

THE APPLICATION OF THE CSDP FRAMEWORK ON THE CURRENT EU REFUGEE CRISIS



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Author

Carmen de Oude | c.c.deoude@gmail.com

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Master of Science European Studies – s1217828

University of Twente, Faculty of Behavioural, Management and Social Sciences

Master of Arts European Studies - 425703

University of Münster, Department of Political Science

Supervisors

Prof. dr. Ramses Wessel

Faculty of Behavioural, Management & Social Sciences

University of Twente

Dr. Matthias Freise

Department of Political Science

University of Münster

“Reacting to crises is essential. But reaction alone is insufficient. Unless our reaction is cast within a more organic framework, unless we foresee forms of engagement even after the eyes of the international media have turned away, we will be forever chasing one crisis after the next. We cannot let sensationalism dictate our agenda. We need a framework that allows us to combine swift action with patient negotiation; we need conflict prevention and post-crisis management. At the same time, in a world (and a Union) of finite resources, we need to prioritise those areas where we can, where we must, and where we want to make a difference. All this requires a *consistent EU global strategy*.”

- Federica Mogherini

High Representative of the EU for Foreign Affairs and Security Policy and
Vice-President of the European Commission
in ‘Towards an EU Global Strategy (Missiroli, 2015)

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LIST OF ABBREVIATIONS

| | |
|--------------|---|
| CFSP | Common Foreign and Security Policy |
| CSDP | Common Security and Defence Policy |
| ESDP | European Security and Defence Policy |
| ESS | European Security Strategy |
| EU | European Union |
| EUMC | European Union Military Committee |
| EU NAVFORMED | European Union Naval Force Mediterranean (Operation Sophia) |
| HR/VP | High Representative of the European Union for Foreign Affairs and Security Policy/Vice-President of the European Commission |
| IOM | International Organization for Migration |
| ISIL | Islamic State of Iraq and the Levant |
| MENA | Middle East and North Africa (region) |
| NATO | North Atlantic Treaty Organization |
| PSC | Political and Security Committee |
| TEU | Treaty on the European Union |
| UN | United Nations |
| UNHCR | United Nations High Commissioner for Refugees |
| UNODC | United Nations Office on Drugs and Crime |
| UNSC | United Nations Security Council |
| US | United States of America |

EXECUTIVE SUMMARY

In 2015 a record number of over 300 000 migrants have risked their lives trying to cross the Mediterranean during their journey to the EU. This route has been named the most dangerous and deadly route for migrants in the world. In addition, the year 2015 highlighted massive numbers of casualties during these migratory flows.

Many scholars have written about the EU Common Security and Defence Policy (CSDP), a number of research concludes that the CSDP is mainly aimed at problems with a low risk and small mandate (Koutrakos, 2013). The CSDP has been established as a crisis management actor (Forsberg, 2006; Howorth, 2007) aimed at the European neighbourhood. This thesis elaborates on the CSDP and its application and potential with regards to the massive number of lives lost in the Southern Mediterranean since its massive increase in the beginning of 2015. Although the launch of a CSDP operation in this area seems logical, following the legal treaty provisions such as Article 21 TEU on the 'General Provisions on the Union's External Action' and Article 42 and 43 on 'Provisions on the Common Security and Defence Policy', some major outcomes and results in *Operation Sophia* have been disappointing. The main aim of the operation following its mandate has been to focus on the human smuggling networks operating in the Southern Mediterranean, specifically in Libya. However, due to the crisis circumstances in the Mediterranean which require direct action, the main mandate has been neglected to a certain degree.

The conclusion on the application of the CSDP framework on the refugee crisis is therefore twofold. On the one hand the legal treaty provisions on the CSDP and the EU's external action clearly provide a basis for action during the refugee crisis which is a humanitarian crisis in the European neighbourhood, consisting of a man-made disaster and involving security threats in both the internal and external dimensions of the EU. The need for action by the CSDP seems justified, if not necessary. However, the specific operation launched following the refugee crisis seems to have minimal impact. Although its goals and aims are clearly formulated and the mandate includes ambitious action in domestic territories, there are a number of issues that hold back the operation. The operation is aimed at the domestic territories of Libya, and so for only action is possible in the international waters due to the lack of a stable Libyan government or UNSC consent for the phases in territorial waters and land.

