



# EUROPEAN DEFENCE COOPERATION AFTER THE LISBON TREATY

The road is paved for increased momentum



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## Abbreviations

CFSP	Common Foreign and Security Policy
CPCC	Civilian Planning and Conduct Capability
CSDP	Common Security and Defence Policy
DEVCO	European Commission – Development & Cooperation
ECHO	European Commission – Humanitarian Aid & Civil Protection
ECJ	European Court of Justice
EDA	European Defence Agency
EEAS	European External Action Service
EMU	Economic and Monetary Union
EU	The European Union
EUMS	EU Military Staff
FAC	Foreign Affairs Council
HR	High Representative for Foreign Affairs and Security
HR/VP	High Representative for Foreign Affairs and Security/Vice President of the Commission
INTCEN	EU Intelligence Analysis Centre
NATO	North Atlantic Treaty Organization
NORDEF	Nordic Defence Cooperation
PSCD	Permanent Structured Cooperation on Defence
SITROOM	The EU Situation Room
TEU	The Lisbon Treaty
UN	United Nations

## **EXECUTIVE SUMMARY**

This report takes stock of the changes made to the European Security and Defence Policy since the adoption of the Lisbon Treaty in 2009. The report also examines what impact such changes have on Denmark, and specifically whether the Danish opt-out from EU defence cooperation will have increased consequences after the implementation of the Lisbon Treaty changes. By examining the Lisbon Treaty changes to the CSDP, and assessing how these affect Danish security and defence policy, the report provides an updated state of the art of the current reality for European defence cooperation after the Lisbon Treaty and where Denmark fits into this cooperation. The report concludes that the changes brought about by the Lisbon Treaty provide for increased consistency and coherence of policies and instruments due to the new foreign policy system of an empowered High Representative of the Union for Foreign Affairs and Security Policy and the creation of the European External Action Service. Moreover, specific provisions to the CSDP pave the way for more ambitious arrangements between the member states, ultimately leading to a more assertive CSDP. In a post-Lisbon context there are signs that the new EU actors and member states are pushing for strengthened EU defence cooperation. However, several of the Lisbon provisions have not yet been fully realised in practice and for Denmark, this means that the opt-out has not been more frequently invoked in a post-Lisbon context. There are, however, indications that the Danish opt-out may have increased consequences for Denmark, including that Denmark will remain excluded from important aspects of European defence cooperation, especially in relation to the intensified use of a 'comprehensive approach' to EU cooperation on defence, current projects on developing common capabilities, and within the ongoing process of strengthening the European defence industry.

## **RESUMÉ**

Denne DIIS-rapport gør status over ændringerne i det europæiske sikkerheds- og forsvarssamarbejde, der fulgte i kølvandet på Lissabon-traktatens implementering i 2009. Rapporten undersøger ligeledes, hvilken indvirkning disse policy-ændringer har for Danmark i EU-regi, og hvorvidt det danske forbehold over for europæisk forsvarssamarbejde vil have øgede konsekvenser efter Lissabon-traktatens implementering. Igennem en undersøgelse af Lissabon-traktatens ændringer ved CSDP-samarbejdet samt en overordnet vurdering af, hvorvidt den nye traktat

påvirker dansk forsvars- og sikkerhedspolitik, vil rapporten give et opdateret overblik over de aktuelle realiteter, som europæisk forsvarssamarbejde står overfor – og søge at afdække Danmarks rolle heri. Rapporten konkluderer, at Lissabon-traktaten udgør et fundament for mere sammenhæng og konsistens mellem europæisk udenrigspolitik og de dertil disponible instrumenter. Især har indførelsen af to nyskabelser været banebrydende: Den Høje Repræsentant for Udenrigs Affærer og Sikkerhedspolitik samt skabelsen af EU's fælles udenrigstjeneste (EEAS). Derudover muliggøre særlige bestemmelser til CSDP-samarbejdet mere ambitiøse aftaler mellem medlemslandene, hvilket kan munde ud i et mere selvhævdende CSDP. I en post-Lissabon-kontekst er der tegn på, at de nye EU-aktører samt medlemslandene er fortalere for et stærkere forsvarssamarbejde i EU-regi. Dog er flere af Lissabon-traktatens provisioner endnu ikke effektuerede i praksis, hvilket forklarer, hvorfor det danske EU-forbehold endnu ikke har været i rampelyset. De seneste udviklinger indikerer dog, at det danske forbehold med sandsynlighed vil medføre en højere grad af eksklusion fra betydningsfulde aspekter af europæisk forsvarssamarbejde – særligt projekter relateret til øget brug af samtænkning til EU sikkerheds- og forsvarssamarbejde; aktuelle projekter vedrørende udvikling af fælles kapabiliteter samt den verserende proces med henblik på at styrke den europæiske forsvarsindustri.

# INTRODUCTION

With complex conflicts emerging and intensifying on the European Union's southern and eastern borders with the Middle East and Africa, and in the European neighbourhood itself, the EU's security environment is more troubled and unstable than it has been for decades. Recent developments such as the Russian annexation of Crimea and the destabilisation of eastern Ukraine are likely to have long-term effects on European security stability and they clearly demonstrate the close link between internal and external security dimensions. Besides the crises of today in the wider European neighbourhood, a shifting global power structure, away from the West to other parts of the world, as well as the deep defence budget cuts ongoing in European states, all mean that coordination and cooperation on defence has never seemed more pivotal for EU member states.

**Recent developments such as the Russian annexation of Crimea and the destabilisation of eastern Ukraine are likely to have long-term effects on European security stability and they clearly demonstrate the close link between internal and external security dimensions.**

The Lisbon Treaty of 2009 provides the latest and most far-reaching example of EU aspirations to become a key actor in international security governance. The treaty brought major institutional change to the EU foreign policy system, aiming to establish a more coherent and efficient framework for EU external action, most notably by the means of an empowered role for the High Representative for Foreign Affairs, and with the creation of the European External Action Service (EEAS). The

treaty also contains specific provisions aiming to bring new stimulus to the EU's common security and defence policy (CSDP). The so-called "Permanent Structured Cooperation" allows a core group of states that fulfil certain criteria to enter into closer cooperation to enhance European defence capabilities. Moreover, provisions on 'mutual assistance' and 'solidarity' suggest that member states may, in future, take CSDP beyond external crisis management and use it in an internal context as well.

This report outlines the changes that Lisbon Treaty provisions have brought to EU security and defence policy, and analyses what the consequences of these changes have been in practice. The report also assesses what the Lisbon Treaty changes will mean for Denmark. Since 1993 Denmark has had an opt-out in all defence aspects of EU cooperation. The Lisbon Treaty does not change the content of the Danish opt-out, but increased cooperation and coordination on defence at EU level may mean that the consequences of the opt-out have altered since the entry into force of the Lisbon Treaty.

