

The Unclear Border between Internal and External Security in the European Union: Impact of the Lisbon Treaty*

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Abstract:

EU member states are prime examples of post-modern states that have been greatly influenced by blurring of the border between the 'inside' and the 'outside', between internal and external security. European integration has played an important role in this process. Cooperation within the realms of both Common Security and Defence Policy and Justice and Home Affairs has compromised the traditional role of borders and is reflected by the work of European institutions, such as the Civ-Mil Cell or the Joint Situation Centre. The paper analyses the impact of the Lisbon Treaty on the legal basis, institutions, and policy content of EU security. The question is asked whether the provisions of the Lisbon Treaty constitute progress or a setback with regards to a comprehensive approach to security.

Keywords: European Union; Lisbon Treaty; internal and external; security policy; police; military.

The distinction between internal and external security is one of the substantial consequences of the modern Westphalian state. The arising nation state acquired the monopoly on violence within its territory (Weber 1972; Tilly 1992). The demand for legitimacy and domestic support led to a differentiation between forces enforcing this monopoly at home and forces that faced equally strong adversaries abroad (Bayley 1975: 328). Accordingly, the domestic units (the police) have been strictly regulated by law, limited in the use of force, or restrained to reactive engagement. By contrast, the external security units (the military) have been regulated only very loosely and have tended to use maximum force, often proactively (see Giddens 1987; Liang 1992; Bigo 2001; Pereira 2003).

Such a distinction can still be found in many places in the world. Since the end of the Cold War, however, scholars have suggested that the border between these two forms of security is much more intricate or is even fading away in the West (see Eriksson and Rhinard 2009; Crelinsten 1998; Andreas and Price 2001; Heisbourg 2003; Lutterbeck 2004; Dalgaard-Nielsen 2005; Loader and Walker 2007). This should be understood as part of a bigger change to the formerly clear distinction between inside and outside and the overall decline of the nation state (see Walker 1995; Giddens 1991; Brenner et al. 2003; Kofman 2007). The expanded

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concept of security or “new” security threats have, allegedly, precluded a simple classification of threats as either internal or external and have provoked a re-focusing of the police and the military as well as changes in their working methods.

European integration has played an important role in blurring the border between inside and outside and in challenging the sovereign position of the nation state (see Menon and Wright 2001). In some areas, supranational policies of the European Union (EU) have erased territorial delimitation between member states. In some policies, “inside” means the territory of the whole Union, whereas in other areas it remains to be defined by the borders of the member state. The higher permeability of state borders, which culminated with the abolishment of internal border checks within the Schengen zone, has severely limited the ability of member states to control their territory.

The internal and external security of the member states have been affected by these processes to varying degrees since the 1990s, when cooperation was included in the Treaty on European Union. New institutions were introduced at EU level to coordinate developments within the EU and to conduct operations outside its borders. In the European Security Strategy, the member states jointly defined security threats and realized that they were dynamic and could not simply be divided into external and internal – “the first line of defence [would] often be abroad”. They also decided to face them with a “mixture of instruments” covering military and non-military means (European Council 2003: 7).

The Lisbon Treaty constitutes a major reform of the European Union’s policies and of the institutional setup. After nearly a decade of negotiations, European integration has been put on a new footing. The changes introduced by the new treaty, such as new institutions or new voting mechanisms, concern almost all policy areas, and internal and external security, including crisis management, is no exception.