The CSDP seems to define an unclear strategy to a certain extent making it difficult to predict when the EU will launch operations under its framework. *Operation Sophia* was launched following a direct crisis which demanded multiple actions. Although the operation sets out high ambitions, unique for a CSDP operation, the ultimate goals seem difficult to reach under the current circumstances.

1. INTRODUCTION

This first chapter will serve as an introductory chapter mainly announcing the motivation behind this thesis and the relevance of the research. It introduces the events that have led to EU refugee crisis in the Mediterranean and the potential use of specific EU instruments in the area of the Union's CSDP to tackle this problem. After the problem and background situation of the crisis have been sketched, the state of art of existing literature can elaborate on what is already known on the capabilities of the CSDP. Following this short elaboration on this EU crisis and the EU instruments in place to tackle crises, the main research question will be formulated on the basis of these two variables. Finally, the last section will elaborate on the structure of the thesis by introducing and explaining the relevance of the sub-questions as well as the chosen chapter division and the methodology.

1.1 The current situation: The EU refugee crisis in the Mediterranean

In April 2015 a record number of 1 308 refugees and migrants lost their lives at sea while trying to cross the Mediterranean during their journey to Europe (compared to 42 in April 2014) (UNHCR, 2015b). The year 2015 has been a record year in general for lives lost at sea for migrants and refugees while travelling to Europe. In 2015 over 300 000 migrants have crossed the Mediterranean on their way to Europe. About 200 000 reached Europe in Greece, and about 110 000 arrived on the coasts of Italy (UNHCR, 2015a). Europe has been named the most dangerous and deadliest destination for migrants. In a report published by the International Organization for Migration in September 2015, a total number of 3 072 deaths have been reported in 2015 so far (International Organization for Migration, 2015). Since the year 2000 a total number of at least 22 000 deaths have occurred on the migrant routes towards Europe. Specifically the Mediterranean route near Italy has generated the most casualties. Both Italy and Greece have experienced migrant flows of around 90 000 through the sea. However, the number of casualties in the group trying to reach Italy was nearly 2 000, whereas in Greece the death rate is about 60.

The EU is directly involved in this crisis since the deaths of these migrants and refugees are taking place near European borders. It is argued that the crisis has important security dimensions, which will render it useful to look at the role the EU's CSDP plays in reacting to this crisis. Yet, the application of CSDP to the refugee crisis is not obvious. As we will see, CSDP is mainly associated with other types of security issues. The next section will analyse the main aspects of and insights on CFSP on the basis of existing research related to the emergence of the CSDP and its perceived powers and strengths.

1.2 State of the Art: literature on the CSDP

This section will explore existing literature on the perceived powers and strengths of the CSDP in order to see how current literature portrays the CSDP and its intentions.

The CSDP is the Common Security and Defence Policy of the EU. The CSDP, initially established in 1999 as the 'European Security and Defence Policy' (ESDP) has two main objectives (Iso-Markku, 2014):

1. To respond to crises in the European neighbourhood and beyond, based on the extended Petersberg Tasks, which cover joint disarmament, military advice and assistance, conflict prevention and peace-keeping, as well as tasks of combat forces in crisis management.
2. To ensure that member state are equipped with the necessary civilian and military capabilities to execute the Petersberg tasks in the context of an operation.

Articles by Forsberg (2006) and Howorth (2007) argue that the emergence of the CSDP is based on crisis management needs. Some scholars (Art, 2004; Jones, 2007; Posen, 2004, 2006) state that the main motivation behind the CSDP has been to increase the EU's relative power position compared to the US, creating independence from the US in terms of security. The evolution of the CSDP can be explained by three major elements: (1) the natural expansion of the (EU) integration process, (2) the EU's rivalry with the US, and (3) the practical needs of crisis management in a changed security environment (Strömvik, 2005). European defence integration has an intergovernmentalist nature and since its inception as the ESDP it has not had supranationalist institutions. Some say the EU should enhance its defence capabilities to show its independence from the US and to undermine NATO.