In answering these questions, the report concludes that the Lisbon changes to the CSDP provide for increased consistency of policies and instruments due to the new foreign policy system of an empowered High Representative of the Union for Foreign Affairs and Security Policy and the creation of the European External Action Service. Moreover, the specific provisions to the CSDP could pave the way for more ambitious arrangements between the member states, leading to a more assertive CSDP in a medium-term future. That said, so far the Lisbon provisions have not been fully implemented and there is still a strong divide between the communitarised policy areas relating to foreign and to security policy. Moreover, the EEAS was to be built up as a new service by High Representative Catharine Ashton and is thus still in its infancy. Finally, the provisions on Structured Permanent Cooperation on Defence (PSCD) and mutual assistance have yet to be invoked so it is hard to tell if they can indeed lead to reinforced defence cooperation between some states, and whether member states are really ready to allow the CSDP to deal with internal security issues.

In the shorter term, however, we may see changes as a result of the treaty led by EU institutions and member states' interests. The newly appointed EU leadership for the 2014–2019 term, under HR Federica Mogherini, is expected to bring a number of unsettled issues to the fore, including reform of the EEAS, deputisation for the HR/VP and a new EU security strategy. Moreover, the pressure from ongoing international events, most notably in the EU's eastern neighbourhoods may further



motivate member states and EU actors to reinforce their common approach to external action. The EU member states have recently expressed willingness to strengthen the CSDP when, at the December 2013 European Council, they took the decision to put European defence on the top-level political agenda for the first time since 2008. The summit provided a systemised process to now follow, in which European leaders have committed to discuss how to empower the CSDP over the next few years, with the next appointment in June 2015.

For Denmark such conclusions mean that the Lisbon Treaty has not yet led to significant increased consequences of the Danish opt-out in defence cooperation, but it is likely that this will change in a short or medium-term future, especially within the areas of the intensified use of the comprehensive approach to EU external action where military and civilian tools are combined, of the ongoing capability projects, and also with regard to the potential strengthening of the European defence industry. The report starts out by examining the changes that the Lisbon Treaty provisions have brought to the CSDP. Following this, the consequences of these changes are evaluated. Having analysed the Lisbon changes, the report looks into what the changes mean for Denmark, and whether the Danish opt-out in EU defence cooperation will have increased consequences in light of these changes to the EU system for defence.

The report is funded by a grant from the Danish Ministry of Defence. The information used in the analysis of CSDP and in the analysis of the consequences of the Danish defence opt-out, draws to a significant extent on background interviews carried out in autumn 2014 with experts from the CSDP environment, as well as with civil servants in the European External Action Service, the Danish Representation to the EU, the Defence Ministry and the Danish Foreign Ministry. Moreover, the report builds on a previous DIIS report from 2008, "The Danish opt-outs from the European Union – developments since 2000", which provided a thorough evaluation of not just the Danish case, but also of the inherent flaws in EU defence policy prior to the Lisbon Treaty changes.



# THE EUROPEAN SECURITY AND DEFENCE POLICY

This first part of the report focuses on the CSDP in a post-Lisbon context. Firstly, it examines the institutional and organisational changes introduced by the Lisbon Treaty to the area of security and defence. Secondly, the short and longer-term consequences of these changes for the further strengthening of common defence cooperation will be analysed.

**The Lisbon Treaty of 2009 constitutes a new cornerstone in the development of the CSDP and brought important institutional developments to increase coherence and efficiency of the policy.**

European defence cooperation and the establishment of a CSDP are both very ambitious projects that have suffered from incoherence and lack of substance and internal cohesion.<sup>1</sup> There are several reasons for this. Firstly, the EU member states' defence problems are well known. Across Europe we see declining or static defence budgets with inefficient use of defence expenditure, inadequate military capabilities and ineffective or insufficiently technologically advanced equipment.<sup>2</sup> Added to this, there is inadequate integration of European force planning and operational conduct and limited defence, industrial and technological cooperation, and finally, lack of a European strategic culture specifying when, where, how – and why the EU should use force and thus which capabilities actually need to be developed. The strategic dissonance between member states largely stems from their different security policy interests and traditions.<sup>3</sup>

These challenges then lead to an institutionally and substantially weak common defence policy. Whereas capability gaps of the CSDP have been identified in EU regi by the member states on several occasions, little has been done to actually close them.<sup>4</sup> An increasing trend, therefore, is that the focus of the CSDP has been on conflict prevention and crisis management rather than on developing common capabilities and functions normally associated with the military, including territorial defence and deterrence, which still falls within the remit of NATO.

The Lisbon Treaty of 2009 nevertheless constitutes a new cornerstone in the development of the CSDP and brought important institutional developments to increase coherence and efficiency of the policy.

## **EXTERNAL ACTION AFTER THE LISBON TREATY**

The Lisbon Treaty brings possibilities for the strengthening of EU defence cooperation directly, by addressing some of the core challenges inherited in the CSDP. Most notable is the empowered role for the High Representative of the Union for Foreign Affairs (HR) to be supported by another novel institution, namely the European External Action Service (EEAS), which changes the overall framework for the EU's foreign policy system.

Moreover, the Lisbon Treaty introduces new provisions into the CSDP including: permanent structured cooperation; the possibility to entrust a crisis management task to a group of member states; the clause on mutual assistance and the clause on solidarity. The "Permanent Structured Cooperation" allows a core group of states that fulfil certain criteria to enter into closer cooperation to enhance European defence capabilities. This points towards a possible trend of reinforced EU defence cooperation among a smaller group of member states. Similarly, Article 44 of the Lisbon Treaty posits that a group of member states can undertake CSDP tasks in close cooperation with the High Representative and the EEAS in order to further improve rapid response and flexibility in EU missions and operations. Moreover, provisions on 'mutual assistance' and solidarity' suggest that member states may, in the future, take CSDP beyond external crisis management and use it in an internal context as well.

The Lisbon Treaty also seeks to extend the use of the so-called "comprehensive approach" where policies and instruments across EU institutions are combined in practice.

### **THE NEW CSDP-RELATED PROVISIONS OF THE LISBON TREATY:**

- The new CSDP-related provisions of the Lisbon Treaty:
- An empowered role for the High Representative for Foreign Affairs and Security Policy (Articles 9E, 13A, 14-19 TEU).
- The creation of a European External Action Service (Article 27.3, TEU).
- The introduction of "Permanent Structured Cooperation" (PSCP) in the area of defence policy (Article 42 [6] TEU).
- The possibility of allowing a group of member states to undertake CSDP tasks (Article 44 TEU).
- The creation of a mutual assistance clause (Article 42.7 TEU).
- The establishment of the solidarity clause (Article 222 TEU).

### **A new foreign affairs team**

The main role for the High Representative (HR) is to conduct the CFSP, to preside over the Foreign Affairs Council (FAC), to represent the EU externally and to conduct dialogue with third countries. In order to increase inter-institutional coherence and efficiency, the HR is also the vice-president of the European Commission. This new multi-hatted function is replacing the previous positions of the High Representative for CFSP, the External Relations Commissioner in the European Commission as well as the Foreign Minister under the six-month rotating member state presidencies. Thus the position of an External Relations Commissioner has become redundant and the rotating presidency no longer has a formal role in EU foreign policy.

