia university Press, New York, 1995, p. 48.

[63] EU Secretary General/High Representative, *Common Strategies Report*, Brussels, 21 December 2000, pt. 10.

Being holistic without being minimalist (nor potentially totalitarian, which is the risk implicit in some pan-securitising approaches); being comprehensive without losing the capacity to prioritise; gaining in width without losing in depth and effectiveness – these will be the challenges for a well coordinated and coherent EU security policy in the coming years.