Since it is the national governments that are responsible for the foreign, security and defence policy, diverging interests are not uncommon. Many of the EU officials in the CSDP services are national secondees. Dijkstra (2012) has stated that this can possibly undermine the continuity and expertise in the CSDP system, declining its capabilities as a serious and steady actor which can anticipate crises. Realists that are in favour of further security integration state that the EU should be autonomous from US foreign policy, and that Germany needs to be bounded into the European political and security institutions to avoid potential security dilemmas (Krotz & Maher, 2011). All in all, literature suggests that there are some capability gaps within EU foreign defence policy when tackling major crises.

Forsberg (Forsberg, 2006) has stated that (Western) European nations will prefer working through NATO as opposed to the EU, since previous defence cooperation through the CSDP has caused some difficulties. EU foreign policy is fragmented and works in an intergovernmental way. There are major ‘capabilities – expectations gaps’ in the field of European foreign and security policy (Forsberg, 2006). Some scholars (Galtung, 1973) have argued in the past that the European Community would turn into a superpower and would have powers equal to that of the US. However, due to the (at that time) unforeseen accession of Eastern European states to the European Community things did not progress as fast. The US Clinton and Bush administrations have requested transferring military responsibility to the EU. Washington has played a critical role in order to engage the EU to become active in international security governance. Both NATO and the CSDP draw on the same pool of national forces. It depends on the mission under which institutional framework operations are carried out. Where the NATO primary objective is collective defence, the CSDP focusses more on “collective diplomacy with an institutional framework for crisis management” (Pohl, 2012). Pohl (2012) argues that he finds it unlikely that the EU will develop an overarching strategy of ideological logic soon. It has been argued that most operations or missions launched under the CSDP framework have been modest missions without tackling any major crises.

In ‘The Common Security and Defence Policy’ Koutrakos (2013) argues that CSDP military operations have not been ambitious, are small and have a narrow mandate. In addition, the areas in which CSDP operations are deployed are generally safe. Many of the security issues in which CSDP military operations have been launched; other international organizations such as NATO or the UN had previous presence. CSDP operations are financed by the contributing states and not through EU budget resulting in certain member states taking the lead and demanding CSDP operations in specific areas. Koutrakos (2013, p. 232) refers to the CSDP as “a difficult child” due to its slow evolution combined with many complications. The CSDP does stand out in the constitutional framework of the EU, especially since that the Treaty of Lisbon introduced more detailed provisions. Koutrakos (2013, p. 283) claims that the CSDP is an integral part of the CFSP; however, it has attained a certain degree of autonomy and a “unique *esprit de corps*” since it has special procedures and institutional settings. Overall there is an unclear interpretation of the EU’s external competences which could create domain conflicts pulling the EU into disputes. In conclusion, the EU is dependent on the capabilities and willingness of the member states to achieve its ambitions of being a regional and global security provider.

1.3 Research question: The CSDP as an instrument for the EU refugee crisis

The first section of this chapter has depicted the current situation in the Mediterranean regarding the lives of migrants and refugees lost at sea. The link to the EU can be made swiftly since the migrants and refugees who have lost their lives at sea died seeking prosperity in Europe, right on the borders of Europe. The previous section has already stated that the EU has an instrument that is aimed at crisis management. Despite the 'security' dimension of the refugee crisis, the link between this crisis and the potential application of the CSDP instruments has not been given much attention in academic research. Therefore the research question of this thesis will be:

To what extent is the CSDP framework capable of dealing with the current EU refugee crisis?

The main aim of this thesis will be to look at the current crisis regarding lives lost at sea and seeing how CSDP instruments can be applied to tackle this crisis. When looking at operations of the CSDP, one operation in specific can be identified that is aimed at this crisis: EU NAVFORMED *Operation Sophia*. This Operation will therefore form an important case study and will serve as a reality check of the theoretical findings.