The so-called pillar system of three pillars, where the intergovernmental pillars of foreign and security policy as well as home and justice affairs were kept separate from the 'communitarised' pillar of all other policy areas controlled by the Commission, was abolished with the Lisbon Treaty. This institutional division of foreign policy has previously been the cause of inconsistency and lack of effectiveness across the EU institutions in terms of external action. However, the old distinction between the community policies of EU external action and the intergovernmental CFSP/CSDP still persists, because the member states have wanted to keep the CFSP/CSDP under the intergovernmental decision making framework. This means that the Commission still has powers relating to trade policy, humanitarian aid and international agreements.

The European External Action Service was established to assist the HR with all her duties as well as to work in coordination with the diplomatic services of the member states. The service consists of “officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from the diplomatic services of the member states” (Art. 27 [3] TEU). This institutional design is also thought of as a means to integrate the separated responsibilities of external departments of the Council and of the Commission.<sup>5</sup>

### **CSDP organisational structure**

The institutional innovations of the HR and the EEAS mean that the organisation of EU foreign and security policy is fundamentally different to how it was before the Lisbon Treaty came into force. The current organisation aspires to better institutional coordination and more strategic decision making in CSDP.

The current structure of EEAS headquarters was agreed in early 2011 by the Council (Council Decision 2010/427/EU, Article 4), and the EEAS began its work in January 2011 when staff from the Commission (almost everyone from DG External Relations and some from DG Trade) were merged with staff from the Council Secretariat. Finally, diplomats from member states were recruited to bring national expertise into the service.<sup>6</sup>

The EEAS is composed of a headquarters in Brussels and 140 EU delegations across the world, covering 170 countries and all international organisations. These EU delegations formally replaced the previous delegations of the Commission.

Most of the daily work at the EEAS headquarters is overseen by its corporate board. Five large directorates cover different areas of the world – Asia-Pacific, Africa, Europe and Central Asia, the Greater Middle East and the Americas report to the corporate board. The directorates include departments specialising in regions and countries within those areas. Separate directorates cover global and multilateral issues (including, for example, human rights, elections and development), responses to crises, and administrative and financial matters. The specific CSDP structure and staff are organised in a separate department, which reports directly to the HR and is not part of the horizontal organisation of the rest of the service.

Thereby, the EEAS is a combination of a “foreign ministry” with geographical and thematic desks – covering the regions in the world – and a “defence” or “crisis management” ministry – as it also includes a military staff (EUMS), a civilian

operations headquarters (CPCC), an intelligence centre (INTCEN) and a situation room (SITROOM), as well as directorates for crisis response, security and conflict prevention and crisis management planning. It works closely with the relevant DGs of the European Commission, not least development (DEVCO), humanitarian assistance (ECHO) and trade and enlargement, which are under the political authority of individual commissioners.

### **Permanent structured cooperation**

The new CSDP also brings greater flexibility and the means for allowing groups of member states that are willing to enhance military integration between themselves within the framework of the EU.

Article 42 (6) TEU provides for member states to strengthen their military cooperation and capability development by creating “permanent structured cooperation in defence” (PSCD) where a group of member states that fulfils certain criteria can enter into closer cooperation to enhance European defence capabilities: “Those member states whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework [...]”.

Member states have to follow certain criteria (Protocol 10 annexed to the Lisbon Treaty) such as making certain budgetary and deployability commitments and thereby the participating member states enter into binding commitments in the field of defence. The protocol also states the European Defence Agency (EDA) will assess the performance of the participating member states.

This provision aims to proceed more intensively to develop military capacities, to ensure operational commitments by the involved member states and to ensure government investments in defence.

Cooperation can take various forms, from joint development or procurement to pooling, i.e. permanent multinational formations, either deepening integration in relevant existing ones (e.g. battle groups or Euro corps) or new initiatives.<sup>7</sup>

The provisions of the Treaty on permanent structured cooperation have not been used yet.

This move towards the possibility of diversifying EU defence cooperation is also noticeable in another Lisbon Treaty provision, namely article 44 TEU, which opens up the possibility that a group of member states can undertake CSDP tasks (i.e. CSDP operations and missions) in cooperation with the HR “The Council may entrust the implementation of a task to a group of member states which are willing and have the necessary capability for such a task. Those Member States, in association with the High Representative shall agree among themselves on the management of such task”.

This provision is about CSDP operations and missions; it does not deal with capability development. The provision does not create a new category of EU operations and does not extend the scope for possible CSDP missions or open the door for a different decision making process. It aims to facilitate the deployment of CSDP operations by creating a framework that allows willing member states to go ahead with an operation as efficiently as possible. Moreover, it also allows for member states sharing the same interest in a particular task to pursue this within the EU framework. The idea is that an Article 44 operation is conducted by at least two member states, which will have the responsibility for the planning and command of the operation.

Since this provision has not been used yet either, it is still unclear how an “Article 44 operation” would work in practice, and in what ways it would be different from how CSDP missions and operations are already carried out today, where only the willing member states are participating in CSDP tasks. The general idea, however, is to widen the range of options that the EU and the member states can resort to, and that missions and operations can be achieved with greater flexibility and a speeding up of the reaction time.<sup>8</sup> Moreover, the idea is that a CSDP task under Article 44 is carried out in close cooperation with the High Representative.

### **Common assistance and mutual solidarity**

Another notable promise of the Lisbon Treaty is that it aims to take CSDP beyond external crisis management with the new common assistance clause and mutual solidarity clause allowing member states to also use it for internal security purposes.

The mutual assistance clause implies that if a member state is the victim of “armed aggression on its territory, the other member states shall have towards it an obligation of aid and assistance by all means in its power” (Art. 42 [7] TEU). Although this provision is sparse in its wording, it suggests that the obligation has a traditional alliance character that entails an intergovernmental obligation under international



law for member states to come to the aid of other member states in the event of an armed attack. The clause, however, includes a caveat that, “commitments and cooperation in this area shall be consistent with commitments under NATO, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation”(ibid.).

The solidarity clause envisages that member states shall “act jointly in a spirit of solidarity if a member state is the object of a terrorist attack or the victim of a natural or manmade disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States” (Art. 222, TEU). Thereby it complements the mutual assistance clause both in terms of scope and in terms of tasks.

These two provisions create a framework for setting up a mechanism where solidarity with other member states in case of an armed attack or disaster is made mandatory under the jurisdiction of the European Court of Justice (ECJ).

## **CONSEQUENCES OF THE LISBON CHANGES**

Having examined the changes brought to the CSDP by the Lisbon Treaty provisions, the following section analyses how these changes have been implemented in practice and what the consequences of them are for European defence cooperation.

### **Increased consistency and efficiency for EU external action**

The Lisbon Treaty provisions to the foreign policy domain have had, as one of their main aims, to strengthen consistency and efficiency of both the institutional structure and the policies undertaken. At the institutional level, the empowered HR that is also made part of the European Commission, and the creation of the EEAS, composed of staff from the Council Secretariat, the Commission and Member State diplomats, have led to a more centralised system for EU foreign policy action, which transcends the previous institutional separation of the EU foreign policy domain. This has also become an important measure to better integrate the range of political, economic and security policies and instruments that the EU has at its disposal.