This paper aims at analyzing the (potential) changes triggered by the Lisbon Treaty in EU security cooperation. It deals with physical security (provided by police and military) in order to keep focus¹. The main question posed here is whether the Lisbon Treaty further contributes to blurring the border between internal and external security in the EU. The blurring is understood as the higher interconnection between internal and external security provisions in terms of institutions, practical cooperation and objectives. A change in the primary law cannot influence the practice of policy, but it can alter the conditions that shape the practice. Therefore, although the research question focuses on policy practice, the research itself has to deal with conditions and, on this basis, try to identify potential consequences. What are the settings that a treaty change could modify? Firstly, it is the *legal basis* of internal and external policy, which, in the EU environment, delimits the roles between EU institutions and member states, as well as between various EU institutions, and specifies the way in which decisions are taken. Secondly, a new treaty may adjust the *institutions* themselves, their internal organization and tasks, or even introduce new institutions altogether. And thirdly, the *content of policies* may change – a policy area may expand or shrink, or new objectives and tasks for the EU may be introduced. The paper analyzes the changes introduced in these three areas and identifies their potential impact on policy practice with respect to European internal and external security.

The paper is structured as follows. In the first part, the pre-Lisbon framework is reviewed. In the second, the relevant changes introduced by the Lisbon Treaty are identified and their impact on internal and external security in the EU is discussed. The third part concludes.

1. The situation before the adoption of the Lisbon Treaty

European integration has involved security matters since the 1993 Treaty on European Union. The treaty introduced the Common Foreign and Security Policy on the one hand and cooperation on Justice and Home Affairs on the other. Although both policies stemmed from the reluctance of member states to give up sovereignty in the security domain, the second and third pillars of the EU were indeed different from each other with different roles ascribed to the European institutions (namely the Commission and the Court) and contained different legal instruments. Military cooperation remained restricted to the second pillar. Various aspects of police and judicial cooperation, however, were scattered across the third pillar (cooperation on criminal matters), the second pillar (police operations in the European Security and Defence Policy), and, after Amsterdam, even the first pillar (Schengen, migration).

Accordingly, various bodies were established to implement the new policies. In the second pillar, it was the Political and Security Committee (COPS) together with supportive committees on military (EUMC) and civilian (CIVCOM) crisis management. The EU Military Staff (EUMS) and the Civilian Planning and Conduct Capability (CPCC) provided technical expertise on operations and even had potential (EUMS) or actual (CPCC) capacity to conduct them. In the first and the third pillar, the Committee of Article 36 (CATS) and the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) supported the Permanent Representatives Committee (COREPER) on police and judicial cooperation in criminal matters and on immigration, frontiers and asylum respectively. The EU started coordinating military procurement (European Defence Agency) as well as provided a forum for exchange of information between police services of member states (Europol). All this cooperation challenged the traditional distinction between external and internal security at the level of member states. In particular, Schengen cooperation, which led to the abolishment of checks at internal borders, brought about compensation measures that have altered the traditional territorial delimitation of police work. Besides information exchange and the establishment of liaison officers in border regions, the Schengen implementation agreement allowed for cross-border pursuit and surveillance, thus partially blurring the territorial boundary of jurisdictions. This cooperation did not, however, put in question the same distinction at EU level. The internal security of individual states turned into internal security of the whole EU territory. External security remained concerned with what was happening outside the Union (see Berenskoetter 2006: 2).

Increasingly, however, the EU started to recognize the interdependence of various threats and the impossibility of dealing with individual threats separately, without taking into account the complex situation on the ground. Thus, the European Security Strategy (ESS) emphasized that all major security threats were interconnected and reinforced each other, such as terrorism, organized crime and regional conflicts, or terrorism and the proliferation of weapons of mass destruction. Also the connection was recognized between security on the one hand and development and political stability on the other. The ESS not only stated that “security is a precondition of development”, but also that in some cases “economic failure is linked to political problems and violent conflicts” (European Council 2003: 2). State failure was identified as one of the main threats on a par with terrorism or the proliferation of WMD. Accordingly, the goal had to be a complex and comprehensive approach to the problems, preventing conflicts from breaking out where possible.