1.4 Structure: answering the main research question

Elements of the above-mentioned research question will be answered separately on the basis of the following sub-questions. The first sub-question is formulated as follows:

1. What is the current problem for the EU with regards to the refugee crisis in relation to security issues?

This sub-question aims to establish background information regarding both the context of the refugee crisis for the EU and the security issues involved. This sub-question will be answered in **Chapter 2: The EU Refugee Crisis in Relation to Security Issues**. This chapter is important since it sets out the content on which the main research question of this thesis is based on. After the sub-question is answered a theoretical basis will be created which will support the main research question. This chapter will go into further detail regarding the refugee crisis in general including the push factors to leave unstable areas, but mainly the pull factors for refugees to come to Europe. With regards to the refugee crisis in relation to security issues, this chapter will elaborate on the human smuggling networks that operate in the Mediterranean and the major casualties resulting from these human smuggling businesses.

The second sub-question is:

2. What are the current tasks and capacities of the CSDP?

It will be appropriate to look into the EU's CSDP in further detail. The answer to this sub-question will generate a theoretical basis in order to see to what extent the treaty provisions allow the CSDP to be used in the refugee crisis. This sub-question is relevant in the structure of this thesis since it examines the treaty provisions and their applicability to the current refugee crisis. Where the previous sub-question focuses on creating a contextual background, this sub-question aims to investigate how the CSDP could be used to react to this crisis. The second sub-question will be answered in **Chapter 3: The CSDP: An Analysis of its Objectives and Potential.**

The third sub-question is:

3. How can the practical application of the CSDP be assessed with regards to the EU refugee crisis?

The relevance of this sub-question is that the answer aims to provide empirical evidence to answer the main research question. This section will also serve as a reality check of the theoretical findings. CSDP *Operation Sophia* will be used as a case study to see how the practical application of the CSDP can be assessed during the EU refugee crisis. This sub-question will be answered in **Chapter 4: Case Study: The Application of EU NAVFORMED Operation Sophia.** This chapter will go into more detail on the specific EU operation launched under the framework of the CSDP. Certain approaches assessing the application of EU military operations will be used in order to analyse *Operation Sophia*, more specifically its application as CSDP operation during the EU refugee crisis in the Mediterranean.

The main research question of this thesis is:

To what extent is the CSDP framework capable of dealing with the current EU refugee crisis?

All three previous sub-questions will generate sub-conclusions which will answer the main research question. On the basis of the previous chapters and their conclusions, the main research question will be answered in **Chapter 5: The Application of the CSDP Framework in the EU Refugee Crisis.** This chapter will also go into more detail on suggestions for future research and the limitations of this thesis.

1.5 Methodology

The first part of this thesis will contribute to providing background information regarding the thesis topic. This content analysis will be necessary in order to bring perspective to Chapter 4. Chapter 3 will include an analysis of legal treaty provisions of the CSDP; this chapter will investigate whether the provisions set out by the EU allow intervention in the refugee crisis using CSDP.

Chapter 3 will include an analysis of the CSDP; this will be done by using official government documents, legal treaty articles and expert opinions on the CSDP. The capabilities of the CSDP will be analysed on the characteristics: tasks and capacities. This chapter will investigate to what extent the legal provisions on the CSDP could suggest the guidelines for intervention in the EU refugee crisis.

After a theoretical basis has been established with Chapter 2 and Chapter 3, Chapter 4 including the case study on *Operation Sophia* will continue with a case study of empirical evidence that will be used to support the answer to the main research question. Chapter 4 will include an analysis of the current EU NAVFOR *Operation Sophia* on the basis of its fact sheet, policy documents, expert opinions and assessments of the preliminary outcomes of the operation. This section will include an analysis based on two approaches for the operationalization of CSDP operations, a method introduced by Thierry Tardy. Tardy (2014) suggests that EU CSDP operations can be operationalized in two ways namely: the reality of 'the comprehensive approach' and 'the measurement of impact and the related methodological and political challenges'. These two approaches suggested by Tardy will be used to assess the application of *Operation Sophia* on the refugee crisis. It is useful to use both approaches in this thesis since it allows for empirical evidence from two methods, contributing to the question of appropriateness of the operation. *Operation Sophia* will be analysed based on both methods followed by a comparative conclusion on both approaches with regards to the application of the EU military operation on the crisis. At the end of Chapter 4, there will be sufficient empirical evidence from two approaches to generate a conclusion on the application of the operation which will create more insight for the conclusion in Chapter 5.

