

The strengthening of EU crisis capabilities. What impact on humanitarian aid?

VOICE Briefing Paper

The European Union today is a major international donor in humanitarian aid. The way it is delivering aid is effective. At the same time, the Union is strengthening civil protection, civilian and military crisis capabilities to respond to natural disasters or conflicts outside its borders.

From a humanitarian NGO perspective, VOICE looks at how these developments can affect emergency relief, as currently provided by the EU.

It also makes recommendations to ensure impartiality and independence in humanitarian aid.

VOICE

Voluntary Organisations in Cooperation in Emergencies

43, Avenue Louise,
B-1050 Brussels, Belgium
Tel: +32 (0)2 - 541.13.60
Fax: +32 (0)2 - 534.99.53
E-mail: voice@ngovoice.org
Website: www.ngovoice.org



VOICE

Voluntary Organisations in Cooperation in Emergencies (VOICE) is a network representing some 90 European Non Governmental Organisations (NGOs) active in humanitarian aid worldwide.

VOICE is the main NGO interlocutor with the European Union on humanitarian affairs, including emergency aid, relief, rehabilitation and disaster preparedness.

This Briefing paper follows up a VOICE briefing on "EU Crisis Management: A Humanitarian Perspective" published in January 2004 and a VOICE/World Vision briefing on "EU Framework on Crisis Management: What role for Humanitarian NGOs?" published in May 2002.

The Briefing paper has been researched by Samantha Chaitkin, and edited by Kathrin Schick and Gilles Van Moortel.

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The views expressed herein do not necessarily reflect those of all VOICE members.

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Acronyms and abbreviations

AMM	Aceh Monitoring Mission
AMIS	African Union mission in Sudan
APF	African Peace Facility
CIV/MIL Cell	Civilian/Military Cell of the EUMS
CCM	Community Coordination Mechanism/ Community Mechanism for Civil Protection
CIMIC	Civil-Military Cooperation
CFSP	Common Foreign and Security Policy
CMCO	Civil-Military Coordination (internal to the EU)
CMCoord	UN Humanitarian Civil Military Coordination
DG	Directorate General
EC	European Commission
DG ECHO	Humanitarian Aid Directorate General
DG RELEX	External Relations Directorate General
ESDP	European Security and Defence Policy
EU	European Union
EUMS	EU Military Staff
EVHAC	European Voluntary Humanitarian Aid Corps
GAERC	General Affairs and External Relations Council
GAM	Gerakan Aceh Merdeka (Free Aceh Movement in Aceh)
HA	Humanitarian Aid
ICC	International Criminal Court
ICRC	International Committee of the Red Cross
IFRC	International Federation of Red Cross and Red Crescent Societies
IHL	International Humanitarian Law
INSARAG	UN International Search and Rescue Advisory Group
LRRD	Linking Relief, Rehabilitation and Development
MCDA	Military and Civil Defence Assets
MIC	Monitoring and Information Centre
MoU	Memorandum of Understanding
MS	EU Member States
NGO	Non-governmental Organisation
OCHA (UN/OCHA)	UN Office for the Coordination of Humanitarian Affairs
RRM	Rapid Reaction Mechanism
RRF	Rapid Reaction Force
SG	Secretary General
TEU	Treaty on European Union
TIM	Temporary International Mechanism
UN	United Nations
UNDAC	United Nations Disaster Assessment and Coordination
UNHCR	Office of the United Nations High Commissioner for Refugees
UNIFIM	UN Interim Force in Lebanon
VOICE	Voluntary Organisations in Cooperation in Emergencies
WFP	World Food Programme

EXECUTIVE SUMMARY

BACKGROUND

Over the last few decades, non-governmental organisations (NGOs), the Red Cross, and United Nations (UN) agencies have been the principal actors delivering humanitarian aid internationally in times of major crisis.

Since the early 1990s, the European Union (EU) - including the European Commission (EC) and the Member States - has grown into the main international donor for humanitarian aid, and now sets a standard for donor responsiveness, accountability, and quality.

Currently, the EU is seeking to become an even more effective and visible international player and is developing ways to respond more efficiently to increasingly complex political crises across the globe. To meet these goals, the Union is looking at how to implement its Common Foreign and Security Policy (CFSP) and its European Defence and Security Policy (EDSP) through external action instruments and programmes, as well as crisis management capabilities to intervene outside its borders. The rejection of the EU Constitutional Treaty in 2005 led to the impossibility of completing numerous projects for reform. The tsunami that struck South-East Asia in December 2004 partly modified the situation. The response to this overscaled disaster accelerated the reflections and initiatives around the expansion of EU crisis response capabilities, and especially the Civil Protection Mechanism.

This context is affecting the way in which the EU is at present implementing humanitarian aid and is also likely to impact this approach in the future.

The multiplication of non-humanitarian actors in the delivery of EU emergency relief is a positive development in case of disasters where the operational capacities of humanitarian organisations are overstretched. Nevertheless, this multiplication poses challenges to the governance of EU humanitarian action in terms of coherence and coordination at the operational and institutional levels. The ongoing developments therefore raise three cross cutting issues: the coordination between the different EU services involved, the complementarity between the different actors inside and outside the EU institutional framework (such as the NGOs and international organisations) and finally, the coherence at the political level.

THE BRIEFING

The present briefing is a consolidated update of the Briefing paper on EU Crisis Management produced by VOICE in 2004. It focuses on a number of new developments related to the strengthening of EU crises capabilities - especially those that followed the 2004 tsunami and seeks to address how several of these instruments and mechanisms might have an impact on EU humanitarian aid.

As important partners in the delivery of EU humanitarian aid, NGOs are active stakeholders in the Union's development of new and better means to respond to natural and man-made disasters. NGOs have a double legitimacy to be actively involved in this process: their proven track record in relief work, and their grass roots in the European civil society.

As the network of European humanitarian NGOs, VOICE brings together the main NGO partners of the EC (DG ECHO) and has been following closely the development of the Union's initiatives related to emergency aid and crisis responses.



This briefing is the result of a process of debate, reflection and discussions inside the network. It has been fed with the field experience of a number of VOICE member organisations, as well as an extensive dialogue with EU institutions and other humanitarian stakeholders. While it sets out to shed light on important institutional developments inside the EU from a humanitarian angle, it also comes up with a set of recommendations to the EU institutions and Member States.

The first part is dedicated to how EC humanitarian aid is implemented through DG ECHO today. It explains the civil protection sector under DG Environment, its relationship with humanitarian actors as well as its likely effect on EU humanitarian aid, and stresses the need for a coordinated clearly defined policy for EU humanitarian aid. The second part focuses on the strengthening of civilian and military crisis responses of the EU, and how policy decisions in that field relate to and impact on humanitarian aid.

Recent EU proposals in the field of civil protection - including the Barnier Report - seem to suggest that the EU chooses to create and build up new structures for the intervention in humanitarian crises, rather than to consolidate effective existing mechanisms. The result could be that the EU might be willing to propose civil protection interventions and the use of military assets as a solution to perceived deficiencies in its crisis response capabilities. There is a genuine risk that these developments might result in overlaps, lack of coordination and confusion in the humanitarian arena.

Whereas civil protection mechanisms have been triggered as responses to natural and/or environmental disasters within the EU, civil protection is increasingly involved in natural disasters outside the EU. Civil protection does have specific expertise (e.g. in search and rescue activities) which can be of added value in the first phase of an emergency. But the fact remains that civil protection lacks key elements of EU humanitarian aid as currently implemented by European NGOs, the Red Cross and UN agencies - which all have a proven track record in humanitarian aid delivery, such as the humanitarian principles of impartiality and independence.

Civilian ESDP missions, under the political control of the EU's Political and Security Committee, tend to take place in areas where European humanitarian workers are active. These missions are political by nature. On the other hand, the mandate of ECHO is to fund relief, while respecting the humanitarian principles of impartiality and independence. The confusion between the two mandates - implemented under the same flag - is thus real. This concern is even truer when lines between crisis management operations of a civilian nature and those of a military nature functioning under the CFSP are unclear. This may lead to a blurring of lines, humanitarian aid being confused with political action, and has an impact on the perception and the security of aid workers.

Over the last years, the EU has built up its military capacities for interventions in natural and complex emergencies. Military interventions can contribute positively when they establish order and security, or facilitate a comprehensive settlement of a conflict. In natural disasters, the logistical capacity of the military can have a role to play (e.g. by providing transport assets). However it is of crucial importance that military interventions and assets are used on humanitarian terms and conditions.

CONCLUSIONS

Given the developments mentioned above, it is of utmost importance that the EU takes a clear stand to what kind of humanitarian aid it wants to implement in the future: needs based and building on the humanitarian principles enshrined in International Humanitarian Law (IHL) or guided mainly by political or security concerns, or to strive for EU visibility.

The development of EU capacity to respond to crises should primarily be based on identified needs and not on the availability of assets (needs based vs. supply driven). This is essential as the main criteria for humanitarian intervention should be the level of vulnerability of the population affected by a natural or man-made disaster. Equally, the EU should seek to avoid taking decisions which would increase this vulnerability - as it has been the case in the Palestinian Territories. More attention has therefore to be drawn on the risk of EU humanitarian aid becoming an instrument for political purposes, security concerns or a substitute for political solutions to conflicts. The EU might also find it crucial to enhance its value added and strengthen its visibility. Again, the need for a high profile should not outweigh a commitment to the greatest humanitarian needs - particularly in the world's neglected crises, nor the focus on IHL principles.

On a positive note, the Council recently approved Guidelines on IHL. This gives the EU a unique opportunity to profile its role as a global player and to take a strong stand in international fora in order to ensure access to vulnerable populations and compliance with IHL by governments and warring parties.

If the EU wants to ensure coherent policies, it needs to support adequate, efficient and cost-effective complementarity and coordination for the benefit of crisis affected populations, and thus to avoid any duplication of mechanisms. This can only be achieved by defining clear roles and mandates of both civil protection and the military in humanitarian interventions. The UN has developed an international framework for the use of military and/or civil defence assets (MCDA) in natural or man-made disasters, the so-called Oslo and MCDA Guidelines. While the guidelines are not binding, they represent a valuable tool widely accepted by the humanitarian community. It is therefore to be hoped that in future, the EU will follow their recommendations when deciding which additional resources and mechanisms to use in a humanitarian crises.

Finally, the EU should not overlook the role of civil society actors worldwide - namely the humanitarian agencies (NGOs and the Red Cross movement). In the field of international response to natural or complex crises, their commitment and extensive experience in the delivery of humanitarian aid are crucial to the implementation of the European value of solidarity. This also applies in other fields of activity in third countries, such as peace building, conflict prevention and resolution, and development.

More fundamentally, civilian humanitarians guarantee that relief is being provided to the populations in need without discrimination, independent of political affiliation or considerations, and according to their needs.

If the EU seeks to strengthen its role as a international political player, it needs to maintain its place as one of the world's most respected donors in humanitarian crises, implement its solidarity with populations in need in line with the humanitarian principles, and uphold its commitment to international solidarity and civil society.

1 *The EU background*

Two major factors can be seen as having influenced change in the EU crisis management structures since the beginning of 2004.

The first factor is the adoption by the Council in 2004, and subsequent popular rejection in 2005, of the EU Constitutional Treaty. The stipulations within this document made a number of changes possible, gave a legal basis to the European Security Strategy¹, and among other things, strengthened the legal basis for humanitarian aid. With its failure came the impossibility to complete numerous reform projects.

This was partly counterbalanced by the second factor: the tsunami that struck South-East Asia in December 2004. The tsunami also boosted the development of EU crisis capabilities and enhanced the arrival of "new" actors in the humanitarian arena.

THE EUROPEAN UNION IN A GLANCE

The EU consists of three "pillars".