The EU's ability to react has suffered from a lack of coordination. Although having a number of suitable instruments at its disposal, the Union has often not been able to coordinate them sufficiently. Emma Stewart (2008) defines three such shortcomings related to the EU's performance in conflict prevention – among pillars, among institutions, and within institutions. There are various examples of these shortcomings. Considering inter-pillar coordination, the most visible example would be short- and long-term conflict management, in which ESDP operations belong to the second pillar, but development cooperation belongs to the first. The lack of coherence between the institutions arises for several reasons. Firstly, the Commission and the Council differ in their objectives – whereas the Commission's objectives pursue common EU goals, member states in the Council have their own particular aims. Secondly, the institutional structure encompassing different loyalties complicates communication between various stakeholders in Brussels and in capitals by definition (and even to some extent by primary law). Thirdly, such communication is aggravated by various turf wars in Brussels, where different institutions, departments and member states attempt to maintain or increase their relative influence. This is also true for the lack of coordination within institutions, where, for example, various DGs hold different opinions on many issues. Even without turf wars, different expertise and aims lead to different conclusions. As a result, external trade departments will have different views from security specialists or development experts. This is nothing unique about Brussels, as all administrations suffer from similar problems (e.g. divergent positions of ministries of industry and the environment).

The specific form of the EU and the circumstances of transferring various policies to the European level cause other hindrances as well. Within the second pillar, for example, there are two different ways of financing operations, depending on whether they are classified as “military” or “civilian”, further complicating an orchestrated approach using both military and civilian instruments. In Bosnia, the EU has been running two separate operations – EUPM and Althea – with separate legal and financial bases and separate chains of command. The very few truly civ-mil operations, such as the civilian-military support for the African Union's mission to Sudan or the security sector reform mission to Guinea-Bissau, have remained very small in terms of both staff and budget (see Gross 2008: 15; Blair 2009: 6). Even there, the operations continue as two separate operations adopted within the same joint action, rather than a real civ-mil action.

The lack of coordination may reach as far as ministers in the Council. Although the EU pleads for a complex approach to security, various aspects of problems or various uses of the same instruments are discussed in different Council settings. Thus, illegal migration from Africa is a relevant issue for the Justice and Home Affairs Council, where ministers address border controls and immigration legislation. It is also a topic on the agenda of foreign ministers, because they are responsible for general relations with African countries, for development policy, and for possible EU operations in some of these countries.

The European Union and its member states have always been aware of the lack of coherence with regard to EU policy formulation and action. The Tampere European Council declared officially for the first time that it was necessary to coordinate internal and external security policy in the EU (European Council 1999) and three years later the same body called for the increased involvement of ESDP in the fight against terrorism (European Council 2002). Thus, even before the adoption of the Lisbon Treaty, there were attempts to mitigate

structural deficiencies by creating new bodies and processes. As a side effect, these new bodies and processes contribute to removing the previously much clearer border between internal and external security.

Firstly, new bodies emerged that combine external and internal, military and civilian aspects of dealing with security issues. The most visible example is the Joint Situation Centre (SitCen) which the EU inherited from the Western European Union. SitCen gained importance after the terrorist attacks of 9/11, when it became a monitoring hub processing intelligence from the member states in order to identify potential crisis situations and areas in the world (Buuren 2009). After the Madrid bombings, SitCen's focus was broadened (publicly) to include intelligence concerning potential threats within EU territory as well. The body started supporting not only the General Affairs and External Relations Council and the High Representative for CFSP, but also the Justice and Home Affairs Council (House of Lords 2005: 55; Bendiek 2006: 10). The centre's added value is limited by the way in which it receives information and intelligence, i.e. mostly in the form of secondary analyses from the member states' services, but it remains the only truly civil-military body in the EU architecture.