Finally, the main conclusion in Chapter 5 will answer the main research question following the sub-conclusions made in Chapter 2 to 4.

2. THE EU REFUGEE CRISIS IN RELATION TO SECURITY ISSUES

The following chapter will elaborate on the background of the EU refugee crisis influx and the human smuggling networks in the Mediterranean. Both concepts will be explained in order to gain a comprehensive understanding of the situation which the EU is currently facing as well as of the nature of the problem. This is important both to put the research question into perspective, and also to highlight the importance of the research question. The sub-question to be answered in this chapter is: *what is the current problem for the EU with regards to the refugee crisis in relation to security issues?*

2.1 The EU Refugee Crisis in the Mediterranean

This section of the chapter will focus on the background issues explaining the current influx of refugees fleeing to Europe resulting in high numbers of deaths in the Mediterranean Sea. The refugee crisis has two main dimensions, namely the push factor for refugees to flee from for example the Middle East, and the more specific pull factor for those refugees to choose to go to Europe. This section will focus on the pull factor for those refugees from the Middle East to come to Europe. In order to address the major problem analysis in the paper, it will be advantageous to focus on the background issue of the problem.

The refugee crisis in the EU is caused by the lack of a strategy.

- Elizabeth Ferris (2015), senior fellow in the Foreign Policy Studies Program at the Brookings Institution

Push factors

Since 2011, the number of 'illegal border-crossings' started to rise following the Arab Spring as thousands of Tunisians started to cross the Mediterranean from Tunisia to the Italian island Lampedusa. After the ongoing unrest in Libya around 2012 many migrants and refugees situated in Libya fled across the Mediterranean as well. The largest number of migrants and refugees across the EU's maritime borders are of Syrian, Afghan and Eritrean decent. Currently the largest number of refugees is from Syria due to the civil war and the threat of ISIL. The UNHCR has stated that 58% of irregular migrants crossing the Mediterranean in the first half year of 2015 are of Syrian, Afghan and Eritrean decent (UNHCR, 2014). Due to the security and poverty issues in Iraq, Libya, Nigeria, Somalia and South Sudan many refugees have also fled to Europe in recent years (Park, 2015).

Many disagree on the question whether there is a strategy for the Middle East, but if there is one; its goal should be to solve (the root causes of) the refugee crisis.

- General David Petraeus (2015), former Director of the CIA; Commander ISAF; Commander US Forces Afghanistan; Commander, US Central Command

Table 2.1: Origin countries of refugees (UNHCR, 2014)

| Rank | Country | Percentage | Reason |
|------|-------------|------------|------------------|
| 1. | Syria | 34% | Civil war and IS |
| 2. | Afghanistan | 12% | Taliban rebels |
| | Eritrea | 12% | Forced labor |

Since most refugees are currently from Syria, it will be useful to highlight a short history of the previous few years. In 2011 pro-democracy protests took place in Deraa, located in the south of Syria. A number of teenagers were arrested and torture after painting slogans on a school wall. Syrian security forces later also opened fire on demonstrators killing many (Rodgers, Gritten, Offer, & Asare, 2015). These events triggered protest all through Syria against President Assad and an opposition against President Assad grew. Soon the amount of violence in Syria escalated and a civil war was emerging. Rebel brigades were gaining power and fought with the Syrian government in order take over control of towns and cities. By June 2013, 90 000 people had been killed, increasing to 220 000 by March 2015 (Rodgers, et al., 2015). The conflict is no longer just between President Assad and the opposition parties, there has been a large rise in jihadist groups within Syria, including the Islamic State. The Assad regime has enabled terrorist groups such as ISIL to exist (Hof, 2015). Nearly 4 million people have fled from Syria, one of the largest refugee influxes in history. Most reside in directly bordering countries such as Lebanon, Jordan and Turkey.

The current refugee crisis influx to Europe is a “spill over challenge” from instability in Syria and the Middle East.