In the Post-Lisbon period, this so-called comprehensive approach of combining the various EU foreign policy tools has been developed in a much broader framework, essentially by enlarging its scope and assigning greater responsibilities to the HR and the EEAS for its development and implementation. Besides the internal

coherence of institutions and policies, the comprehensive approach also entails an increased cooperation with the member states and with external actors, such as NATO and the UN.

The entry into force of the Lisbon Treaty has produced new dynamics of interaction among crisis management actors in the framework of EU institutions and in particular within the EEAS. There is now a broader consultation among stakeholders and a range of examples exist of integrating EU tools and policies more efficiently, not least when it comes to external crisis management. Newer EU missions and operations launched post-Lisbon, such as the EUCAP Nestor (European Union Mission on Regional Maritime Capacity Building in the Horn of Africa) and EUCAP SAHEL Niger (European Union CSDP Mission in Niger) exemplify cases where the EU has intervened with a broad spectrum of instruments at its disposal and in close cooperation with national member state missions and external actors including NATO and the UN.

Although this major restructuring of the EU's foreign policy system has brought increased consistency on an institutional level, as well as on the operational level, the first term after the Lisbon Treaty has also been a period of transition, where the changes have not yet been realised fully.

In the first term, under High Representative Catherine Ashton, the relationship between the EEAS and the Commission has been problematic and the High Representative failed to fully utilise her role as Vice-President of the Commission for further cooperation between the Commission and the EEAS. In practice this proved difficult, partly because Ashton was preoccupied with the task of establishing the EEAS, and partly because, early on, she developed a constrained relationship with the Commission and individual commissioners, meaning that in practice she did not use her role as vice-president in the manner that had been anticipated by the Lisbon Treaty provisions. Moreover, while the introduction of a multi-hatted HR is a forceful response to transcend different dimensions of consistency across EU institutions in theory, the mandate is also very extensive for one person to deal with alone.

The new EU leadership after 2014 led by Commission President Jean-Claude Juncker, and the appointment of Federica Mogherini as High Representative taking over from Ashton, has had the strengthening of cooperation between the EEAS and the Commission high on its priority list. The new Commission is structured so that seven vice-presidents of the Commission will lead groups of commissioners who share similar portfolios.<sup>9</sup> Mogherini will then head a foreign affairs "project team"

whose remit covers European neighbourhood policy & enlargement negotiations; international cooperation and development; migration; transport and mobility; humanitarian aid and crisis management; climate change and energy; and trade. The idea is then to ensure that these policy areas under the Commission are tied closely to the work done in the CFSP/CSDP. The 'foreign policy team' will have regular meetings several times a month and Mogherini will also be moving her office to the Commission building rather than being based in the EEAS building.<sup>10</sup> This new measure towards establishing the promised coherence of the Lisbon Treaty between the different aspects of EU foreign policy is an important step to strengthen the role and powers of the High Representative and to achieve inter-institutional coherence. However, it is still too early to evaluate the outcome of these new initiatives.

Important critical points have also been raised about the current structure of the EEAS in terms of increasing consistency and efficiency of EU external action, and specifically with regard to the CSDP. In particular, such criticism relates to the separation of the civilian and the military sides in the organisational chart, meaning that there is no direct organisational link between the CSDP staff and the rest of the EEAS staff. They are even located in different buildings. This leads to the fear that either the military or the civilian side will come to dominate strategic planning and conduct in the field of crisis management.<sup>11</sup>

Finding the balance between military and civilian crisis management has indeed been a recurrent conundrum for defence cooperation, and the operations that have been carried out so far have mainly been civilian. Today, the trend suggests that the CSDP might be drifting further towards the 'softer' kind of civilian crisis management. So, whereas the strictly military dimension of CSDP is formally acknowledged as one of the many components of the EU's 'comprehensive approach' to conflicts and external crises, in practice there is a risk that the EU's focus on non-military solutions to security could impact negatively on the availability of cutting-edge military instruments and weaken the operational case for further developing European key enabling capabilities.

Moreover, as mentioned, the new organisation of CSDP brings with it a very complex chain of command, where civilian and military structures are to be combined and coordinated with a wide array of actors involved, including member states, the EEAS, the delegations on the ground and the Commission. Thus, the implementation of the EU's comprehensive approach requires a careful policy mix of tools and resources, and this remains a key area where further EU efforts are needed.

### **Deeper integration among groups of Member States**

The Lisbon provisions on Permanent Structured Cooperation in defence (PSCD) bring some potentially highly significant new possibilities for cooperation within the CSDP.

The vision of having some member states enter into a more ambitious form of cooperation is not a new idea. It appeared in the draft of the Constitutional Treaty and reflects the continuous reality for European defence cooperation, namely that member states have very different visions for what the ambition level of the CSDP should be. Thus deeper cooperation among 'those who are willing' may be a way to address this issue. The Lisbon Treaty is the first treaty text to ratify the provisions.

However, their implementation remains in its infancy, and has not yet been used by any member states.

Indeed, the idea of PSCD may be used by member states as a means to address some of the obstacles facing not only the CSDP but also defence in Europe more generally. The reality is that many countries are no longer able to maintain the range of nationally organised capabilities that they possess today, so cooperation at a multinational level is essential for achieving the relevant capabilities in a cost-effective way. Thus closer cooperation among willing groups of member states would strengthen the CSDP generally in terms of developing common capabilities achieved at a quicker pace, and by increasing the participating member states' national levels of ambition in terms of deployability and sustainability. Within the area of developing common capabilities, it may be that regional partnerships will emerge between those states with the same regional interests and aspirations.

This however also brings the challenge that PSCD may lead to a division of Europe on defence issues, where the Treaty now allows a smaller group of member states (which can mean anything less than 28) to go further in defence cooperation while leaving others behind. However, the idea is not to aim for an exclusive and highly political vanguard signposting the way ahead but rather to encourage all to do more and to have a pragmatic process that is attractive to all member states.<sup>12</sup>

Undoubtedly, in order to conduct a more assertive foreign policy there is a need for more ambitious arrangements between the member states, and the Lisbon provisions for allowing like-minded groups of member states to enter into cooperation on defence capabilities or CSDP tasks, could show the way. However, the provisions have yet to be implemented and are at this point only theoretical ideas.

With the accession of the new EU leadership in autumn 2014, the potential of PSCD has been highlighted on a range of occasions by Commission President Juncker and High Representative Mogherini, both arguing that it is essential nowadays to guarantee the right development of the CSDP and, if it becomes fully implemented, it would generate real convergence between member states by increasing top-down coordination and by deepening cooperation.<sup>13</sup> In this respect the new EU leadership argues for the implementation of the Lisbon provisions on PSCD under their terms.