In 2004, a Civil/Military Cell was established within the EUMS. It was supposed to combine civilian and military expertise in advanced planning for EU crisis management operations. Its strategic planning division brought together eight military and seven civilian planners, including two from the Commission. Later on, an Operations Centre was established within the Civ/Mil Cell that serves as the standing core for what is potentially an alternative planning and conduct centre for EU operations. From the very beginning, concerns have been raised that its position within the EUMS is slightly illogical for a truly civ-mil body (see Ehrhart 2007). The impact of the Civ/Mil Cell has also been somewhat reduced with the establishment of CPCC, which is responsible for the planning and conduct of civilian operations. As a result, the first Civ/Mil Cell director described the work which the OpCen was ready to take on as conducting "predominantly military operations" (Brauss 2007).

Another step towards integrating the Council's crisis management tools was the merger of the DG E VIII (military) and the DG E IX (civilian) into a single Crisis Management Planning Directorate (CMPD) in 2010. The new body should increase cooperation between the civilian and military parts of the Council's administration of strategic planning. Having proven to be a logical step in the development of EU planning capabilities (see Gebhard 2009), the actual result was received with reservations. It has been criticised for being military-heavy as a result of the lack of civilian planners (Blair 2009: 7; Brantner 2010). Moreover, the impact on other crisis management bodies has been highlighted, such as the future relevance of the Civ/Mil Cell's strategic planning section (Hynek 2010: 4).

Secondly, new measures were introduced as a reaction to the securitization of immigration and terrorism and their re-interpretation as external threats (see Anderson 2007: 38). Besides counter-terrorism clauses that the EU started inserting into treaties with third countries, institutions that were originally focused on the internal space of the EU began to cooperate with external actors. Europol, for example, originally providing member states with secondary analyses and serving as a forum for the exchange of information, established working contacts with a number of countries, including an agreement on the exchange of personal data with the US (Europol 2010; see also Mounier 2009). Similarly, the external border agency FRONTEX

concluded operational agreements with more than ten countries neighbouring the EU and continues to negotiate with many others (FRONTEX 2010).

Attempts to bridge the differences between pillars were made. In 2004, an EU counter-terrorism coordinator was appointed in order to help counter-terrorism agencies of the member states share information more effectively. Although the task was predominantly internal, the position was subordinated to the High Representative for CFSP. Since the very establishment of the ESDP, third-pillar bodies were involved; for instance, the WG on Police Cooperation helped set terms and conditions for the selection, training and equipment of police officers in ESDP (Pastore 2002: 65).

In the end, however, cross-pillar coordination has not worked out particularly well. In the Council, two working groups focus on terrorism – the Terrorism Working Group and the Counter-Terrorism Working Group. The former deals with first and third pillar aspects of counter-terrorism, the latter with counter-terrorism within CFSP. Although the two groups meet, their interaction is limited (Spence 2004: 93). The JHA Council has taken over the fight against terrorism – a step that has limited the external aspect of the policy (Keohane 2008: 132). Voices claiming that distinctions between JHA and CFSP would eventually disappear (Cross 2007: 93) or that a “functional unity” (Balzacq 2008: 95) has been developing between the second and third pillars remain contested. In fact, structural and legal differences have been seen as the key factors preventing better coordination and cooperation between internal and external security institutions (Anderson 2007; Weiss and Dalferth 2009).

2. The Lisbon Treaty changes

The Lisbon Treaty introduced a number of measures that have significantly altered the EU's institutional structure and its specific policies. This part addresses the policies that are relevant to the external/internal security interface. First, changes to the legal basis are discussed; second, the new institutions are analysed; third, modifications to policy content are examined.

2.1 Legal basis: Abolishment of the pillar structure

After coming into force, the Lisbon Treaty not only abolished the European Community and assigned the EU a legal personality, but also abolished the whole pillar structure introduced by Maastricht. In theory, this should ensure more coherent activity at international level and a better understanding of the EU's policies by external actors. It should also help dispose of cross-pillar incoherencies.