The first pillar consists of the European Communities, with the internal market and the common policies of the European Commission (EC). It is based on the Community method, where the EC has the right for initiative - in a series of issues, including humanitarian aid and environment.

The second pillar includes the Council, the Common Foreign and Security Policy (CFSP) and can centralise the crisis management capacities of the Member States.

The third pillar provides the framework for co-operation in the field of Justice and Home Affairs. Pillars II and I offer the framework for intergovernmental co-operation with the possibility to use the common institutions - by associating the EC and consulting the European Parliament (EP). The Council, as co-legislator with the EP, takes the lead under Pillars I and II and watches over the three pillars.

1.1. THE RISE AND FALL OF THE EU CONSTITUTION

From the perspective of the humanitarian aid NGOs, the text of the EU Constitution was a tempered success. For the first time, EU humanitarian aid was to have a strong legal basis. The text reflected the humanitarian principles of neutrality, impartiality and non-discrimination in accordance with International Humanitarian Law (IHL). Moreover, humanitarian aid was clearly distinguished from foreign policy within the Chapter on External Actions of the EU.

There were also substantial drawbacks to the text, as explained in the 2004 VOICE briefing. In the definition of crisis management under the CFSP, "humanitarian and rescue tasks" was one element called upon to contribute to the fight against terrorism. That idea opposes the basic principles of IHL.

Another point of the EU Constitution related to humanitarian aid concerned the creation of a European Voluntary Humanitarian Aid Corps (EVHAC). This idea was unpopular with NGOs and other humanitarian actors because it could jeopardise the professional nature of the EU's humanitarian aid and possibly pose a security issue if such staff were deployed to complex emergencies. At the same time, the EU was putting NGOs and other partners in humanitarian aid under considerable pressure to professionalize their approaches to programming and staff management - including security management. Notwithstanding the failure of the Constitution, a feasibility study on the EVHAC went ahead, with funding provided in the Commission's 2005 budget. The issue of the voluntary corps remains unresolved, though the study, now completed, recommends that it should not be under the responsibility of Directorate General for Humanitarian Aid (ECHO)². This is a small but positive step, since most humanitarian actors agree that this kind of "youth" corps is not appropriate to the urgency, rigour and frequent insecurity of humanitarian relief operations.

1. "A Secure Europe in a Better World - The European Security Strategy", approved by the European Council, held in Brussels on 12 December 2003 and drafted under the responsibilities of the EU High Representative Javier Solana. Also known as the "Solana Doctrine".

2. ECHO Review concerning the establishment of an European Voluntary Humanitarian Aid Corps, March 2006. Available at: http://ec.europa.eu/echo/pdf_files/evaluation/2006/evhac.pdf

Numerous changes proposed in the Constitution are taking effect, notwithstanding the Treaty's fall. For example, "A Secure Europe in a Better World" - the European Security Strategy proposed by EU High Representative Javier Solana and approved by the European Council in December 2003 - provides a vision for EU crisis management capabilities development, but without the direct legislative implications that could have been set out in a Constitutional Treaty. Nonetheless, developments that follow this vision are already underway (some are discussed below). Observers are concerned that the EU institutions may be getting ahead of themselves by pushing changes that have no legal basis in pre-Constitutional treaties and regulations. The lack of a Constitution in force today brings a lacuna to the legal development of crisis response capabilities.

1.2. RESPONDING TO THE ASIAN TSUNAMI, A MULTITUDE OF ACTORS

Observers within and external to the EU have acknowledged that the EU and its institutions launched a process of further developing EU disaster response capacities soon after the tsunami.

The tsunami occurred at a time when the EU was already working on civilian crisis management capabilities without a clear new legal mandate from the Solana security model or from the Constitution. The EU response gave the Union an opportunity to connect with its citizens by contributing to materialise the solidarity of the public.

When the tsunami struck, it brought about the greatest mobilisation of relief resources the world has ever witnessed. According to Jean-Louis Schiltz, Luxembourg's Minister for Development Cooperation and Humanitarian Affairs, *"the humanitarian operation after the tsunami is the largest humanitarian operation ever carried out, and it was effective"*³.

The Commission reacted immediately. ECHO was the first humanitarian donor to respond⁴, employing its well-established primary emergency procedure. The Commission activated its Community Civil Protection Mechanism by sending a request for assistance to the EU Member States through the Monitoring and Information Centre (MIC). EU Member States separately sent humanitarian aid either directly, or provided funding to agencies who responded. The Rapid Reaction Mechanism was activated to carry out CFSP joint actions. The military assets of a number of Member States were employed for logistical operations.

Although many considered that these concrete steps were the best that could be done given the scale and circumstances of the crisis, European leaders, in their zeal to assist, proposed the formation of additional resources such as "EU Red Helmets" or a "French Humanitarian Force" in the early days of the response. These ideas were not pursued further.

EU TSUNAMI FOLLOW-UP / MAIN DOCUMENTS

2005

Jan: EU Action Plan

April: Progress report 1

April: Commission Communications on Reinforcing EU Disaster and Crisis Response in Third Countries and Civil Protection capabilities

June: Six months after the tsunami: stocktaking by the European Union and the United Nations

Nov: Progress report 2

Dec: Tsunami one year on: Joint Initiative by EU Presidency and Commission

2006

July: Special Report of the Court of Auditors on EC response

3. Luxembourg EU Presidency Press Release, 24 June 2005. Available at <http://www.eu2005.lu/en/actualites/communiqués/2005/06/24tsunami/index.html>

4. COM(2005) 153 final, p. 16. ?12M for Rapid Reaction Mechanism projects were part of the €350M for rehabilitation and reconstruction.

5. "The EU's contribution to the international response to the 2004 Asian Tsunami: Achievements, next steps and lessons learned", Discussion Paper for the High-level Meeting Brussels, 20 December 2005. UK Presidency of the European Union, Department for International Development of the United Kingdom, and European Commission (p. 11).

Of the €566 million spent by the 25 EU Member States and the European Commission on humanitarian relief to tsunami-affected populations, €103 million went through ECHO, while €463 million corresponded to the humanitarian aid from the individual Member States⁵. Seeing the high level of EU resources mobilised the follow up of the overall response was much documented. At a six-month stocktaking meeting organised by the Luxembourg EU Presidency, the EU's own evaluation of its response (Commission and Member States) to the tsunami was presented as quite positive. The efficiency of the EU humanitarian response was praised, attributing this to the good overall coordination by UN-OCHA. One year after the tsunami, the UK Presidency and the Commission stated: *"the general consensus is that (...) the emergency phase successfully met the most acute humanitarian needs throughout the region. Quick and focused action by the EU and other donors working with national and local authorities avoided a potential secondary disaster by assuring that all affected people benefited from access to food, improved sources of water, sanitation and health services"*⁶.

Despite positive statements, the tsunami clearly put shortfalls in the crisis management of the EU in evidence - notably the lack of coherence between the different EU instruments. The special report on the EC humanitarian aid response to the tsunami produced by the Court of Auditors confirms the finding of other evaluations: *"(...) relief effort was effective, though poorly coordinated"*⁷. The Court points out that DG ECHO was able to meet the needs of the conflict-affected population whilst in addition helping to bridge the longer than expected phase between relief and reconstruction. However, while internal coordination between ECHO and other EC services was good for this second phase, *"coordination with the Civil Protection Mechanism was problematic in the initial stages of the response"*⁸. This conclusion led the Council to call the EC to actively engage into *"clarifying their respective roles in order to enhance coordination (...) and maximise the Community response"*⁹.

Formulated more positively, the tsunami "inspired" the EU institutions to be creative and active about crisis response in terms of developing instruments and avoiding overlap in their use. Since the beginning of 2005, working papers and proposals for the improvement of EU crisis response have emerged, often including references to the tsunami in their preambles or introductions. An excellent example is the Commission Communication of 20 April 2005 (COM(2005)153 Final), which responds to the Council's January Action Plan¹⁰ and was timed to contribute to discussions at the General Affairs and External Relations Council (GAERC) on 26 April. *"Its proposals form part of an ongoing programme of improving crisis response by the Commission"*¹¹. The Communication describes who was involved in the tsunami response as there were a multitude of actors; it outlines the roles of ECHO, civil protection, and the EU inter-governmental civilian and military capabilities, and proposes measures to reinforce their capacities, including through the creation of a crisis platform.

To conclude, the tsunami may have accelerated the will to improve EU crisis management but, from a humanitarian perspective, the following needs to be stressed: the tsunami - despite of its scale - does not represent the majority of natural (and man-made) disasters, which humanitarians are involved in. This is important to keep in mind. Developing EU crises capabilities has mainly focused on aspects of logistics and surge capacity. Humanitarian aid however is not only a question of mere logistics. It is also an issue of providing international protection for civilians - in particular in conflict situations -, of ensuring access to vulnerable populations, and of addressing the security for aid workers.

6. Ibid, pp. 2-3.

7. Special Report No 3/2006 concerning the European Commission Humanitarian Aid Response to the Tsunami together with the Commission's replies, OJ C170/1, 21 July 2006.

8. Idem.

9. Council Conclusions on the humanitarian aid response to the tsunami, General Affairs Council meeting, Luxembourg, 17 October 2006.

10. "Follow-up to the extraordinary meeting of the GAERC on 7 January 2005 on the earthquake and tsunamis in the Indian Ocean - European Union Action Plan", Council of the European Union, Brussels, 28 January 2005 (OR. Fr) 5788/05.

11. "Post tsunami: the Commission reinforces its disaster response capacity." IP/05-460 Brussels, 20 April 2005.

PART ONE: ECHO AND CIVIL PROTECTION

2 *EU humanitarian aid today: ECHO*

If one looks strictly at EU humanitarian aid, so far, ECHO has been meeting its mandate well. Over the last 14 years it has built up a solid reputation and has a strong relationship of partnership with NGOs¹², the Red Cross and the UN. However when looking at the EU financial perspectives and the Emergency Reserve of the EU however, the future of this well functioning EC instrument is far from secure in terms of funding.

2.1. ECHO TODAY

With ECHO funding, some 18 million people are helped each year in more than 60 countries through some 200 partners which include NGOs, the International Committee of the Red Cross (ICRC), and UN agencies like the Office of the United Nations High Commissioner for Refugees (UNHCR) and the World Food Programme (WFP). ECHO is a model of efficiency within the Commission. It is annually praised by the EU's budget authorities for its transparent and accountable spending, and appreciated by partners and beneficiaries for its swift, simplified funding procedures that make a quick response to humanitarian needs possible. ECHO is the only specifically humanitarian donor within the EU's external action mechanisms, committed to bringing assistance and relief to the victims of natural disasters or armed conflict in an impartial and non-discriminatory manner, on the basis of need, and in accordance with IHL principles.

Established as the European Community Humanitarian aid Office in 1992, ECHO was "upgraded" from an Office of the European Commission to a Directorate General in 2004. Spending more than €500 million a year on financing humanitarian projects, ECHO remains the world's main donor of humanitarian assistance. In addition to ECHO operational funding, funding for humanitarian aid can be increased through the Emergency Reserve of about €221 million annually. For example, in 2005, the Reserve was tapped for the €100 million tsunami response, bringing the total Community expenditure by ECHO for that year to €631 million¹⁴.

ECHO will be given responsibility for future Food Aid budgetary allocations. This further increases ECHO's budget but may also stretch its human resources at headquarters. In the context of reinforcing EU disaster and crisis response in third countries, the principal measure taken by ECHO is to increase the number of field-based experts from 69 to 150, in this way increasing its assessment capacity. Further measures include training experts in UN and Red Cross assessment and coordination methodologies, and developing pre-positioned, specialised emergency teams that can be deployed to a crisis within 24 hours.