In the end, it is still up to the member states to decide whether the provisions should be implemented, and here national caveats and changed interests are likely to continue to be a hindrance. Here, this means particularly the unwillingness or indifference of some member states (most notably the newest NATO members and the UK) towards new forms of defence cooperation.<sup>14</sup> Moreover, there is already existing cooperation going on among a number of member states outside the EU structures, such as the close cooperation between the Belgian and Dutch navies and the defence cooperation between the five Nordic countries (NORDEFECO).

Similarly, when it comes to the possibility to entrust a CSDP task under Article 44, there is an assumption that this is already how several CSDP missions and operations are being carried out today, where a group of member states are leading the way, making it unnecessary to implement this particular provision. However, the idea of an Article 44 operation is to allow for a rapid response for willing member states when normal procedures would make EU involvement unlikely or too slow, or where the EU as a whole would not be in a position to intervene for political reasons.<sup>15</sup>

### **CSDP beyond external crisis management**

The incorporation of provisions on mutual assistance and solidarity creates specific and unprecedented demands on EU member states to assist one another in the face of armed attacks, natural or man-made disasters, emergencies and crises on EU territory. The provisions have not been invoked since they were established, and the practical implementations still remain undefined.

Though the mutual assistance clause may seem like a milestone in the gradual development of a common European defence, with the strong obligation to collective security, it should rather be seen as a symbolic provision. The Lisbon Treaty does not specify any implementation process for the mutual assistance clause. As an intergovernmental obligation, it is likely that any event potentially triggering the

clause would be discussed within the European Council. It thus entails an intergovernmental obligation for all member states to come to the aid of the victim of an armed attack, but it does not have any implications for EU institutional and military structures nor for common capabilities, and therefore, does not create any obligation for the EU.

Since the clause specifically refers to the primacy of NATO obligations, it seems to assume that if an armed attack should occur on European territory, assistance mechanisms would, thus, primarily depend on whether the victim of the aggression were a NATO nation for the mutual assistance clause to be implemented. The EU and its non-NATO members' role would be limited to the provision of support. Where the provision then becomes somewhat controversial is that it extends to all EU Member states, NATO and non-NATO members alike. The fact that it furthermore makes a direct reference to NATO as the key security arrangement in Europe creates a peculiar situation where the credibility of the provision appears to be limited.

The solidarity clause extends the mutual assistance clause in terms of scope by applying to instances where a member state may be the object of a terrorist attack or the victim of a natural or man-made disaster. Moreover, it prescribes a role for EU institutions, namely the Commission and the EEAS (i.e. the HR), which are expected to draft a joint proposal that would then be subject to a Council Decision. The clause also assumes a supranational intent in stating that the EU should mobilise all instruments at its disposal including military resources. Therefore, the solidarity clause could likely be used in a broader framework for EU crisis management in the event of an immediate crisis.

In summer 2014, the Council adopted a decision on the specific rules and procedures for the implementation of the solidarity clause. It remains to be seen whether the European Commission and the HR/VP will draw these and other related strands together when drafting the proposal on the arrangements for the implementation of the Solidarity Clause. For now, it seems that the implementation of the Solidarity Clause has suffered from its multi-institutional character and become a sticking point between the Commission and the Council, and the EC's Humanitarian Aid department (ECHO) and the EEAS. With the Commission in the lead, the implementation is likely to have less contact and relevance to the CSDP.

### **Post-Lisbon: shifting interests and an assertive role for EU institutions**

The Lisbon changes to the area of the CSDP are significant, especially the establishment of the new foreign policy system with the empowered role for the HR

and the creation of the EEAS, which streamlines the EU foreign policy system and promotes consistency of policies and action. While the new provisions provided in the Lisbon Treaty specifically on the CSDP could pave the way for a more assertive security and defence policy, the implementation of these remains in its infancy.

Since the Lisbon Treaty did not present any essential power shift from the member states to the EU, and the system for decision making remains intergovernmental, neither the new High Representative supported by the EEAS nor the new and more assertive Commission can change the forces underlying the formation of EU foreign and defence policy. A substantial reform changing the requirement of unanimity to qualified majority voting is unlikely in a foreseeable future. Thus, it still remains up to the member states whether or not they are ready to give up some of their prerogatives.

Although the political case for strengthening defence cooperation has weakened in times of financial crisis, there is nevertheless a general assumption among EU member state leaders that there really is no other way than increased defence cooperation, in order to counteract the changing global power structure and address the collective security challenges, including emerging international crises, facing the European continent.

In a recent time frame, the member states have showed willingness to progressively empower the CSDP over the next few years, with a renewed focus on the development of common military capabilities and options for strengthening the European defence industry. Efforts to develop common capabilities have continued and intensified through the collaborative projects endorsed by the heads of state or government at the 2013 December summit, as well potentially also via their stated intent to foster long-term and systematic defence cooperation.

At the December 2013 European Council summit, EU heads of states took the decision to put the CSDP on the top-level political agenda for the first time since 2008, in order to discuss how to strengthen EU military cooperation. While the summit did not – nor was it expected to – provide a “coup de théâtre” in European defence, it did constitute an interesting step, since it provides a systemised process in which European leaders have committed themselves to discuss how to empower the CSDP over the next few years, with the next appointment foreseen in June 2015. The outcome of the summit was the defining of a number of priority actions built around three clusters that should be used as a means to progressively empower the CSDP within a short-term future. The first cluster aims to increase the effectiveness,

visibility and impact of the CSDP through further developing the comprehensive approach to crisis management, increasing focus on the emerging security challenges with a focus on networked security (i.e. space, cyber and energy security), maritime security, developing an early warning system, and creating a more holistic approach to missions. The second cluster seeks to enhance the development of military capabilities through support to member states in developing and acquiring common capabilities, closer coordination between EU's 'pooling and sharing' and NATO's 'smart defence', and commitment to major projects on key enablers, including air-to-air refuelling, drones, cybersecurity and satellite communication. Finally, the third cluster aims to strengthen Europe's defence industry through focusing on a strong and competitive European defence and technological industrial base, and work towards standardization and certification of European defence markets.

In the time period that has followed the 2013 summit, and working towards the next one to be held in June 2015, the EU institutions, most notably the EEAS and the EDA have been and will be playing an important role in preparing analysis and plans for implementation, which will be reviewed and endorsed on a continuous basis by the Council and the heads of states.

Furthering the development of common capabilities is indeed a crucial measure for the EU to consolidate the CSDP and European defence cooperation in general, but the current discussions following the December 2013 summit have been less concrete, both in terms of the scale of investments needed and the potential options for systematic, long-term defence cooperation.

The piecemeal capability projects now launched are still relatively small in scale and still surrounded by many open-ended questions that need to be addressed by the member states. It is thus necessary for the heads of the EU member states to address these concrete (and difficult) questions at future summits, in order to establish the agreements required to move forward with the common defence investments needed. The EDA is likely to play a significant role, bringing steady support and, on behalf of the member states, driving the process forward.