The reality, however, is more complicated. The assumption holds concerning the third pillar, where in most policy areas the ordinary decision-making procedure (formerly co-decision) has been introduced with the respective roles for the Commission, Parliament and the Court of Justice of the EU. The few exceptions where unanimity has been preserved are analogous to the more delicate areas in economic integration, such as taxation (Art. 113 TFEU), notably the operational cooperation between police forces (Art. 87(3) TFEU). The shift in decision-making procedures may have a far reaching impact on the further and faster development of cross-border police cooperation. It is, however, too early to assess the results. Moreover,

existing cooperation as a result of Schengen suggests that easier decision-making still requires a large degree of political will and trust to work in practice (see Brady 2010). At the same time, the Common Foreign and Security Policy has retained special procedures which do not differ greatly from the pre-Lisbon situation. The role of the Commission has been curtailed even more² and the Parliament and the Court have been kept at bay with very little authority (Art. 36 and 24(1) TEU). Decision-making remains under the control of the member states and unanimous in principle (Art. 31 TEU). As a result, the second pillar has effectively remained in place.

Cross-pillar coordination of security policies will, as a consequence, remain problematic. Although some of the problems between the first and third pillars may disappear, the majority of issues will remain untouched, such as insufficient coherence between development, trade and crisis management or coordination between the CFSP and external relations of JHA agencies such as Europol or FRONTEX. The different decision-making procedures and the non-existence of legislative acts in CFSP will preserve the situation in which different actors draft and adopt different instruments on the same or related topics without coordinating them.

Similarly, inter-pillar structural problems have remained untouched and the separate financing of military and civilian operations within security and defence policy has been retained.

2.2 New institutions: High Representative and her “ministry”

The mere division into pillars does not necessarily have to lead to incoherence. If there were sufficient consultation and cooperation mechanisms in place between the pillars, a coherent EU policy might come out after all. To this end, the Lisbon Treaty has introduced a number of new institutions, some of them at the highest policy level, some of them at lower working levels³.

The most visible novelty is the creation of the re-defined High Representative of the Union for foreign affairs and security policy (HR) and the accompanying European External Action Service (EEAS). While a lot has been written about their functions and roles (see Edwards and Rijks 2008; Duke 2009), for the purpose of this paper we shall just focus on their relevance for connecting internal and external security in the EU. This will, arguably, not be very extensive and in some cases the establishment of these new bodies may even be counter-productive.

First, the HR may do a great deal of important work in connecting the worlds of the Commission and of the Council at the highest level. Being at the same time the chairperson of the Foreign Affairs Council and coordinator of external relations in the Commission allows the HR to harmonize the activities of the two institutions. Nonetheless, the administrations preparing the concrete dossiers will remain separate and no significant change has been introduced regarding their future cooperation or coordination. A single political leadership will be useful, but will not change the views and approaches of individual officials and departments alone. More cross-institutional drafting of primary documents would be necessary to bring about a major shift. Otherwise, the single political leadership will end up with contradictory initiatives stemming from different branches of the administration. Moreover, the separation of the Foreign Affairs Council (FAC) and General Affairs Council (GAC) that has accompanied the establishment of the High Representative will in fact complicate the coordination of various EU

policies. Whereas some relevant security areas remain under the supervision of the GAC (e.g. Horizontal Working Party on Drugs or WG on Asylum and Migration), other working groups support the FAC (e.g. all military WGs, some terrorism-related WGs). In addition, the JHA Council has not disappeared and supervises many other related working groups (e.g. on terrorism, migration, civil protection and the protection of borders) (see Council of the EUa 2010).

Second, the creation of the EEAS has been hailed as the most significant reform of EU external policy in decades (Edwards and Rijks 2008: 81). Without any doubt, this is true for the EU's external representation, but it is rather problematic in relation to security policy. All crisis management/external security structures are going to be transferred to the EEAS when the service is established in December this year, including the Civ/Mil Cell and the Situation Centre, which partly serves internal security purposes as well. They will, however, remain separate from the rest of the general structure of the EEAS, being directly subordinated to the HR. It is questionable to what extent they will be able to influence the formulation of other foreign policy priorities and vice versa. In addition, external security structures will be detached from internal security affairs in the EEAS even more than they have been so far. All terrorism and immigration related bodies will remain in the Council Secretariat (and the related WGs will be chaired by the rotating Presidency). The weak link between the two created by their affiliation to the same institution in Brussels will disappear.