ECHO recommends two **guiding principles** for the elaboration of EU crisis response capabilities that may work alongside European humanitarian actors in emergency situations:

- Respecting clear humanitarian rules of engagement;
- Ensuring complementarity with the conventional humanitarian response.

ECHO has acknowledged that the multiplication of non-humanitarian actors in the delivery of EU relief aid is a positive development in view of disasters where the operational capacities of humanitarian organisations are overstretched. But the multiplication also poses challenges to the governance of EU humanitarian action, in terms of coherence and coordination at operational and institutional levels. As an ECHO official stated in March 2006, *"we must put things into perspective: the average humanitarian crisis to which the EU responds more often may not require the activation of many of the initiatives now under consideration."*

12. Over the period 2001-2005, an average of 57.6% of ECHO funding has been distributed through NGO partners.

13. Some additional ECHO funds derive from the European Development Fund.

14. For details on ECHO's budget, see http://europa.eu.int/comm/echo/finances/budget_en.htm



For more than a decade now, ECHO has effectively intervened in response to crises in 50-60 countries without any need for additional structures”¹⁵. This view has, however, been challenged. Representatives of the UK Presidency stated that “recent humanitarian crises have underlined the need to strengthen the international humanitarian system (...). Measures foreseen include establishing a network of Member States Humanitarian emergency focal points to ensure a more coherent EU response”¹⁶.

2.2. FUTURE FINANCIAL MEANS FOR ECHO

Given that ECHO is widely considered to be an effective EU humanitarian aid mechanism, one should logically expect that the allocation of financial resources would reflect ECHO's importance within the overall EU response to humanitarian crisis. The final agreements made in the framework of the EU's new Financial Perspectives for 2007-2013 (long-term budget framework) however suggest that this is not the case:

ECHO budget. Humanitarian Aid is one of six instruments of the EU External Actions, which have been created to replace the numerous instruments previously in use. On the basis of the agreement made in April 2006 in the framework of the EU's new Financial Perspectives for 2007-2013, ECHO retains its own funding instrument under Heading 4 for External Actions. The ECHO budget for 2007 will be of €732 million, including new funds specifically allocated for food aid (€217 million)¹⁷. ECHO's new responsibility for future Food Aid budgetary allocations may stretch its human resources at headquarters. This budget will hardly increase for the next seven years, reaching €875 million by 2013. Given current and projected rates of inflation, ECHO's budget will actually see negative growth in real terms of the funding the EU has decided to allocate strictly to humanitarian aid.

The Emergency Reserve. In December 2005, the Financial Perspectives' proposal included that the emergency aid reserve would be fixed at a level of €221 million and be adequately ring-fenced. At the last moment however, the EU decided that the reserve, which ECHO has relied on in the past for responding to unforeseen emergencies (including the tsunami), will be transferred outside the budget, thereby saving €1.5 billion over 7 years. This decision leaves the reserve extremely vulnerable, as it will depend on the voluntary contributions of EU Member States. The use of the reserve will be subject to the “trialogue procedure”, involving the European Parliament, the Council and the Commission and may now be accessed by other DGs.

In short, the April 2006 compromise on the EU's Financial Perspectives for 2007-2013 includes only a minimal increase of the ceilings for the annual humanitarian aid budget as well as a transposition of the emergency aid reserve outside the budget, where it will depend on Member State donations.

15. ECHO intervention, Informal Meeting of the Humanitarian Aid Committee, Vienna, 9-10 March 2006.

16. “The EU's contribution to the international response to the 2004 Asian Tsunami...” (p. 8).

17. The EC decided not to create a specific budget line for uprooted people (initial budget: €10 million) and merged it into the main operational budget of DG ECHO.

VOICE RECOMMENDATIONS IN RELATION TO DG ECHO

The VOICE network calls upon the European Institutions and the EU Member States:

- 1.** to ensure that decisions in relation to humanitarian funding - including the Emergency Reserve - are made in a manner consistent with humanitarian principles as enshrined in the Humanitarian Aid Council Regulation 1257/96 and the Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief, are independent from political and military goals. In particular, this includes the independence of humanitarian action from governments' foreign policy considerations;
- 2.** to ensure that ECHO's mandate to use a needs-based approach in close cooperation with its traditional partners is duly implemented; this implies that further developments of EU crisis management should not confine ECHO assistance only to the so-called ignored crises;
- 3.** to ensure that DG ECHO has sufficient financial resources to meet its mandate; this implies the adaptation of the financial perspectives 2007-2013 which, at present, show no significant increase in terms of annual average budget for humanitarian aid; this also implies that DG ECHO should have priority access to the Emergency Reserve; finally, funds allocated for humanitarian aid should be available to the humanitarian partners (NGOs, Red Cross and UN agencies), and not be diverted to EC civil protection and EU crisis response initiatives.

3 Civil protection developments

3.1. CIVIL PROTECTION OUTSIDE THE EU

EU action in the field of civil protection designates the range of emergency measures and organized civilian bodies in the event of natural, environmental or industrial disaster (note: it is not to be confused with the protection of civilian population in time of war, as laid down in the Geneva Conventions).

EU civil protection has gradually developed since 1985. Initially conceived only as a possibility to offer concrete solidarity from one EU country to another in the event of a major natural disaster, the aim has been to support and encourage efforts made at national level to respond to crises¹⁸. As such, civil protection has made very valuable contribution at EU level. Council Decision 2001/792/EC of 23 October 2001, on cooperation in civil protection, extended the remit to third countries - allowing, among other things, involvement in the tsunami response (where EU civil protection performed search and rescue tasks and consular assistance in the first days after the disaster).

THE COMMUNITY MECHANISM FOR CIVIL PROTECTION

Following a formal request for assistance from a third country, the Commission needs to consult the Presidency of the Council so as to determine the course of action it needs to take.

For instance, if the emergency takes place in an area affected by conflict or civil unrest, the Council - through the Presidency - may declare it to fall under the so-called crisis management provisions (Chapter V of the TEU/CFSP). In this case the Council plays the lead role in co-ordinating the EU response. If it is not deemed a crisis management situation, the MIC follows its general operating rules¹⁹.

One of EU major tools is the Community Mechanism for Civil Protection, or Community coordination mechanism. This Mechanism involves the participation of 30 European States which pool their civil protection resources that can be made available to disaster-stricken countries, including those outside the EU. The operational heart of the Mechanism is the MIC, operated by DG Environment of the European Commission. Any country affected by a major disaster - inside or outside the EU - can launch a request for assistance through the MIC. Whereas civil protection mechanisms have been triggered as responses to natural and/or environmental disasters within the EU, one sees an increased

involvement of civil protection in natural disasters outside the EU. As stated by the EC, the *"international role that European countries are playing in the provision of civil protection assistance is increasing one emergency after the other [including] recent disasters such as the 2004 South Asia tsunami, the 2005 US hurricanes and the 2005 Pakistan earthquake (...)"*²⁰.

The consequence of this trend is that, in the event of a crisis, both EU civil protection services and humanitarian actors such as ECHO partners (NGOs, the Red Cross and UN agencies) are increasingly bound to operate in the same geographical area or field of operation.

Such "co-habitation" of the civil protection services with DG ECHO funded operations raises a number of key issues:

- **Duplication:** why should two different channels for the same need response be used, making coherence and complementary of actors unnecessarily more complex and costly?
- **Coordination:** how will effective coordination take place, both at institutional and field level, not only with ECHO, but also with UN-OCHA, which has the overall coordination role?
- **Effectiveness:** how will the specific expertise and resources be articulated, as to ensure that the provision of aid is needs based and not supply driven?

18. Source: http://ec.europa.eu/dgs/environment/index_en.html

19. Idem.

20. Ibid.

- **Confusion:** how to ensure clarification of mandates and roles of civil protection vis-à-vis the humanitarian actors (NGOs, the Red Cross and the UN agencies), which work on basis of the humanitarian principles, enshrined in International Humanitarian Law?

Institutional confusion

DG Environment in charge of the Community Mechanism for Civil Protection makes little distinction between internal interventions and those outside the EU. Looking at the actions of the Community Civil Protection Mechanism since 2004, there is a mix of EU and non-EU interventions, with the higher-profile crises being outside the EU: the earthquake in Iran (spring 2003), Morocco (winter 2004), the tsunami in South Asia (winter 2004), floods in Romania and Bulgaria (spring/summer 2005), Hurricanes Katrina and Rita in the USA (autumn 2005), and the earthquake in Pakistan (autumn 2005).

This situation may not facilitate a clear identification of the challenges and potential implementing partners for each intervention. This applies also for the approximately €7 million annual budget for the Coordination Mechanism which currently covers coordination for both types of intervention, whereas the humanitarian budget only covers interventions in third countries.

One can imagine that DG Environment might not make a distinction between its action within and outside the EU, since environmental matters necessarily cross national borders. DG Environment is not a traditional member of the departments of the European Commission mandated to deal with external affairs - the so-called RELEX family (DG Trade, Development, Enlargement, External Relations, Europe Aid and ECHO). Again, this is confusing: the DG in charge of environment can mobilise and coordinate resources made available by the Member States in case of an emergency in third countries, while this is normally done by an EC service of the RELEX family or by the Council under the CFSP.

3.2. CIVIL PROTECTION AND HUMANITARIAN AID

On 20 April 2005, the Commission came out with a Communication on Improving the Community Civil Protection Mechanism (COM(2005)137 Final)²¹.

A memo²² accompanying the Civil Protection Communication explains that the reason for this Communication was to follow up on a proposal for a Rapid Response and Preparedness Instrument issued two weeks earlier. This Communication also seemed to exploit the opportunity to develop civil protection capabilities that the 2004 tsunami disaster provided in terms of visibility, funding and operational space.

The Commission Communication on the Community Civil Protection Mechanism tries to make a clear distinction between civil protection assistance and EC humanitarian aid:

CIVIL PROTECTION AT EU NATIONAL LEVEL

In EU Member States, civil protection is under the responsibility of national governmental administrations. The frameworks under which it operates may vary from country to country, depending on which Ministry has the lead (e.g. Ministry of Interior or Defence), and how it is being operated (e.g. mainly through volunteers and professionals).

In most EU countries, humanitarian aid based on IHL, is administered through the Ministry of Foreign Affairs. Therefore, civil protection missions "overseas" (outside the EU) have to be cleared with national Foreign Affairs Ministries. EU Member States therefore also have a responsibility to clarify the distinction between their humanitarian aid delivery and the involvement of their civil protection in emergencies, as well as to avoid duplication and overlaps in the field.

21. It is interesting to see that the Commission also issued another Communication entitled "Post tsunami: the Commission reinforces its disaster response capacity".
22. "Questions and Answers on the strengthening of the EU's Civil Protection Mechanism", MEMO/05/136, Brussels, 20 April 2005.

EU CIVIL PROTECTION REFERENCE DOCUMENTS:

● Council Decision 1999/847/EC of 9 December 1999 establishing a Community action programme in the field of civil protection

● Council Decision 2001/792/EC, Euratom of 23 October 2001 establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions

● Communication from the Commission on improving the Community Civil Protection Mechanism, COM (2005) 137, 20 April 2005

● Commission proposal for recast of Council Decision 2001/792/EC, COM (2006) 29, 27 January 2006

“Civil protection is about immediate relief in the first hours and days of a disaster. Like EC humanitarian aid, its purpose is to save lives and alleviate the effects of a disaster during the first days. It differs from EC humanitarian aid, however, in four respects:

- *civil protection assistance can address the environmental consequences of disasters as well as their humanitarian impact;*
- *civil protection assistance is provided through teams, experts and equipment provided by the Governments participating in the Mechanism, rather than through the humanitarian organisations (United Nations specialised agencies, Red Cross organisations and NGOs) used by ECHO;*
- *civil protection assistance may be delivered both inside and outside the EU;*
- *and the Mechanism can be used also as a tool for facilitating and supporting CFSP crisis management operations.”*

The Communication therefore seems to suggest that the mandate for the civil protection mechanism not only includes operating in the same environment as EU humanitarian aid, but also that it may support actions internal and external to the EU and use staff and assets from Member States. It also states that civil protection can be used for political purposes (CFSP).