In regard to the current process of strengthening the European defence industry, fostering more integration among EU countries' still fragmented defence markets will not only save money, but it will also enhance the general vision of genuine European defence cooperation via advanced technological and industrial capacities,



and this is recognised by most member states. The current state of the industry is locked in a downward spiral of high costs and declining national defence spending in response to the economic crisis. Integration in this area is not an easy process, though. It is difficult to achieve consensus among member states with divergent threat perceptions, operational capacities and national industries, and there is a range of clear national political constraints with regard to rationalising the national defence markets, such as the possible closing down of companies' factories and loss of workplaces and, potentially, professional skills.

The EU institutions, most notably the Commission and the EDA, are continuously playing a major role in this field, and have some promising opportunities for furthering the rationalisation of the common defence industry, although from different angles. Cooperation between the two institutions is however challenging, as the Commission is interested in 'communitarising' the sector as much as possible, while the EDA seeks to push developments in the dossier in an intergovernmental direction, making sure that they are not losing ground to the Commission. That there is a multiplicity of actors involved in the process is an encouraging signal of EU policy attention on the dossier, but it is also crucial that better working relations between the Commission and the EDA are established.



The case of Denmark

## CONSEQUENCES OF THE DANISH CSDP OPT-OUT

This final part of the report looks into how Danish foreign and security policy, especially the opt-out on defence cooperation, is affected by the post-Lisbon changes to the CSDP. It is particularly within the EU's comprehensive approach to external action, capabilities, and the European defence industry where the opt-out leads to increased consequences in a post-Lisbon context.

### **DANISH SECURITY AND DEFENCE POLICY – OUTSIDE THE EU FRAMEWORK**

The EU has long been an important framework for the general conduct of the country's foreign relations, if not the central one. However, Denmark is at the same time known to have serious reservations about certain aspects of EU cooperation, not least within foreign and security policy. This was exemplified by the Danish parliament's rejection of the Single European Act in 1986, partly because of its provisions on establishing a common foreign and security policy, and again in 1992, with the Danish 'no vote' on the Maastricht Treaty, which led to the establishment of the four Danish opt-outs including one within defence policy. A central rationale behind the formation of the defence opt-out was the fear that the EU would gradually develop an EU army that could undermine NATO and the transatlantic relationship. This reflects a general trend in the Danish public's view of the EU, namely a general resistance towards political integration in Europe and the fear of abrogating sovereignty.

Today, the reality is that the CSDP will continue to be based on an intergovernmental framework, and a sovereign EU army is far from becoming a reality in any foreseeable future. Thus, the Danish defence opt-out was at the time formed to keep Denmark out of a type of EU defence cooperation, which never became the reality. Today, cooperation appears different and more attractive for Denmark than anticipated at the time when establishing the opt-out. It is generally agreed by Danish foreign policy-makers that Danish interests would be better served if Denmark were also able to participate fully within an EU framework when conducting foreign and security policy, and that the opt-outs constitute a significant hindrance in the conduct of national foreign policy.

Due to the Danish opt-out of all defence-related aspects of the CFSP, Denmark has a unique perspective on European security and defence issues that sets it apart from the European mainstream. The opt-out has resulted in Danish military policy being conducted through NATO, the UN and bilaterally with the US. Denmark has a self-perception of being a principled foreign policy actor striving to make an assertive and positive contribution to the international community, not least by contributing considerably to international efforts in peacekeeping and peacebuilding. That Denmark cannot participate in all aspects of the CSDP is seen as counterproductive and it is generally agreed by Danish foreign policy-makers that Danish interests would be better served if Denmark were also able to participate fully within an EU framework when conducting foreign and security policy.<sup>16</sup>

**Due to the Danish opt-out of all defence-related aspects of the CFSP, Denmark has a unique perspective on European security and defence issues that sets it apart from the European mainstream.**

Although the opt-out is a hindrance to full participation in the CSDP, Denmark does take part in all civilian aspects of the CSDP. Since many components of the CSDP are indeed civilian, this means that Denmark can play a role in a range of respects. Denmark's contribution to the EU's civilian operations is significant, and Denmark currently takes part in a majority of the ongoing civilian CSDP missions and operations.<sup>17</sup>

## **CONSEQUENCES OF THE DANISH DEFENCE OPT-OUT IN A POST-LISBON CONTEXT**

The Lisbon Treaty does not change the content of the Danish defence opt-out.

There have been sixteen concrete examples since 2009 where the Danish defence opt-out has been invoked, although in several instances it concerns the same mission or issue. There have been five new invocations of the opt-out since 2009. In comparison there have been approximately twenty invocations of the opt-out since it was formed in 1992.<sup>18</sup> Thus, the Lisbon Treaty has not resulted in more invocations of the opt-out at this stage.

### **INVOCATIONS OF THE DEFENCE OPT-OUT AFTER THE LISBON TREATY:**

- EUMT Somalia (military training mission). Council Decision 2010/96/CFSP; Council Decision 2010/197/CFSP; Council Decision 2011/482/CFSP; Council Decision 2012/835/CFSP; Council Decision 2013/44/CFSP
- The European Defence Agency (EDA). Council Decision 2011/411/CFSP<sup>19</sup>
- The ATHENA mechanism (financing of military operations). Council Decision 2011/871/CFSP
- EUFOR Libya (military operation). Council Decision 2011/210/CFSP
- EUTM Mali (military mission). Council decision 2013/178/CFSP; Council Decision 2013/87/CFSP; Council Decision 2013/34/CFSP
- EUFOR RCA in the Central African Republic (military mission). Council Decision 2014/181/CFSP; Council Decision 2014/73/CFSP; Council Decision 2014/183/CFSP; Council Decision 2014/537/CFSP

Besides concrete examples of where the opt-out has been invoked, in the day-to-day work of Danish officials, a range of situations exist where they must interpret whether to participate in a given discussion, arrangement or mission. Denmark does not participate in discussions or decisions regarding subjects that have any hint of military substance to them, in the EU institutions and in the working groups of the Council. Thus, the Danish opt-out also has a range of indirect and unintended consequences.<sup>20</sup>

In regard to the specific provisions in the Lisbon Treaty on the CSDP, including permanent structured cooperation, as well as the mutual assistance and solidarity clause, they all have possible consequences for Denmark because of the opt-out. Denmark cannot take part in any form of structured cooperation, nor participate in a situation where the solidarity or common assistance clauses are applied. However, so far, since neither of the provisions has been implemented, these have not yet affected Denmark in any way.

Though the Lisbon changes have not led to a detectable increase in the invocations of the opt-out, there are detectable indirect consequences at this point in time, and these may increase in the future, possibly leading to a more frequent invocation of the opt-out. It is especially within three core areas affected by the Lisbon Treaty that the Danish opt-out will have increased consequences: the intensified comprehensive approach involving civilian and military actors; the developments in the area of common defence capabilities; and the process of strengthening the European defence industry. However, as seen in the previous sections of the report, these are areas where some progression has happened but still only to a limited extent. The consequences as they appear now are therefore limited, but likely to increase within a medium or long-term future.