Third, the institutional reform has left the Commission with an even smaller degree of high-level involvement in CFSP than before. Whereas the Commission had an official right of initiative in CFSP before Lisbon, today the initiative rests with the High Representative (Art. 22 TEU in both versions). The HR is indeed a member of the Commission, but detached from it in her own institution (EEAS) and influenced by her loyalty to the Council, where she also holds a position. In fact, loyalty to the member states in the Council may turn out to be much stronger than loyalty to the supranational institutions in Brussels, as it is the member states that have the right to appoint her, or end her term, not the Parliament, as is the case with the rest of the Commission (Art. 18 TEU). The establishment of the EEAS, which includes Commission officials together with officials from the Council Secretariat and national foreign services, may contribute to a more comprehensive approach to foreign policy formulation, including security issues. It is, however, difficult to assess its real impact at present as the service only started its work on 1 December 2010. The Council decision on the EEAS does delimit the responsibilities shared between the EEAS and the relevant Commission DGs on paper, but the level of real everyday cooperation and informal consultation will be crucial. Depending on the working relationships between the relevant departments, the EU may end up with neat comprehensive policies, but also with two sets of documents that will ignore each other's existence.

Fourth, with the introduction of the Lisbon Treaty, several working groups were newly established or consolidated. The creation of the Standing Committee on Operational Cooperation on Internal Security (COSI) may prove to be as important for internal security as the creation of COPS was for the ESDP in the past. Its mandate is rather vague (and as such potentially broad), referring just to the facilitation, promotion and strengthening of coordination between the authorities of member states with respect to operational actions concerning internal security (Council of the EU 2010b). As COSI should deal with internal security only, however, it will probably not be able to contribute much to coherence between internal and

external security. The Council decision establishing COSI does not mention any cooperation with COPS, which would be a precondition of any coherent approach.

A shift to greater coherence can be traced at even lower levels of Council architecture. After Lisbon, the various counter-terrorism working groups will be supervised by an overarching Working Party on Terrorism. The creation of the JAI-RELEX Working Party (formerly an *ad hoc* party only) may have an important impact, as it should provide for coordination between JHA and external policies (General Secretariat of the Council 2009).

2.3 Policy content: Add-ons to the security and defence policy

While leaving the basic principles untouched, the Lisbon Treaty has introduced several modifications to the European Security and Defence Policy. Leaving aside the re-naming, which does not change anything substantially, the Common Security and Defence Policy allows for the establishment of permanent structured cooperation in the field of defence and broadens the scope of EU action defined by the Petersberg tasks. It also, for the first time, includes a mutual defence clause supplemented by a solidarity clause.

This permanent structured cooperation, if ever implemented, may represent a watershed in the development of the EU's military capacities. In its actual form, it focuses predominantly on military expenditure and military capacities and does not contribute to any better cooperation or a merger between the areas of internal and external security. This may change in the future, depending on decisions taken in relation to the general debate on European militaries and their role with regard to internal security at home and in third countries (see European Defence Agency 2010). If European armies move closer to law enforcement, the permanent structured cooperation may serve as an accelerator of change.

The updated version of the Petersberg tasks (Art. 43 TEU) acknowledges the fact that the majority of CSDP operations have so far been civilian missions. Besides its original peace-keeping, peacemaking and humanitarian operations, the EU now aims at a broad range of conflict related issues, such as disarmament, post-conflict stabilisation and the fight against terrorism. The treaty also declares that the tasks should be fulfilled by both civilian and military means without clearly distinguishing how the means and tasks should match. The HR and COPS should ensure coordination between the military and civilian sides of a response. The treaty codifies current practice only, but the fact that particular bodies have a clear responsibility to coordinate measures and policies and the fact that civilian and military means are determined to be parts of the same package by primary law may make a difference. It may overturn the current situation in which "everybody calls for coordination but nobody wants to be coordinated" (Brauss 2006: 52).