Unclear in mandate and implementation

Why should civil protection for interventions outside the Union be developed, when (EU) humanitarian aid is doing the same thing and more? Surely, civil protection has specific expertise (e.g. in search and rescue activities) which can be of added value in the first phase of an emergency. But the fact remains that civil protection lacks key elements of EU humanitarian aid as currently implemented by European NGOs, the Red Cross and UN agencies:

- it lacks the clarity of purpose of (EU) humanitarian aid and the humanitarian principles. Being under national (governmental) responsibility, civil protection can become a tool of foreign policy, and thus is not in the position to deliver impartial, neutral and independent relief;
- it does not have the long standing experience of humanitarian organisations required in operations (assessment of needs of affected population, delivery of emergency supplies, international coordination,...);
- though considerable EC resources have been invested over the last years in training civil protection volunteers and professional personnel, it has not yet reached the level of know-how and professionalism in aid delivery which NGOs have been building up;
- it does not have the flexibility and adaptability of humanitarian NGOs, nor the proximity to the local populations (participative approach and long term commitment with local partners; knowledge of local circumstances).

3.3. THE 2006 COMMUNITY CIVIL PROTECTION MECHANISM PROPOSAL

The Council and the European Parliament helped set the policy orientation for the boom of civil protection developments following the tsunami. In January 2005, the Council adopted an Action Plan encompassing all the initiatives taken, or to be taken, by the Union and its Member States, including possible improvements of the Community Civil Protection Mechanism and the development of an EU rapid response capability to deal with disasters. Simultaneously, the European Parliament called for *"the creation of a pool of specialised civilian civil protection units, with appropriate material, which should undertake joint training and be available in the event of [disasters] within the Union or in the rest of the world"*²³. In June 2005, the European Council requested priority action on *"the strengthening of civil protection capabilities [...] and the development of a rapid reaction capability based on the civil protection modules of the Member States"*²⁴.

The latest legislative step concerning civil protection is a Proposal for a Council Decision establishing a Community Civil Protection Mechanism (recast) of 26 January 2006. The proposal amends Council Decision 2001/792/EC, Euratom of 23 October 2001, to allow improved cooperation and coordination. The Proposal stresses that *"particular attention has been given to avoid duplication with actions carried out under other Community instruments and policies, in particular EC humanitarian aid"* (p.3). A financial instrument is also being proposed by the EC in order to realise the objectives of this (Recast) Proposal.

The amendments proposed in different areas clearly indicate that Member States do not have yet sufficient resources to make EU civil protection assistance interventions effective:

- The lack of available transport is the most important problem. Member States say they are able to provide assistance, but not to arrange transport due inter alia to high costs.
- At present, existing means available at national level - such as duly trained experts, dedicated logistics units, support modules, and temporarily hired heavy equipment like aircraft and high-capacity pumps - are insufficient to develop a European rapid reaction capability.
- Early warning information systems are to be enhanced.
- Coordination of interventions in third countries - with DG ECHO and with the UN (OCHA) - are called for. This implies a clarification of the roles and responsibilities between the Council Presidency²⁵ and the different services of the Commission²⁶.

Impact on humanitarian aid

Although the proposal seeks to address some of the shortcomings and uncertainties outlined above, it also raises concerns for the humanitarian NGO community:

- **In terms of funding.** Civil protection today does not "weigh" much in the European budget, as most of the funding of civil protection missions outside the EU comes directly from individual Member States. However, increased activity from Member States in emergencies through the Monitoring and Information Centre (known as the MIC) will automatically require more financial resources.
- **In terms of transport requirements.** The above Proposal clearly states the high costs implied for the transport of aid supplies provided by the Member States. Alternatively, should DG Environment be looking into the use of military assets for a crisis, the Oslo Guidelines²⁷ - as well the coordinating role of UN-OCHA - would not be respected.
- **In terms of coordination and needs assessment.** It would be very unfortunate to establish a parallel structure to the existing EC mechanism for humanitarian aid ECHO and the so-called RELEX family, which seeks to establish coordination mechanisms when major disaster strikes.

23. Proposal for a Council Decision establishing a Community civil protection mechanism (recast)" {SEC(2006)113}

24. Idem.

25. The Council coordinates the political response in consultation with the Commission, liaises with the affected country to facilitate early deployment, and may request another Member State to take over responsibility for political coordination.

26. The EC coordinates the European civil protection response at operational level in consultation with the Member States providing assistance, the affected country and the UN.

27. Guidelines on the use of Military and Civil Defence Assets in Disaster Relief, March 1994, updated in November 2006.

It is worth noting that DG ECHO is present in the field with 41 offices and some 150 experts. This gives ECHO - in cooperation with its implementing partners - a field capacity to assess both needs and available resources in a timely manner. Also, humanitarian NGOs have a considerable human resources capacity (some 100,000 international and local staff worldwide), in addition to the vast capacity of local NGOs. Consequently, any development of civil protection capacities here would duplicate with these existing resources.

- **In terms of access to support.** In light of the proposed modules²⁸ set out in the January 2006 Civil Protection Mechanism Proposal, the Commission will give financial and in-kind assistance to these modules without too many bureaucratic constraints. EU long-time humanitarian NGO partners would not benefit from this regime.
- **In terms of visibility.** Civil protection could in the long term overshadow the positive international assistance the Commission has been conducting for years through its humanitarian aid budget. The NGO community is very familiar with the fact that one "bad story" in the media might cause severe damage to the whole sector. The same applies to the delivery of aid through civil protection units of the Member States. Professionalism and quality assurance are therefore needed. For the European taxpayers, this creates a competition in visibility between the "success stories" of EC humanitarian aid implemented by civilian humanitarian actors such as NGOs and short-term interventions of EU Member States civil protection units abroad.

HUMANITARIAN NGOs AND EU MEMBER STATES CIVIL PROTECTION

In most Member States, humanitarian aid NGOs do not participate in civil protection missions, thus steering clear of their governments' political agenda or interest in particular countries.

In some EU countries however, the line between organisations working in civil protection and in humanitarian assistance is very thin. In Germany, for instance, some major NGOs are part of the civil protection services, according to the German Constitution. These organisations tend to work both in civil protection "at home" as well as in humanitarian aid abroad.

In other national contexts, the civil protection can be a donor for NGOs. This is the case in Italy, where the Civil Protection has launched tsunami recovery projects in Sri Lanka, partly entrusted to NGOs and UN organizations.

3.4. COORDINATION BETWEEN CIVIL PROTECTION AND HUMANITARIAN ACTORS

Where emergency situations arise, rapid provision of humanitarian assistance by the international community is imperative. This response to humanitarian emergencies has to be effective and efficient in order to save as many lives as possible and alleviate the suffering of the affected population. This requires coordination and clear mandates and responsibilities - particularly in the field - between the different components of the international response.

Coordination with ECHO

In 2004, DG Environment commissioned a global evaluation of the Community Action Programme (AP) in the field of Civil Protection, the Civil Protection Community cooperation mechanism and the Community framework for cooperation in the field of marine pollution²⁹. This evaluation points out that the objectives of the Civil Protection Community Mechanism and its activities in third countries are similar to ECHO's objectives and operations. The Humanitarian Aid Committee (of 27 January 2005) even goes further considering that, in the framework of the EC tsunami response, the Civil Protection Monitoring and Information Centre (MIC) "(...) had not confined itself to civil protection activities, but had overlapped with the humanitarian field which is beyond their role and given the impression that it was coordinating all EU assistance"³⁰.

28. The idea is to develop an approach based on national, rapidly deployable civil protection modules (water purification, search and rescue, telecommunications, etc), which could be deployed following a request for assistance from the EU MIC.

29. Global evaluation of the Community Action Programme in the field of Civil Protection, the Community Mechanism to facilitate reinforced cooperation in civil protection assistance interventions and the Marine Pollution framework, commissioned by DG Environment, 5 July 2005.

30. Source: Special Report No 3/2006 of the Court of Auditors concerning the European Commission Humanitarian Aid Response to the Tsunami, OJ C170/1, 21 July 2006, page 11.

In March 2003, a Memorandum of Understanding (MoU) was signed between ECHO and DG Environment, with the aim of strengthening intra-Commission cooperation and co-ordination between the two services, and, in particular, to reinforce the synergies between EU Civil Protection Mechanism activities and EC Humanitarian intervention in third countries.

However, *"from ECHO's point of view there are overlaps both within the theoretical basis and the work carried out on the ground in the case of assistance interventions outside the EU (e.g. Bam, Algeria, Morocco, the tsunami in South-East Asia), despite the existing memorandum of understanding. Exchange or coordination between the services is seen as insufficient"*³¹.

The evaluation is very clear on the issue of coordination: *"the need for Community Mechanism support with assistance interventions in third countries is only considered necessary for search and rescue operations in the first days of a disaster (e.g. earthquakes, floods) (...). In case of assistance interventions outside the EU, strong coordination and integration with the activities of other well established institutions such as the UN, the Red Cross and (...) NGOs would be necessary"*³².

Following the recommendations of the Court of Auditors, the Council invited in October 2006 the EC to clarify the roles between DG Environment (Civil Protection Mechanism) and ECHO³³. The Commission recognised the need to further refine the terms of reference for the MIC operations³⁴ and to review the MoU of March 2003.

Coordination with the United Nations

The UN set up a Department of Humanitarian Affairs (OCHA) in order to respond more effectively to humanitarian crises. UN-OCHA has a coordinating role and developed formal MoUs with the different agencies.

Traditionally, DG RELEX has been the interlocutor with the UN overall, ECHO specifically with UN-OCHA, and Civil Protection with United Nations Disaster Assessment and Coordination (UNDAC). Lately, however, the impression that the EU is building up a civil protection coordination alternative to the UN in the field has prompted concern at OCHA. The Civil Military Coordination division in UN-OCHA already had reservations about the engagement of the military in crisis management. UN concerns also amplified with the increased presence of EU civil protection capacities in the field, backed by EU States that are also donors to the UNDAC system.

An internal EC report about the Community civil protection Mechanism intervention after the Morocco earthquake 2004 indicates that *"there is still a lack of clarity on how the co-ordination procedures tie outside the European Union and about the respective mandates"*³⁵. An agreement was thus signed by the Commission and the UN-OCHA in October 2004 to establish the basic principles for further cooperation and coordination and to avoid unnecessary duplication of effort. The ensuing exchanges of letters which clarify the status can only be welcomed, as there are still *"vast overlaps in cases of major emergencies with requests often being received from 4 or 5 sources (Community Mechanism, NATO, UN, Bilateral, etc.)"*³⁶.

The UN equivalent of the Community Coordination Mechanism is known as United Nations Disaster Assessment and Coordination (UNDAC). The UNDAC team is a stand-by team of disaster management professionals who are nominated and funded by member governments. These experts are coordinating the search and rescue activities. UNDAC experts have been working closely with small assessment teams sent by the MIC. Both structures are expected to be intertwined more intensely in the future in order to avoid duplications.

31. Global evaluation of the Community Action Programme in the field of Civil Protection..., page 34.

32. Ibidem.

33. See Council Conclusions on the humanitarian aid response to the Tsunami, General Affairs Council meeting, Luxembourg, 17 October 2006

34. See Commission's replies to the Special Report No 3/2006 of the Court of Auditors concerning the European Commission Humanitarian Aid Response to the Tsunami, OJ C170/1, 21 July 2006

35. Global evaluation of the Community Action Programme in the field of Civil Protection(...), DG Environment, 5 July 2005, page 37

36. Ibidem.

This idea has already been put into practice with the participation of EU experts in UNDAC trainings³⁷, and the participation of UNDAC members in EU Assessment and Staff Management courses.