### **EU's comprehensive approach**

As mentioned in the previous section of the report, the EU's 'comprehensive approach' stands as a core aim of the Lisbon Treaty for EU external action; consistency across institutions, instruments and policies is explicitly addressed in the Lisbon provisions and further addressed by the new EU leadership. Hence, an intensified comprehensive approach involving civilian and military actors will likely result in the CSDP having a more blurred division between civilian and military tools, possibly leading to greater consequences of the Danish opt-out.<sup>21</sup>

The concrete consequences of the opt-out, i.e. whether an increased 'comprehensive approach' to EU external action will necessarily lead to more frequent invocations of the Danish opt-out, is difficult to evaluate at this stage. What can be said, however, is that the stated objective to increasingly apply the comprehensive approach to all EU external action, has at least two overall strategic and political implications for Denmark given the opt-out.

Firstly, it becomes an increased obstruction for pursuing national foreign policy interests within this area. Having comprehensive approaches to security policy action which integrate foreign policy instruments, development policies, military

efforts, and cooperation with an array of international actors, is an important part of Danish policy. It has also been a Danish priority to actively promote EU missions that envision encompassing a variety of different instruments ranging from short-term crisis response mechanisms to longer-term development activities.<sup>22</sup> Thus, while Denmark actively supports a strengthening of the EU's comprehensive approach within the CSDP framework, an intensified comprehensive approach also comes to mean that Denmark may in more cases be excluded from participating in work involving both civilian and military actors. There are new examples of Danish interests having been compromised because Denmark has not been able to participate in all aspects of a task under the comprehensive approach. One such is the EU's anti-piracy effort off the coast of Somalia, a mission considered successful, not least because of its successful implementation of the comprehensive approach for guiding the mission. The EU NAVFOR/ATALANTA is part of the EU's comprehensive approach, tackling both current symptoms and root causes of piracy. Together, EU NAVFOR, EUCAP Nestor and the EU Training Mission Somalia (EUTM Somalia) form a coherent and integrated CSDP response supporting the EU's "Strategic Framework for the Horn of Africa", which guides the EU's multi-faceted engagement in the Horn of Africa. In addition to EU NAVFOR units, a considerable international military maritime presence has been deployed in the area, including the NATO counter-piracy mission, Ocean Shield, and a range of independent national units. EU NAVFOR cooperates closely with these forces to de-conflict and coordinate operations. ATALANTA has reduced the scourge of piracy off the coast of Somalia, and security in Somalia has greatly improved thanks to the training provided by EUTM Somalia and the EU funding of AMISOM.<sup>23</sup>

**It is especially within three core areas affected by the Lisbon Treaty that the Danish opt-out will have increased consequences: the intensified comprehensive approach involving civilian and military actors; the developments in the area of common defence capabilities; and the process of strengthening the European defence industry.**

Denmark takes part only in the civilian EUCAP Nestor and is not participating in the ATALANTA mission, and cannot therefore harvest the benefits of the efforts made in the area as a whole. As a maritime nation, counter-piracy is moreover a flagship for Danish foreign policy, and it is therefore a restriction that Denmark cannot participate fully in the NAVFOR mission. This weakens Danish credibility and it is

often difficult to get Denmark's partner countries and organisations to understand why they cannot participate fully, taking into consideration the value they place on counter-piracy.<sup>24</sup> That said, Denmark has played an important role in the NATO operation and has supported the UN in its efforts in the area, and since it is still in the stated interest of Denmark to pursue its military engagements through the NATO framework, the picture in some of these instances becomes less clear-cut.

Secondly, the opt-out in this area means that Denmark may appear as a less credible actor, which could have political consequences. The fact that Denmark on the one hand is a strong promoter of a comprehensive approach to policies, instruments, operations and partnerships with other institutions, but on the other hand cannot participate in the military aspects of the CSDP, which an increased comprehensive approach will necessarily lead to, becomes paradoxical and counterproductive. For example, in those instances where Denmark argues for a larger NATO involvement at the expense of the EU, EU partners may perceive this as an expression of Denmark trying to downplay the EU track.<sup>25</sup>

### **Common defence capabilities**

Denmark does not participate in the European Defence Agency (EDA). This means that it stands outside the process of the current efforts to develop common military capabilities, where the concrete collaborative projects, as initiated at the 2013 December Summit, are driven by the EDA. While these efforts are still at an early stage, it is likely that they will gain momentum in the coming years. In a future perspective it is likely that the EDA will gain more influence concurrently with the increasing need for and focus on the development of capabilities.

The consequences, and indeed an overarching problem of Danish non-participation in the EDA in regard to the development of capabilities, is that Denmark has placed itself 'outside the loop' and therefore is unable to maintain a sufficient level of information about the ongoing projects. Necessarily, a large part of information is made available to the 'public' but by no means all of it. This means that it becomes difficult for Denmark to get an full overview of the ongoing efforts for capability developments.

Since the ongoing projects are still under development, assessing the other consequences of non-participation in EDA with regard to capabilities is more speculative. In a short to medium-term perspective, there is a chance that the process of capability development will be intensified through the provisions on "permanent structured cooperation". Here, willing member states will enter into



binding commitments towards developing common capabilities, and the EDA is to assess their performance. If the provisions of the PSCD will become a main framework for common defence capabilities, as is increasingly suggested, this means that EU member states can opt into projects which they find valuable or opt out of others while still having the option to join at a later stage. Denmark, on the other hand, is bound by its formal opt-out and does not have the opportunity to take part in any aspects of the process.

There may also be economic consequences of non-participation in the EDA in regard to the common military investments. The Danish defence industry (although not a particularly large sector) will be excluded from participating in the development of new defence projects, since these are reserved for the member states in the EDA. Since these projects are still preliminary, it is difficult to assess the concrete economic consequences.

It is also likely that cooperation between NATO and the EDA will increase for the purposes of advancing defence capabilities. Within the NATO–EU Agreed Framework, the Coherent Capability Development mechanism was agreed to enhance cooperation between the two organisations, and there seem to be an understanding between NATO and the EDA that collaboration to the extent possible on capabilities will maximise payoffs for both organisations. A key aim for both organisations is to enhance interoperability even further, so their interests are likely to coincide in advancing capabilities like airlift, counter-improvised explosive device (C-IED), and chemical, biological, radiological and nuclear (CBRN) capabilities.<sup>26</sup>

In sum, it therefore remains a significant hindrance for Denmark that it cannot take part in the EDA or in the work areas controlled by the EDA, most notably in the process of developing common military capabilities. The fact that Denmark is not part of the EDA was mentioned by a majority of the interviewees as one of the most far-reaching consequences of the opt-out in a post-Lisbon perspective.

### **The European defence industry**

Since the EDA plays a significant role in the current process of strengthening the European defence industry, the Danish opt-out will also have consequences within this field, both in terms of access to information and in terms of economic benefits.

While Denmark can take part in and follow the Commission's work done on the harmonisation of defence markets, it does not follow the developments in Council/EDA fora, and there is an increasing overlap between the institutions in this field.