As Keohane argues, post-9/11 developments proved that NATO's responsibilities also involve responses to terrorist attacks on a member's territory, not only mutual defence (Keohane 2008: 138). In this respect, the responsibilities of the EU were not clear for a long time. Although one cannot imagine a situation in which fellow EU members would not help a member state being attacked by a third country or hit by a terrorist attack, there was no legal obligation for them to do so. The Lisbon Treaty has changed this setup and introduced two simple clauses ensuring mutual help in the case of armed aggression, terrorist attack or natural disaster.

The mutual defence clause (Art. 42.7 TEU) has incorporated the last remaining function of the Western European Union into the EU treaty and turned the EU in theory into a defence organization. In practice, however, the clause is watered down by the exemption of neutral states and by specifying NATO as the forum for implementing mutual defence for its members. As a result, the introduction of the clause is mainly a symbolic step and we cannot expect any new developments based on it, such as the drafting of common EU defence plans. Thus, it does not influence the relation between external and internal security in the EU either.

The solidarity clause (Art. 222 TFEU)⁴, on the other hand, may have a huge impact on the distinction between internal and external in the EU. At first sight, it is a rather simple clause regulating assistance from the EU and its member states given to a state hit by a terrorist attack, or natural or man-made disaster. Yet, it contains several points that may have far-reaching implications. First, assistance to a stricken member state should include “all the instruments at [the Union’s] disposal, including the military resources made available by the member states”. Hence, for the first time in the EU’s history, the treaty allows and even calls for the use of military units within the territory of a member state. So far, military cooperation (notwithstanding exercises) was restricted to operations beyond EU borders. If we consider the EU as a single territory, the clause means that the military is a legitimate instrument with regard to the EU’s internal security. If we consider the EU as a set of member states’ territories, the clause may confuse the internal/external security distinction in the states. All member states regulate the use of the military constitutionally and some of them are rather cautious about using the military domestically in law enforcement. The solidarity clause may in fact cause a situation in which the military of a member state hit by an attack would not be allowed to interfere, but in which the military forces of other EU members would be used by the government to circumvent domestic constitutional limitations. Even the theoretical possibility of such a development may provoke re-evaluation of the legal framework in the member states.

Second, the solidarity clause explicitly mentions that COPS and COSI should assist the Council when deciding on the form and extent of assistance. If necessary, the two committees should even submit a joint opinion. This is the only common reference to both bodies and one that may encourage greater structural cooperation. The European Council is supposed to regularly assess what threats the Union may face in this context. Logically, both COPS and COSI will have to be involved in this process and will therefore have the opportunity to develop a working relationship, which might further intensify the coordination between internal and external operational thinking.

4. Conclusions

The Lisbon Treaty has brought many changes to the EU’s institutional and legal structure as well as some changes to the content of EU security policies. It is probably too early to state categorically whether it will interconnect internal and external security in the EU more closely. The setup may create the potential to do so, but a great deal depends on the actual practice of the new institutions and the good will of the many bodies and individuals to “be coordinated”.

Still, several conclusions can be drawn already. First, the division between pillars regarding security policy has not disappeared and, as a consequence, we may expect further inconsistencies. Second, the creation of the newly defined High Representative and the EEAS seems to be rather counter-productive with respect to internal and external security cooperation. They do not solve the old problems and may create new ones. Third, at lower levels, the activities of the new Council working groups may increase coordination of internal and external security thinking. The creation of COSI does delimit more clearly the internal security domain from the external domain dealt with by COPS. However, if the two bodies learn to cooperate effectively, the result may be even better than when COPS had no clear partner to talk to.