Positively, all the latest documentation from EU actors emphasises their acknowledgement of UN-OCHA as the appropriate coordinator of international humanitarian response. This trend is one of the lessons learned from the Bam earthquake (Iran, 2003), when effective EU-UN cooperation failed.

3.5. THE BARNIER REPORT (“EUROPE AID”)

For a Europe-wide civil protection force³⁸

In parallel to the developments described above in relation to EU civil protection, another initiative saw the light in January 2006. Former French Foreign Minister and European Commissioner Michel Barnier was appointed as Special Advisor to the President of the EC to undertake a study of the EU's role in responding to crises during disasters and other similar emergency situations in third countries.

The resulting report issued on 9 May 2006³⁹ outlines twelve ideas to improve the EU's crisis management response, among them, a Europe-wide civil protection force called “Europe Aid” (Note: this name is already used by the Commission for its external service DG for aid), an operations centre to plan and prepare for emergencies, and a so-called Civil Security Council to ensure effective planning and coordination.

According to the proposal, the civil protection force coordination, strengthened considerably from today's MIC, would be the responsibility of ECHO, for purposes of better coordination between EU humanitarian aid and EU civil protection in the most immediate crisis response. Thus ECHO, rather than DG Environment, would be coordinating the Member States' civil protection assistance in third countries. This idea of creating a “one stop shop for the EU's humanitarian response”, which would gradually attach the coordination mechanism for civil protection to DG ECHO, is positive. So is the proposal contained in the Report on the need to have a more consistent integrated European approach to crisis responses.

The proposal recalls an older debate about whether ECHO should coordinate Member States' humanitarian aid, or whether instead the EC should coordinate with Member States for overall EU humanitarian response. If Europe-wide civil protection coordination were based at ECHO, the former scenario would be close at hand. The proposal also assumes that there would be one European Commissioner responsible for both humanitarian aid and civil protection. It implies that ECHO's budget would be considerably augmented by the addition of civil protection coordination mechanisms, and it suggests that ECHO regional offices should become specialised crisis management delegations (under the ultimate control of an EU Minister of Foreign Affairs).

Comments from humanitarian actors

While the Barnier proposal seems to bring advantages for ECHO - most notably more control over the complementarity between civil protection and humanitarian aid actions -, it is not certain that it would bring real advantages to EU humanitarian aid as such. Instead, principled, direct humanitarian aid as currently funded by ECHO could be diluted by the need to coordinate Member-State controlled, often politically or visibility-motivated civil protection. Putting ECHO's neutral, needs-based regional offices and experts under the command of the EU Foreign Minister could also undermine the foundations of EU humanitarian aid as stipulated in Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid.

37. Note: the OSOCC is an On-Site Operations Coordination Centre with the purpose of assisting the local authorities of the affected country with the management of the disaster, in particular the coordination of international Search and Rescue teams.

38. Note: though the word “force” is military, the report does not refer to the use of military forces.

39. “For a European civil protection force: Europe Aid”, Report by Michel Barnier, 9 May 2006, http://ec.europa.eu/commission_barroso/president/pdf/rapport_barnier_en.pdf

THE RED CROSS AND THE EXPANSION OF EU'S CIVIL PROTECTION

Many Red Cross societies in European countries are closely aligned with civil protection services at home, acting as auxiliary services to the public authorities, and also perform humanitarian actions overseas. The IFRC is an anchor for international humanitarian law principles in aid. It will probably be a challenge for Red Cross societies in EU Member States to balance their principles with their partnership with government in order to serve in EU civil protection missions.

Also, the Barnier Report does not mention the experience built up by traditional humanitarian actors in improving crisis response and the delivery of aid⁴⁰. One major humanitarian actor - the ICRC and the International Federation of Red Cross and Red Crescent Societies (IFRC) - reacted to the Report, stating that it was important to use complementary capacities and resources "to the best effect"⁴¹. In a common position paper on the Barnier

Report, the ICRC and IFRC mention that IHL regulates civil defence (1977 Protocol I additional to the Geneva Conventions). As the NGOs, they also point out that "specific consideration should be given to coordination in situations of conflict or complex emergencies involving situations of violence"⁴².

It should be noted that so far, the Barnier Report has not found an overall positive response from EU stakeholders. The proposal includes a request for additional assets to disaster responses. The "Europe Aid" budget would be 10% of the European Solidarity Fund⁴³, but the bulk of its money would come from existing resources available to national civil protection agencies in the Member States. Unless further clarification is provided, EU stakeholders may also have the impression that the Barnier report is proposing to create a parallel structure in crisis management.

VOICE RECOMMENDATIONS IN RELATION TO EU CIVIL PROTECTION

The VOICE network calls upon the European Institutions and the EU Member States to ensure that civil protection interventions outside the EU:

1. in accordance with the Guidelines on the use of Military and Civil Defence Assets in Disaster Relief (Oslo Guidelines):
 - are consistent with the humanitarian principles, as enshrined in the Humanitarian Aid Council Regulation 1257/96 and the Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief;
 - have a clear mandate and role, concentrating in providing assistance such as search and rescue in natural disasters, particularly in the first phase of the emergency;
 - are coherent with the overall community humanitarian response - notably with DG ECHO -, thus as to avoid duplication;
2. are consistent with the needs assessments made by DG ECHO and UN-OCHA; this implies that such interventions are to be implemented with the appropriate level of professionalism concerning the timeliness, the assessment of needs, the relevance, and the effectiveness in the delivery of aid.

40. The Report contains one single mention (indirectly) related to NGOs, when it refers to the coordinating role of the EU Presidency in disaster response, and its cooperation with the United Nations, national and local authorities in the country concerned and NGOs.

41. Position paper of the ICRC and the IFRC on the Barnier report, Geneva, 7 June 2006.

42. Idem.

43. The enlarged European Union has set up a Solidarity Fund so that it can respond in a rapid, efficient and flexible manner to come to the aid of any Member State in the event of a major natural disaster. The Fund has an annual budget of one billion euro (source: SCADPlus, EU website).

PART TWO: EU CRISIS RESPONSES

4 *Civilian crisis responses of the EU*

4.1. BACKGROUND

The EU's increasing involvement in crisis management is justified by its political will to seek stability and peace not only within but also outside its borders, its security concerns and its willingness to increase its profile as a world player. The Constitutional Treaty was to consolidate the EU Common Foreign and Security Policy (CFSP) (e.g. creation of an EU "minister" for Foreign Affairs). The Treaty's uncertain future has now left an unclear situation.

The EU keeps investing in new ways to strengthen its foreign policy mechanisms and crisis management capabilities, while the current three-pillar structure is proving to be adding to the confusion. Indeed, EU crisis management can be activated with a Community Mechanism (under the EU first pillar) or decided by the Council under the second pillar on an inter-governmental basis. *"One of the principal characteristics of EC civilian crisis management decision making is that it is scattered. (...) The sheer number of the relevant EC (crisis management) instruments and actors serves as a practical obstacle to inter-pillar co-ordination"*⁴⁴. The establishment of the Stability Instrument as of 2007 will hopefully contribute to reduce the number of instruments (see below, Point 4.3.).

EU civilian crisis management challenges humanitarian aid on two accounts. Firstly, humanitarian aid is one of the EU external action policies related to crisis management - alongside with the EU CFSP, its commercial policy, cooperation with third countries, and international agreements. However, even if humanitarian aid is one important element of EC assistance in a crisis situation, *"it cannot be considered a crisis management tool in the sense that it is delivered solely on the basis of need, and cannot be subsumed to the political logic of crisis management"*⁴⁵. There is a genuine risk that humanitarian aid becomes instrumentalised for other purposes than saving lives

alone. During the Iraq war, increased humanitarian aid was what the Member States could agree upon in the absence of a common political position. In other cases, such as for Lebanon in summer 2006, the EU has shown sufficient political will to work together and make a constructive contribution; it has been able to mobilise successfully a set of different instruments⁴⁶.

Secondly, due to the number of EU mechanisms and actors, the EU institutional framework related to crisis management is unclear and non transparent. This can affect the decision making process on which instruments to use to respond to a crisis and how these instruments can complement each other.

WHAT IS EU CIVILIAN CRISIS MANAGEMENT?

There is no official EU definition of Civilian Crisis management. From a by-default perspective, one could refer EU civilian crisis management to all non-military EU instruments or policies dedicated to crisis management. The concept was first used in the late '90s to promote the civilian dimension of the European Security and Defence Policy (ESDP). The Cologne European Council meeting in June 1999 placed crisis management tasks at the core of the process of strengthening the ESDP.

The Treaty on the European Union in its Article 17.2 defines ESDP activities as *"humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking"* (the so-called Petersberg Tasks). The Union also decided to develop five Civilian Aspects of Crisis Management as its crisis management framework: police, strengthening the rule of law, strengthening civil administration, civil protection and monitoring.

44. "Civilian crisis management: the EU way", Chaillot Paper n° 90, June 2006, page 106.

45. Idem, page 50.

46. Observers argue that EU's responses to the Lebanese crisis may have been politically crucial, as the EU has been so far incapable of contributing substantially to lasting peace and stability in the region.

4.2. CIVILIAN CRISIS MANAGEMENT UNDER THE EUROPEAN COMMISSION (“FIRST PILLAR”)

In addition to ECHO and DG Environment (MIC), DG for External Relations (DG RELEX) is the third EC component implementing community actions in crisis responses.

The Crisis Platform “hosted” by DG RELEX had been announced in January 2005 and elaborated in the 20 April 2005 Commission Communication. A reform of responsibilities has created a new Directorate known as the Crisis Platform and Policy Co-ordination in CFSP, including units on crisis management and conflict prevention, CFSP and RRM Programme management, and Security Policy.

The Rapid Reaction Mechanism (RRM) was established in 2001. It is managed by the conflict prevention and crisis management unit within DG RELEX. This Community-funded mechanism is designed to allow the EC to respond in a rapid and flexible manner to the needs of countries faced with natural disasters or conflict. In crisis situations, it functions as a bridge back to the EC’s non-crisis assistance programmes by supporting short-term measures that safeguard or re-establish working conditions. The RRM is clearly mandated to avoid any activities that could overlap with humanitarian assistance handled by ECHO. Its portfolio is quite mixed. 2004 saw RRM programmes at regional levels and in many countries throughout the world (especially election support in Iraq). In 2005, the RRM mainly funded projects in tsunami-affected countries but there were also large programmes concerning border assistance in Moldova and Ukraine, AIDS in Libya, and conflict mitigation in Bolivia.⁴⁷ A number of RRM projects have been implemented through NGOs mainly active in conflict prevention and peace-building.

As a transitional relief measure, RRM usually follows EC humanitarian aid and/or the civil protection mechanism. However *“in most cases, there is no chronological transition between instruments but simultaneous funding (...). All emergency and transitional relief measures have provisions for accelerated decision-making procedures to ensure that funds can be mobilised rapidly”*⁴⁸.

The African Peace Facility (APF) is a long-term development instrument that may also be activated in crisis response. It has been created in 2004, when *“European hesitancy on Darfur serves as a reminder of the gap between political ambition (as outlined in the European Security Strategy) and the reality of responding to ongoing crises”*⁴⁹. Thus, the question around the potential of this new initiative is whether the African Peace Facility, if successful, would *“assist in bridging that gap”*⁵⁰.