The EDA is likely to become a key facilitator and driver of a pan-European defence reform, and it goes against Danish interests to be excluded from the EDA.<sup>27</sup> Again, it becomes an issue of lack of information, where Danish policymakers do not have an overview of the newest developments within this field.

Moreover, a greater harmonisation of the defence industries will also bring jobs, growth and innovation, and here it becomes more difficult for the Danish defence industry to be fully integrated in the developments taking place, which is thus also likely to lead to economic consequences.<sup>28</sup>

# CONCLUSION

The Lisbon Treaty has led to major institutional and organisational change in the EU foreign policy system, including for the Common Security and Defence Policy. With the establishment of new EU actors i.e. the empowered High Representative for Foreign Affairs and the External Action Service, there has been a significant strengthening of the EU framework for conducting a common defence policy. The goal has been to bring coherence and efficiency to the CSDP as it was generally agreed that the policy has previously suffered from incoherence and lack of substance and internal coordination.

The CFSP/CSDP system for foreign and security policy nevertheless remains intergovernmental in the post-Lisbon context. This implies that neither the new High Representative supported by the EEAS, nor the new and more assertive Commission, can change the forces underlying the formation of EU foreign policy. A substantial reform changing the requirement of unanimity to one of qualified majority voting is unlikely in the foreseeable future. Thus, it still remains up to the member states to decide whether they are ready to give up some of their prerogatives.

Besides the major institutional change of the EU foreign and security system as a whole, the Lisbon Treaty also brought specific new provisions to the CSDP in the form of the Permanent Structured Cooperation provisions, and the mutual assistance and solidarity clauses. These mostly unexploited opportunities do have the potential to bring significant new possibilities for cooperation within the CSDP, although how they work in practice remains to be seen.

While the Lisbon Treaty changes to the EU foreign policy system and the CSDP do bring significant institutional and organisational changes, which have led to increased consistency across institutions and instruments, it is also the case that institutional innovations have not been realised fully in practice. There is still a strong divide between the communitarised policy areas relating to foreign and security policy, as a difficult *modus operandi* exists with the European Commission in these areas. Moreover, the EEAS was meant to be built up as a new service by High Representative Catharine Ashton and is thus still in its infancy. Finally, the provisions on structured permanent cooperation and mutual assistance have yet to be invoked so it is hard to tell if they can indeed lead to reinforced defence cooperation between some states, and whether member states are really ready to allow the CSDP to deal with internal security issues.

Thus, since the Lisbon Treaty provisions to the CSDP have yet to be fully implemented, the report has focused mostly on the potential of the clauses rather than on tangible results obtained so far. It is nevertheless an important conclusion that the CSDP provisions provided in the Lisbon Treaty indeed hold the potential for a more coherent and assertive CSDP. The CSDP provisions can also pave the way for more ambitious arrangements between the member states, which are needed for the EU to be able to realise its ambitions of becoming a genuine foreign policy actor.

In the post-Lisbon context there are recent developments pointing towards stronger cooperation on security and defence in a number of areas. These are largely driven by more assertive EU institutions, and changing member state interests. The newly appointed EU leadership for the 2014–2019 term under Federica Mogherini is expected to bring to the fore a number of unsettled issues (including reform of the EEAS, deputisation for the HR/VP, a new EU security strategy etc.).

Moreover, pressure of international events, most notably in the EU's eastern neighbourhoods, may further motivate member states and EU actors to reinforce their common approach to external action. We have recently seen an increased interest by the member states to reinforce defence cooperation, as the December 2013 European Council signalled when a process to progressively empower the CSDP over the next few years was initiated by the EU heads of state. This has, among other things, meant a renewed focus on the development of common military capabilities and further options for harmonising the European defence industry.

The report has also analysed what the Lisbon Treaty changes to the CSDP are likely to mean for Denmark, since it has an opt-out on the military aspects of EU defence cooperation.

While the Lisbon Treaty does not change the context of the Danish opt-out and has at this point not led to increased invocations of the opt-out, there are three core areas of EU defence cooperation that have been strengthened in the post-Lisbon context, which are likely to lead to important consequences of the Danish opt-out in a short or medium term future. This is within 1) the intensified use of the comprehensive approach to EU external action, 2) the development of capabilities, and 3) the strengthening of the defence industry.

Integrated foreign and security efforts lying at the nexus between security and development, as well as strengthened cooperation between multiple actors, are a special priority in Danish foreign policy. This is also why Denmark has actively sought to shape the EU agenda in terms of promoting comprehensive approaches to crisis management and beyond. An intensified use of the comprehensive approach means an increased mix of security and civilian tools in crisis management, and this could result in more frequent invocations of the opt-out. This also compromises Denmark's reputation among other member states and core partners, such as the UN and NATO.

Moreover, the more assertive role of the EDA, most notably in the field of the development of common capabilities and the furthering of harmonising the European defence industry, has become a significant challenge for Denmark in a post-Lisbon context. Denmark is the only EU member state that does not participate in the agency or any EDA activities, and is thus excluded from following the developments taking place and from participating in the joint capability projects recently launched. However, since such developments and the concrete projects are still at an early stage it is difficult to point to the concrete consequences of the opt-out here.

The prospect of "permanent structured cooperation" becoming a new *modus operandi* for the common defence policy may also put the Danish opt-out on the spot. This would create a new situation where member states are free to opt-in and opt-out of defence cooperation, both in terms of capabilities and CSDP tasks, as it suits them. Denmark, bound by its formal opt-out, would be left with no flexibility to decide what suits Danish interests.

- 1 For an account of the historical background of the CSDP prior to the Lisbon treaty, see DIIS (2008) report "The Danish opt-outs from the European Union – developments since 2000".
- 2 EUISS (2013) 2013a or b ??
- 3 *ibid.* see above
- 4 Biscop & Fiott (2013)
- 5 High Representative (2013)
- 6 EEAS (2014)
- 7 EUISS (2010)
- 8 EUISS (2013) 2013a or b ??
- 9 EU Commission (2014)
- 10 Juncker (2014) – Mission letter to the High Representative
- 11 Hynek (2011)
- 12 EUISS (2010)
- 13 Bendiek (2014)
- 14 Kaski (2011)
- 15 EUISS (2013)2013a or b ??
- 16 DIIS (2008).
- 17 Ministry of Foreign Affairs Denmark (2014)
- 18 Source: Folketingets EU information
- 19 Not a new invocation as such, but comes in response to the changes in the Lisbon Treaty regarding the EDA.
- 20 See a further assessment of these in: DIIS (2008) report "The Danish opt-outs from the European Union – developments since 2000".
- 21 Interviews conducted by author with government officials, autumn 2014.
- 22 Interviews conducted by author with government officials, autumn 2014.
- 23 EEAS (2013)
- 24 Interviews conducted by author with government officials, autumn 2014.
- 25 Interviews conducted by author with government officials, autumn 2014.
- 26 Interviews conducted by author with government officials, autumn 2014.
- 27 Interviews conducted by author with government officials, autumn 2014.
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