The expansion of Petersberg tasks acknowledges the comprehensive civilian/military approach that the EU has chosen to deal with crises abroad. The list of activities that belong to crisis management is not as important as the fact that there is a clear responsibility to coordinate the civilian and military response vested in the HR and COPS. In this context, the fact that both crisis management bodies and EU delegations report to the HR may help to better coordinate the EU's involvement on the ground.

The solidarity clause seems to have the biggest potential to change the internal/external security distinction in the EU. It provides for the use of the military within the Union's territory and as a result may even change the legal framework for providing security at the level of member states. It also stimulates cooperation between COPS and COSI, the actual and potential hubs of external and internal security activities in the EU.

To sum up, with the Lisbon Treaty in force, the European Union continues to maintain a distinction between internal and external security and this will not change significantly anytime soon. At the same time, efforts to bring both areas together in a systematic way are clearly visible. The interface between internal and external security will surely remain an interesting area for future research.

Notes:

1. During the last two decades, the concept of security has changed profoundly. It has expanded both vertically and horizontally and covers not only the military security of a state, but also the security of individuals, international organisations or of the whole planet, as well as economic, environmental and societal security (see Buzan et al. 1998; Rothschild 1995). This expansion has been criticised by some scholars, because as security begins to cover almost every domain, the usefulness of the concept becomes doubtful (Walt 1991: 213; Freedman 1998: 53; Ayoob 2005: 10). This article, therefore, focuses on the two traditional tools of the nation state to enforce its monopoly on violence internally and externally – the police and the military. It deliberately omits issues such as energy security or judicial cooperation, although these areas of cooperation have been adapted by the Lisbon Treaty and they, indeed, are included in the general debate on security.
2. The Commission lost its independent initiative in the CFSP. With the Lisbon Treaty only the member states, the High Representative, and the High Representative with the support of the Commission may submit proposals to the Council (Art. 30 TEU).
3. There have been other developments in the EU during the last two years. Europol turned into a proper EU agency based on a Council decision instead of a convention, for example (Council of the EU 2009). Even though these developments have affected the internal-external security nexus in the EU, they are not reflected here as the article focuses on the impact of the Lisbon Treaty.

4. The Solidarity Clause was already endorsed by the European Council in the aftermath of the Madrid bombings in 2004 (European Council 2004). However, it was adopted in the form of a declaration only and it is the Lisbon Treaty that introduces mutual assistance into primary law, thus turning it into a legal obligation. It is worth noting in this respect that the Declaration clearly allowed the assisting states to determine the form of their help. This possibility does not reappear in the Lisbon Treaty. Instead, a Council decision should create the framework for the assistance (Art. 222(3) TFEU); this has not yet been adopted.

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List of abbreviations:

CATS	Article 36 Committee
CFSP	Common Foreign and Security Policy
CIVCOM	Committee for Civilian Aspects of Crisis Management
Civ/Mil Cell	Civil/Military Cell
CMPD	Crisis Management Planning Directorate
COPS	Political and Security Committee
COREPER	Permanent Representatives Committee
COSI	Standing Committee on Operational Cooperation on Internal Security
CPCC	Civilian Planning and Conduct Capability
CSDP	Common Security and Defence Policy

DG	Directorate General
EDA	European Defence Agency
EEAS	European External Action Service
ESDP	European Security and Defence Policy
ESS	European Security Strategy
EU	European Union
EUMC	European Union Military Committee
EUMS	European Union Military Staff
EUPM	European Union Police Mission
FAC	Foreign Affairs Council
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders
GAC	General Affairs Council
HR	High Representative
JHA	Justice and Home Affairs
OpCen	Operation Centre
NATO	North Atlantic Treaty Organisation
SCIFA	Strategic Committee on Immigration, Frontiers and Asylum
SitCen	Joint Situation Centre
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
WG	Working Group