The APF is administrated by DG Development. Currently, it is funding African Peace Keeping in Darfur and the Central African Republic.⁵¹ At the time of writing, the Commission is a major contributor to the African Union mission in Sudan (AMIS). Since 2004, it provided aid worth more than €340 million in response to the crisis in Darfur. *“The European Union is playing a leading role both in the search for a political solution, and improving the humanitarian situation”*, says EC President José Manuel Barroso. *“But we can do more; that is why we (...) are continuing our support for the Africa Union peacekeepers in Darfur (...)”*⁵².

While the international humanitarian aid community has called for a political solution to the conflict in Darfur, the security situation has deteriorated considerably. Between May and July 2006, 12 aid workers have been killed and many humanitarian NGOs had to pull out of the area. The question is not only whether *“(...) the African Peace Facility is to be successful and sustainable, it must sit coherently with EU developmental and humanitarian policy”*⁵³. It is also how the APF is actually supportive to aid. From a humanitarian perspective, the APF has not yet shown signs that it has been able to improve access to the displaced population, nor to help securing the area for aid workers.

47. See http://europa.eu.int/comm/external_relations/cfsp/cpcm/rrm/date.htm#2005.

48. “Civilian crisis management: the EU way”, Chaillot Paper n° 90, June 2006, page 51.

49. “The EU’s African Peace Facility Uncovered: Better late than never?” by Rory Keane, European Security Review, Number 24, October 2004.

50. Idem.

51. See http://europa.eu.int/comm/external_relations/cfsp/cpcm/cm.htm

52. “EC President José Manuel Barroso announces in Darfur an extra €40 million in humanitarian aid”, EC press release, 2 October 2006.

53. “The EU’s African Peace Facility Uncovered: Better late than never?” by Rory Keane, European Security Review, Number 24, October 2004.

Rehabilitation and Reconstruction is another example of Community involvement in crisis response. This sectoral instrument⁵⁴ aims at providing aid for rehabilitation and reconstruction in countries affected by conflict or natural disaster. The objective is to make the link between short-term relief and development aid. Activities funded under this instrument include reintegration of refugees and displaced people. Originally designed as an emergency response tool to launch rapidly short-term operations, "(...) it has never been utilised in this way in practise. Rather it has been used as an extra source of geographically specific funding, often in support of physical infrastructure construction projects (...)"⁵⁵. Part of its funds will in the future be allocated through ECHO.

LINKING RELIEF, REHABILITATION AND DEVELOPMENT (LRRD)

Rehabilitation and reconstruction operations provide a link and the best coordination between relief (humanitarian aid) and development. The concept of LRRD (also known as the 'grey zone') dates back to the 1980s⁵⁶. However, despite of the EC commitment to LRRD, bureaucratic hurdles and differences in funding procedures remain.

Many NGOs apply the LRRD approach in order to contribute to sustainable development. Therefore, NGOs engaged in humanitarian aid delivery are increasingly involved in disaster preparedness, conflict prevention and peace-building simultaneously. From a humanitarian point of view, high levels of violence and the breakdown of law and order are some of the elements which may impede access to populations in need and often lead to a climate of insecurity both for international and even more so for local staff.

4.3. THE STABILITY INSTRUMENT

The EU's new Financial Perspective for 2007-2013 was settled following tough negotiations at the beginning of April 2006. In Heading 4 (External Actions), six funding instruments⁵⁷ were created to replace the numerous instruments previously in use. One of the completely new instruments is the Stability Instrument, which will cover numerous programmes previously funded through geographical instruments and include CFSP expenditures.

This new funding instrument for external assistance was a 2004 proposal from the Commission for an "*Instrument for Stability, intended to tackle crises and instability in third countries and address trans-border challenges including nuclear safety and non-proliferation, the fight against trafficking, organised crime and terrorism.* [The instrument is expected to deliver immediate response to] *situations of crisis and instability in third countries, within a single legal instrument, until normal cooperation under one of the general instruments for cooperation and assistance can resume. This will build on the added-value already demonstrated by the Rapid Reaction Mechanism and on the emergency provisions already provided for in a number of existing external relations financial instruments*".⁵⁸

The proposed Regulation to establish the Stability Instrument specifies: "*Humanitarian aid cannot be delivered under this Regulation (see Article 13). Community humanitarian aid will continue to be delivered exclusively under the provisions of Regulation (EC) 1257/96. The Regulation requires the Commission to ensure the complementarity of Community humanitarian aid and the emergency response delivered under the Instrument for Stability.*"⁵⁹

54. Legal basis: Council Regulation (EC) No. 2258/96 of 22/11/1996 on rehabilitation and reconstruction operations in developing countries.

55. "Civilian crisis management: the EU way", Chaillot Paper n° 90, June 2006, page 56.

56. LRRD foundations can be found in the Council Regulation of 22/11/1996. They were further developed in the Commission Communication of 23 April 2001 "Linking Relief, Rehabilitation and Development - An assessment".

57. The Pre-Accession Policy, the European Neighbourhood and Partnership Instrument, the Development Cooperation and Economic Cooperation Instrument, the Humanitarian Aid Instrument, the Macro-Financial Assistance Instrument and the Instrument for Stability.

58. From "European Commission simplifies funding of external assistance", IP/04/1151, Brussels, 29 September 2004.

59. "Proposal for a Regulation of the Council establishing an Instrument for Stability (presented by the Commission)", COM(2004) 630 final (Brussels, 29.9.2004), Article 2.

*"The Stability Instrument operates purely under the first pillar. However, its design takes into account the need for effective operational coordination between Community actions and measures adopted under the Common Foreign and Security Policy."*⁶⁰, says the Commission.

From a humanitarian perspective, this new financing instrument for EU External Relations can be considered as a positive step. It makes a clear distinction between crisis management and humanitarian aid. It can also contribute to peace building. More specifically, the EC plans to establish a "Peace building partnership" to improve the EU impact in situations of crisis; the objective will be to ensure access to civilian expertise - including from NGOs - for peace building in third countries. The question remains how much of the total funding will be made available for this Partnership.

4.4. CIVILIAN CRISIS MANAGEMENT UNDER THE COUNCIL ("SECOND PILLAR")

The involvement of the Council in crisis management essentially means that EU Member States can decide to act together to respond to international crisis, according to their political will and their capabilities.

This is a crucial element of the decision making process. Actions initiated in this context *"(...) are typically reactive, and rapidly forged between these Members States with the most interest in the action and most likely to shoulder the brunt of the burden in its implementation"*⁶¹. In other words, the rationale behind these decisions for action is primarily based on political and/or strategic arguments, rather than humanitarian motives. This is not per se an issue of concern, provided that political decision makers do not put forward humanitarian arguments to present politically motivated interventions to their local electorates⁶².

Civilian ESDP missions, under the political control of the EU's Political and Security Committee, tend to take place in areas where and when European humanitarian workers are active. This brings ESDP into obvious contact with the EU humanitarian action performed through ECHO and its partners.

Inter-governmental attempts at elaborating crisis response capabilities in the last years prior to the 2004 tsunami based themselves around the ideas presented in Solana's European Security Strategy. The December 2004 Civilian Headline Goal 2008 process used military methodology in trying to identify which civilian capacities would the EU need to become operational⁶³.

The EU envisioned the development of civilian crisis management resources based on modules addressing specific functions that can be combined to create civilian crisis management "packages" tailored to a particular crisis situation⁶⁴.

So far, crisis management missions have taken place in contexts where the EU has been or is present through its humanitarian implementing partners. In 2005, missions took place in countries such as the Democratic Republic of Congo (Police Mission EUPOL Kinshasa - the first civilian mission for crisis management in Africa in the ESDP context), the Palestinian Territories (Monitoring Mission EU BAM Rafah) and in Iraq (Rule of Law Mission EUJUST LEX).

According to the EU Military Staff (EUMS), there is an inherent link between civilian and military crisis management operations: *"the distinction between military and civilian operations within the framework of ESDP is in many cases rather artificial. In reality, many civilian missions require military support and military missions will often be followed by civilian missions or development and assistance programmes from the European Commission"*⁶⁵.

60. "Instruments for External Assistance under the Future Financial Perspective 2007-2013", Communication from the Commission to the Council and the European Parliament COM(04) 626, 29 September 2004.

61. "Civilian crisis management: the EU way", Chaillot Paper n° 90, June 2006, page 105.

62. Note: at times, NGOs have been successful in lobbying for the Council to adopt a resolution on a particular humanitarian crisis, such as Northern Uganda.

63. Note: it needs to be said that the link between the civil protection as one aspect of Crisis management coordinated by the Council under ESDP and the civil protection units of the Member States coordinated through the MIC of the EC is unclear.

64. Going even further, Sweden proposed that the EU develop rapidly deployable "Civilian Response Teams" (CRTs) similar to teams used by the UN. Training to create the CRTs is currently under way.

65. "Impetus", Bulletin of the EU military staff, Spring/Summer 2006.

WHO DOES WHAT FOR ACEH?

Aceh is a good illustration of how different EU instruments are being managed by different services of the EC and the Council:

- ACEH Monitoring Mission, which will monitor the implementation of the peace agreement;
- ECHO, providing humanitarian relief and rehabilitation support;
- DG RELEX, through the Rapid Reaction Mechanism support to the peace negotiations (incl. financing demobilisation and reintegration of Free Aceh Movement (GAM) members);
- DG Relex and EuropeAid, supporting long-term development activities.

An example of this kind of military-civilian crisis management operation within the framework of the ESDP is the Aceh Monitoring Mission (AMM). The EU-led monitoring mission is of a civilian nature. It was designed to monitor the implementation of various aspects of the August 2005 peace agreement between the Government of Indonesia and the Free Aceh Movement (the peace negotiations had been supported by the EC Rapid Reaction Mechanism). The EUMS was involved in the demobilisation of the Free Aceh Movement. The mission, launched on 15 September 2005, was to be financed by the EU budget for CFSP and by contributions of EU Member States and participating countries⁶⁶. Concretely, this mission is drawing on military assets and military expertise in overseeing disarmament and decommissioning of rebels.

4.5. IMPACT ON HUMANITARIAN AID

As outlined above, ESDP missions are political by nature. On the other hand, the mandate of ECHO is to fund relief, while respecting the humanitarian principles of impartiality and independence. The confusion between both mandates implemented “under the same flag” is thus real. This concern is even more true when lines are substantially blurred between crisis management operations of a civilian nature, and those of a military nature, functioning under the CFSP. This may lead to a blurring of lines, humanitarian aid being confused with political action. The implementation of humanitarian aid can be severely impacted: shrinking access to affected population, and increased security concerns for humanitarian organisations.

On a positive note, 2005 saw the adoption by the EU Council of “European Union Guidelines on promoting compliance with International Humanitarian Law (IHL)” within a set of guidelines relating to International Human Rights Law. These IHL guidelines include a reference to crisis management operations: *“The importance of preventing and suppressing violations of IHL by third parties should be considered, where appropriate, in the drafting of mandates of EU crisis-management operations. In appropriate cases, this may include collecting information which may be of use for the ICC (International Criminal Court) or in other investigations of war crimes”*⁶⁷.

In addition, the Guidelines provide the “soft” legal framework for the EU to push third countries impeding humanitarian access to populations in need to comply with their IHL obligations (e.g. Russia/Chechnya, Israel/Palestine, etc). It would now be up to the humanitarian actors to monitor how the EU is actually making use of this legal clause.

66. “EU Monitoring Mission in Aceh (Indonesia)”, EU Council Secretariat Factsheet, ACH/02, 15 September 2005.

67. European Union Guidelines on promoting compliance with International Humanitarian Law (IHL), (2005/C 327/04), OJ 23, December 2005.

VOICE RECOMMENDATIONS IN RELATION TO CIVILIAN CRISES RESPONSES OF THE EU

The VOICE network calls upon the European Institutions and the EU Member States:

- 1.** to remain committed to the policy of linking relief, rehabilitation and development in all its activities in third countries and to put in place the necessary measures to facilitate the work of its partners;
- 2.** to ensure that humanitarian aid interventions are implemented separately from EU crises management activities, in order to avoid blurring the lines between needs-based humanitarian aid founded on the principles of impartiality, independence and neutrality, and activities based on political and/or security considerations;
- 3.** to further develop its civilian conflict prevention and peace building initiatives, in order to ensure that EC humanitarian aid is not becoming a substitute for political solutions of conflicts.

5 *Military crisis responses of the EU*

In the absence of political solutions to many conflicts, the international community is choosing more frequently a military presence such as international peacekeepers. The military presence in many conflict areas has therefore steadily increased. Also, as the nature of armed conflicts has changed over the years, NGOs now mostly find themselves in the midst of conflicts, supporting civilians who have become the main target for warring parties. The result being more advocacy concerning the protection of civilians, but also an ever more frequent contact with military forces.

Humanitarian agencies working in areas of conflict have always been confronted with a wide range of military actors in the field. Traditionally, they have either refrained from any contact at all or kept contacts to a minimum in order to safeguard their neutrality and independence - most particularly in complex emergencies.

However, there is a growing consensus among aid organisations that in a crisis, military interventions can contribute positively when they establish order and security, or facilitate a comprehensive settlement of the conflict. In natural disasters, the military can have a role to play (e.g. by providing transport assets and alike).

5.1. CONCERNS OF THE HUMANITARIAN COMMUNITY

NGOs maintain the position that the military is not a humanitarian actor given its mandate and role. Humanitarian assistance aims at alleviating human suffering, in an impartial manner without regard to race, religion, or political affiliation, and on basis of needs.

Military forces are the extension of political will. They are being deployed to assist all the areas of the world that face humanitarian crisis, but only to intervene in areas of political or strategic importance. It is thus logical that political or military objectives influence or determine how humanitarian needs are assessed and met. This is in contradiction with the humanitarian principles of independence, neutrality, and impartiality. Consequently, due to the inherently political aspect of their mandate and mission, military actors should not themselves administer humanitarian aid. The main concrete concern of humanitarian actors is the presence of military *per se*. This leads to a misperception of aid workers from the part of local communities and, in a number of cases, to insecurity.

When different actors provide aid in a certain setting, some dressed in army fatigue, others in civilian clothes as happened in Afghanistan, the perception from the local population might be blurred (who is military and who not?). This in turn too often has had a negative effect on the physical security environment. The last few years have seen unprecedented numbers of attacks on humanitarian workers. Observers attribute this trend partly to confusion over roles: military actors perform some of the same assistance tasks as humanitarians⁶⁸. In particular circumstances, they may also accompany or protect civilian missions. As a result, confusion over "who-is-who" is increasing, and distinguishing potential adversaries from impartial international helpers is difficult. Unarmed humanitarians associated with political or military missions easily become "soft targets".

Additionally, since the start of the global war on terror, all "westerners" have become equal targets in many countries. When it comes to humanitarian workers, local staff are even more frequently targeted, often only for the fact of being linked to a western organisation. The fact that these civilians are supporting local populations in an independent and impartial manner is too often lost. It should be noted that these trends are not only affecting the work of humanitarian agencies, but also might represent an increasing risk for all involved in conflict resolution, crisis management and peace-building activities.

68. The so-called "hearts and minds" approach is a strategic instrument, which essentially aims at winning the trust from local populations, at times in exchange for military intelligence.

The use of military assets is another very sensitive issue when it comes to interventions in complex emergencies. Military assets should only be used when all civilian capacities are over-stretched and no other means are available⁶⁹. Most ECHO partners, such as the NGOs and the Red Cross Movement, seek to avoid as much as possible the use of military assets or too close relationship with military forces, since this may jeopardize their independence and impartiality on the ground and have an impact on the access and security conditions for their personnel⁷⁰.

IMPACT OF RELATIONS WITH THE MILITARY ON THE IMPARTIALITY AND INDEPENDENCE OF HUMANITARIANS⁷¹

- Low risk of impact, when the relations are kept to minimal liaison and exchange of views on life-saving information;
- Higher risk of impact, in case of logistical support from the military, or cooperation on projects;
- High degree of concern, in case of military/armed escorts of humanitarians, when the military act as provider of aid, or when humanitarian aid is being provided under military command.

5.2. EU MILITARY DEVELOPMENTS SINCE 2004

The strengthening of Civil-Military Cooperation (CIMIC) in military structures can be witnessed. Contacts and dialogue between the military and humanitarian NGOs are increasing. In the UK and in Germany, working groups between the military and representatives of NGOs involved in humanitarian aid exist. In Scandinavian countries, NGOs have been participating in common training exercises and dialogued with the military on the role of NGOs.

The Civilian/Military Cell of the EU Military Staff (EUMS)

The EU Military Staff (EUMS) provides in-house military expertise for the Secretary-General/High Representative. As a Directorate General within the Council General Secretariat, it is the only permanent military structure of the European Union, under control of the EU Military Committee (the Chiefs of Defence of all the Member States)⁷². In conformity with the December 2003 European Council Conclusions, a Civilian/Military Cell (Civ/Mil Cell) was established within the EUMS in May 2005⁷³.

The Strategic Planning Branch of the Civ/Mil Cell is staffed *inter alia* with one Commission official with expertise in humanitarian aid and disaster response. This "EC" presence within the Cell should improve the link between the Council and the Commission. Hopefully, the Civ/Mil Cell will ensure that the Battle group model includes preparation to interact appropriately with humanitarian actors in the field, with regard to security, information sharing, and civilian coordination of relief missions.

The **Civ/Mil Cell** is under the responsibility of High Representative Javier Solana, and comprises both military and civilian planners including two EC representatives. Its mission is to *"assist in coordinating civilian operations and have the responsibility for generating the capacity to plan and run an autonomous EU military operation (...). One of the Cell's major tasks is to conduct (advance) strategic contingency planning, linking civilian and military expertise within the EU."*⁷⁴

69. Cfr. the Oslo Guidelines and the UN Guidelines On The Use of Military and Civil Defence Assets To Support United Nations Humanitarian Activities in Complex Emergencies (MCDA Guidelines), March 2003.

70. It needs to be noted that NGOs have varying positions from EU country to country on the relationship with the military: the contra cooperation position, the pro-collaboration position and the nuanced pragmatic position on functional relations under civil authority (leadership) as far this is not in contradiction with the human principles humanitarian.

71. Cfr. "Relations with the Military", Caritas Internationalis, April 2006.

72. From http://ue.eu.int/cms3_fo/showPage.asp?id=1039&lang=en&mode=g.

For more information on the EUMS, see its brochure at: http://ue.eu.int/uedocs/cmsUpload/EUMS_brochure.pdf

73. New Terms of Reference for the EUMS, comprising structural changes to include the Civ/Mil Cell and its tasks, as well as additional tasks in crisis management situations, were decided in Council Decision 2005/395/CFSP of 10 May 2005 amending Decision 2001/80/CFSP on the establishment of the Military Staff of the European Union (annex). "Contributions by the Cell for civilian aspects of crisis management remain under the functional responsibility of DG E. Reporting on these activities to the CIVCOM will be in accordance with established procedures on civilian aspects of crisis management."

74. "European Union Factsheet: The EU Battlegroups and the EU Civilian and Military Cell", February 2005. Available at: <http://ue.eu.int/uedocs/cmsUpload/Battlegroups.pdf>

Over the years, the EUMS has organised annual CIMIC conferences, inviting humanitarian actors from the NGO sector, the UN, the Red Cross and the EU institutions in order to strengthen the dialogue. In 2003, the EUMS proposed draft generic guidelines on co-operation with relevant external civil humanitarian organisations in EU-led crisis management operations. The guidelines were shelved following criticism from VOICE⁷⁵, OCHA and ECHO, and were not on the table at the last conference in 2005.

From the Rapid Reaction Force to Battle groups

Apart from several civilian missions and supporting actions, the EU has launched four military ESDP operations since 2003: in Macedonia (Operation CONCORDIA, 2003), in the Democratic Republic of Congo (Operation Artemis, 2003, and EUFOR RD CONGO, 2006), and in Bosnia and Herzegovina (Operation ALTHEA, 2004).

Operation ARTEMIS was the first autonomously EU led military operation deployed outside Europe. Its limited mandate was to secure Bunia and its airfield. From the humanitarian perspective, this mission - which ended in September 2003 - can claim a success in that there were no problems of cooperation or liaison between the EU military and humanitarian actors already present in the area. The fact that the roles and mandates of the international actors were clearly defined certainly contributed to this success.

EU “INTEGRATED” APPROACH FOR THE TRANSITION IN THE DR CONGO

The EU support to the 2006 elections and the transition in DRC can be broken down in diplomatic, institutional, military and technical support. Under the Cotonou Agreement, the EU provides institutional building and macro-economic support. It deployed an Election Observation Mission headed by the EP. The EU military operation EUFOR was deployed to support the MONUC. Other ESDP missions included EUPOL Kinshasa and EUSEC, which focus on security reform.

The past two years has seen a shift of ideas from a top-heavy, 60,000-strong Rapid Reaction Force (RRF) to the smaller units and capabilities like Battle groups. In November 2004, EU defence ministers at the Military Capabilities Commitment Conference agreed to establish 13 “battle groups” of 1,500 men each that would be deployable rapidly for crisis management around the world, rather than pursue the 60,000-strong Rapid Reaction Force (RRF). The establishment of these groups started in 2005, and they should be fully operational by 2007. According to this Conference’s Declaration on European Military Capabilities, “Battle groups will be employable across the full range of tasks listed in the TEU Art. 17.2, and those identified in the European Security Strategy in particular in tasks of combat forces in crisis management, bearing in mind their size”. In response to a crisis, or to an urgent request by the UN, the EU should be able to undertake two Battle group-sized operations for a period of up to 120 days simultaneously. Forces should be on the ground no later than 10 days after the EU decision to launch the operation.

The need for logistics, transport resources and the use of Military and Civil Defence Assets (MCDA)

There is broad consensus that the military has a role to play in certain crisis situations, but making that role acceptable for all sides and closing the civilian-military communication gap have been more of a challenge.

75. See “Statement from humanitarian NGOs, members of VOICE, on civil-military cooperation in the field”, 24 October 2003.

76. Headline Goal 2010, approved by General Affairs and External Relations Council on 17 May 2004, endorsed by the European Council of 17 and 18 June 2004.

LEBANON, 2006: FIRST EU “SINGLE” CONTRIBUTION TO UN PEACEKEEPING FORCE

For the first time, the EU as a single entity has played a crucial role in the preparation and deployment of an international UN peacekeeping force. Overcoming the initial hesitations of some Member States, the EU promised to provide up to 7,000 soldiers to the strengthened UN Interim Force in Lebanon (UNIFIL) out of a total of 15,000.

EU High Representative Javier Solana recognised that the deployment of a strong UN presence in Lebanon under the lead of the EU represents a pivotal change in the configuration of international assets in the Middle East. Nevertheless, some European leaders deplored the fact that EU Member States had not agreed that SG/HR Javier Solana should assume more responsibility in the Lebanese crisis, speaking and acting on behalf of the EU.

In June 2004, the European Council approved a Headline Goal 2010, calling for the development by 2010 of capabilities “to respond with rapid and decisive action applying a fully coherent approach to the whole spectrum of crisis management operations covered by the Treaty on the European Union”⁷⁶, in line with the European Security Strategy.⁷⁷ Acknowledging that modern crisis management operations typically require a mixture of instruments, the Headline Goal stresses interoperability among military, civilian and civil-military aspects, deployability and sustainability.

The use of MCDA is a necessity in responding to large-scale disasters like

the tsunami or the Pakistan earthquake, but these should be used on humanitarian terms and conditions. Both Oslo Guidelines and MCDA Guidelines stress that humanitarian assistance must be provided in accordance with the basic humanitarian principles of humanity, impartiality and neutrality; military assets should be used only as a last resort; and the coordination of emergency relief efforts for a particular natural or complex emergency should be under civilian UN auspices⁷⁸.

A coherent approach to the MCDA does not happen overnight. Military actors must be well trained in both Oslo and MCDA Guidelines. In parallel, military personnel should be trained in the MCDA guidelines alongside NGOs and other civilians, to promote mutual understanding of the different perspectives.

There is also a need for coordination of European MCDA resources and it is currently not clear where this responsibility should lie in the EU institutions. An EC official gave the example that when the UN asked for an entry point to request support from EU military and defence assets to support UN humanitarian activities, it received at least four different replies: the Council said its Joint Situation Centre⁷⁹ and the CIV-MIL cell would be the entry-points while the Commission pointed to the MIC and the Presidency. This suggests a clear lack of coordination at the institutional level concerning how EU military and civil defence assets can be managed and provided.

As stated by Commissioner for Development and Humanitarian Aid Louis Michel, military assets “(...) should be called upon when there is a need that cannot reasonably be covered by civilian means and where the military have a particular advantage. (...). It is up to the competent humanitarian bodies to call for the use of military assets, only if strictly necessary and in compliance with the humanitarian rules of engagement”⁸⁰.

77. “A Secure Europe in a Better World - The European Security Strategy”, by the European Council, 12 December 2003.

78. These documents are maintained by the UN-OCHA's Civil Military Coordination Section (CMCS, formerly known as MCDU). CMCS also provides training in United Nations Civil Military Coordination (UN CMCoord). For more information on MCDA or CMCS, see <http://ochaonline.un.org/webpage.asp?SiteID=237>

79. The Joint situation centre (SitCen) brings together national experts to analyse intelligence assessments from the Member States and Europol. It reports to EU foreign and security policy chief Javier Solana

80. “Future challenges of EU humanitarian aid and the role of Non Governmental Organisations”, by Louis Michel, EU Commissioner for Development and Humanitarian Aid (speech pronounced by Antonio Cavaco, Director General of DG ECHO), VOICE Event, Brussels, 11 May 2006.

VOICE RECOMMENDATIONS IN RELATION TO MILITARY CRISES RESPONSES OF THE EU

The VOICE network calls upon the European Institutions and the EU Member States to ensure that:

1. in accordance with the Guidelines on the use of Military and Civil Defence Assets in Disaster Relief (Oslo Guidelines) and the Guidelines on the use of Military and Civil Defence Assets to Support UN Humanitarian Activities in Complex Emergencies (MCDA Guidelines):
 - the respective roles and mandates of humanitarian organisations and the military are clearly defined, particularly in conflict situations where the impartiality of NGOs and the acceptance of their independency are crucial in order to guarantee the access to the victims and efficient humanitarian aid delivery;
 - humanitarian aid is being implemented first through humanitarian NGOs, the Red Cross and UN agencies; military entities should not take an implementing role and should only be used when the capacities of civilian actors are overstretched;
 - military assets for humanitarian operations are being placed under civilian control, thus as to avoid a close association between humanitarian aid and the military which could hinder the overall humanitarian efforts;
2. military crisis responses of the EU - rather than providing humanitarian assistance - concentrate on establishing peace and maintaining order and security, as thus supporting the overall humanitarian efforts.

6 *The effect of the EU's "international drive" on humanitarian aid*

In the last few years, the international community has been in high demand for crisis intervention. With factors like climate change and the global war on terror causing more frequent and more serious disasters and conflicts, the trend would seem to go towards an even greater level of need for international assistance in the future.

The EU, wishing to act as a global player, is involved in the international humanitarian apparatus as well as in crisis management. It is already highly respected as a global humanitarian donor.

It is understandable that the main factor determining EU external action today is not the urge to respond to needs which result from a humanitarian crisis. However, it is equally useful to reflect on how the EU's drive to become an active international player can affect humanitarian aid.

Due to terrorism and other global factors (organised crime, illegal migration, etc) security has become one of the major priorities of EU' external relations. This may bring the EU to take political decisions, which can affect directly a humanitarian crisis. This was the case in spring 2006 when the EU decided to halt its direct aid to the Palestinian Authority, after the Hamas movement - put on the EU's list of terrorist organisations - came into power after elections. Aware of the consequences of this decision on the living conditions of the local population, the EU decided at the same time to provide further humanitarian aid through ECHO. In a second phase, the European Commission developed the Temporary International Mechanism (TIM), at the request of the European Council and of the Middle East Quartet (EU, United States, UN and Russia). The objective of the TIM is give to support for health services, utilities, and social allowances for those in urgent need in the Palestinian Territories.

EU political decisions may also affect the humanitarian sphere indirectly, as this might be well the case in Sri Lanka. When the EU decided in May 2006 to add the separatist group, the Liberation Tigers of Tamil Eelam, to its list of banned terrorist organisations, the possibilities for dialogue were drastically reduced. Although there is no evidence today of the direct effect of the EU position in the field, it can be said that the security situation - particularly in the northern and eastern parts of the country - has deteriorated dramatically⁸¹. Access to affected populations is becoming ever more difficult and the work of international NGOs is being hampered by insecurity and local administrative harassment.

Security is not the only EU priority. The failure of the Constitution has confronted the Union with its low status in the eyes of its own citizens. Thus the EC finds it crucial to enhance the EU's added value and visibility. The need for a high profile may outweigh a commitment to the greatest humanitarian needs - particularly in the world's neglected ("forgotten"/'ignored') crises - and a focus on the IHL principles. This being said, when the EU intervenes in humanitarian crisis, its responses are respecting IHL. On the other hand, it does not always intervene in situations where IHL is being violated; this is the case when access to populations in need is being hampered or denied by governments or political groups.

81. A tragic illustration of this situation is the killing of 17 national aid workers of French NGO Action Contre la Faim in Sri Lanka in August 2006.

VOICE RECOMMENDATIONS IN RELATION TO EU INTERNATIONAL ROLE

The VOICE network calls upon the European Institutions:

- 1.** to ensure that EU political decisions in the field of External Relations do not have negative humanitarian consequences in third countries and to recognise that humanitarian NGOs can not act as substitutes for failing or absent public services in the countries of operation, where the basic needs of civilian populations have to be met;
- 2.** to ensure coordination, complementarity and coherence (the so-called “three Cs”) between the different mechanisms available to the EU for crisis situations in third countries in order to avoid unintended negative effects on humanitarian aid delivery in the field.

*The strengthening of EU crisis capabilities
What impact on humanitarian aid?*

VOICE RECOMMENDATIONS

VOICE RECOMMENDATIONS IN RELATION TO DG ECHO

The VOICE network calls upon the European Institutions and the EU Member States:

1. to ensure that decisions in relation to humanitarian funding - including the Emergency Reserve - are made in a manner consistent with humanitarian principles as enshrined in the Humanitarian Aid Council Regulation 1257/96 and the Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief, are independent from political and military goals. In particular, this includes the independence of humanitarian action from governments' foreign policy considerations;
2. to ensure that ECHO's mandate to use a needs-based approach in close cooperation with its traditional partners is duly implemented; this implies that further developments of EU crisis management should not confine ECHO assistance only to the so-called ignored crises;
3. to ensure that DG ECHO has sufficient financial resources to meet its mandate; this implies the adaptation of the financial perspectives 2007-2013 which, at present, show no significant increase in terms of annual average budget for humanitarian aid; this also implies that DG ECHO should have priority access to the Emergency Reserve; finally, funds allocated for humanitarian aid should be available to the humanitarian partners (NGOs, Red Cross and UN agencies), and not be diverted to EC civil protection and EU crisis response initiatives.

VOICE RECOMMENDATIONS IN RELATION TO EU CIVIL PROTECTION

The VOICE network calls upon the European Institutions and the EU Member States to ensure that civil protection interventions outside the EU:

1. in accordance with the Guidelines on the use of Military and Civil Defence Assets in Disaster Relief (Oslo Guidelines):
 - are consistent with the humanitarian principles, as enshrined in the Humanitarian Aid Council Regulation 1257/96 and the Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief;
 - have a clear mandate and role, concentrating in providing assistance such as search and rescue in natural disasters, particularly in the first phase of the emergency;
 - are coherent with the overall community humanitarian response - notably with DG ECHO -, thus as to avoid duplication;
2. are consistent with the needs assessments made by DG ECHO and UN-OCHA; this implies that such interventions are to be implemented with the appropriate level of professionalism concerning the timeliness, the assessment of needs, the relevance, and the effectiveness in the delivery of aid.

VOICE RECOMMENDATIONS IN RELATION TO CIVILIAN CRISES RESPONSES OF THE EU

The VOICE network calls upon the European Institutions and the EU Member States:

1. to remain committed to the policy of linking relief, rehabilitation and development in all its activities in third countries and to put in place the necessary measures to facilitate the work of its partners;
2. to ensure that humanitarian aid interventions are implemented separately from EU crises management activities, in order to avoid blurring the lines between needs-based humanitarian aid founded on the principles of impartiality, independence and neutrality, and activities based on political and/or security considerations;
3. to further develop its civilian conflict prevention and peace building initiatives, in order to ensure that EC humanitarian aid is not becoming a substitute for political solutions of conflicts.

VOICE RECOMMENDATIONS IN RELATION TO MILITARY CRISES RESPONSES OF THE EU

The VOICE network calls upon the European Institutions and the EU Member States to ensure that:

1. in accordance with the Guidelines on the use of Military and Civil Defence Assets in Disaster Relief (Oslo Guidelines) and the Guidelines on the use of Military and Civil Defence Assets to Support UN Humanitarian Activities in Complex Emergencies (MCDA Guidelines):
 - the respective roles and mandates of humanitarian organisations and the military are clearly defined, particularly in conflict situations where the impartiality of NGOs and the acceptance of their independency are crucial in order to guarantee the access to the victims and efficient humanitarian aid delivery;
 - humanitarian aid is being implemented first through humanitarian NGOs, the Red Cross and UN agencies; military entities should not take an implementing role and should only be used when the capacities of civilian actors are overstretched;
 - military assets for humanitarian operations are being placed under civilian control, thus as to avoid a close association between humanitarian aid and the military which could hinder the overall humanitarian efforts;
2. military crisis responses of the EU - rather than providing humanitarian assistance - concentrate on establishing peace and maintaining order and security, as thus supporting the overall humanitarian efforts.

VOICE RECOMMENDATIONS IN RELATION TO EU INTERNATIONAL ROLE

The VOICE network calls upon the European Institutions:

1. to ensure that EU political decisions in the field of External Relations do not have negative humanitarian consequences in third countries and to recognise that humanitarian NGOs can not act as substitutes for failing or absent public services in the countries of operation, where the basic needs of civilian populations have to be met;
2. to ensure coordination, complementarity and coherence (the so-called "three Cs") between the different mechanisms available to the EU for crisis situations in third countries in order to avoid unintended negative effects on humanitarian aid delivery in the field.

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VOICE

VOICE stands for Voluntary Organisations in Cooperation in Emergencies. It is a network representing some 90 European non-governmental organisations (NGOs) active in humanitarian aid worldwide. Seeking to involve its members in information, training, advocacy and lobbying, VOICE is the main NGO interlocutor with the European Union on emergency aid, relief, rehabilitation and disaster preparedness. As a European network, it represents and promotes the values and specificities of humanitarian NGOs, in collaboration with other humanitarian actors. Based in Brussels, VOICE has been active since 1992.