- Catherine Wiesner (2015a), Deputy Assistant Secretary of State, Bureau of Population, Refugees, and Migration

Pull factor

As mentioned before, most refugees fleeing to Europe are of Syrian and Afghan decent. Although the EU has always faced economic migrants seeking jobs in Europe, this current migrant influx is different. Most current refugees are fleeing wars and violence in their home countries, making the main reasons for migration forced. According to the International Organization for Migration (IOM), Europe is “the most dangerous destination for irregular migration in the world” (Park, 2015). This due to the fact that many cross outer European borders illegally, for example, using smugglers to cross the Mediterranean Sea in unsafe boats.

Because of their geographical position, a number of countries are affected more directly by the migrant influx. Greece and Italy are located on the border of the EU on the Mediterranean Sea, by which refugees flee from North Africa and/or Turkey. Another upcoming place for refugees to flee to is Hungary; it is not dangerously bordered by sea, and can be reached by entering Eastern Europe

Europe's migrant crisis

Hundreds of thousands of refugees fleeing wars and economic migrants escaping poverty have arrived in the European Union in an unprecedented wave. Nearly all first reach the EU's eastern and southern edges and then press on illegally for richer and more generous EU countries further north and west.



through land. Although a shift is taking place where refugees are choosing to travel to Europe through its Eastern borders, it is still significant to look at the routes in the Mediterranean since these are the most deadly. Also, since Eastern European countries have started to close their borders since the end of 2015, and the route from Turkey has lost popularity due to the EU – Turkey action plan; the ‘old’, dangerous route in the Southern Mediterranean (from Libya to Italy) has regained popularity ("Honderden vluchtelingen verdronken in Middellandse Zee," 2016). Figure 1 shows the most popular migrant arrival sites. Many are centred on Italian islands

in the Mediterranean Sea and on Greek islands near Turkey. The first EU destination of the refugees is usually not these islands located in the Mediterranean; however, due to the open borders of the EU system, the main goal is usually to get to Western and/or Northern Europe.

Figure 2.1: Migrant arrival sites and camps (UNHCR, 2014)

Most refugees fleeing from countries as Syria find refuge in neighbouring countries such as Jordan, Lebanon and Turkey (King's College London, 2015), which are experiencing major influxes of

refugees. Although many refugees stay in these countries in refugee camps, a number of people seek for better circumstances, peace and wealth in Europe. However it should be recognized that most refugees stay in the immediate neighbouring countries; the Turkish Ambassador to the US stated that Turkey has received over 2 million refugees this year (Turkish Ambassador to the US, 2015).

"Fleeing is an act of despair."

- Philipp Ackermann (2015), Deputy Chief of Mission of the Embassy of the Federal Republic of Germany to the US

Many people travel to Italy from Libya by boat, which is a long and dangerous crossing. Refugees often pay thousands of dollars to smugglers in Libya in order to get them to Europe. They are often transported in unsafe boats and are abused during the journey. The unstable situation has allowed major trafficking networks to emerge, persuading and exploiting refugees to make the dangerous journey to Europe.

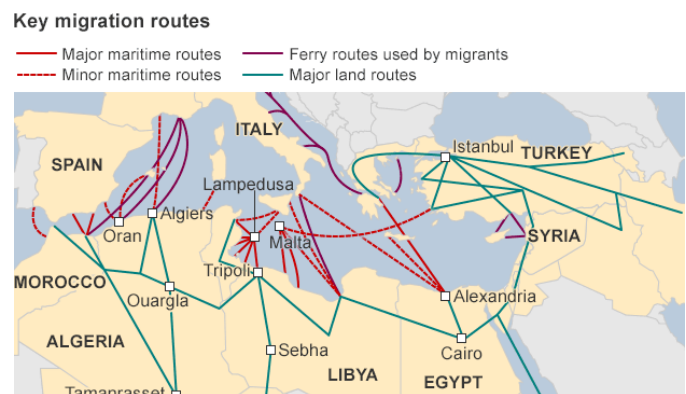


Figure 2.2: Key migration routes ("Why is EU struggling with migrants and asylum?," 2015)

2.2 Human Smuggling Networks

This next section of the chapter will focus on the human smuggling business following the increased numbers of refugees fleeing to Europe. The human smuggling business includes major cross-border networks that are professionally set up in order to make profits from refugees wanting to enter Europe. This section will focus on the workings of the human smuggling business to Europe, this in order to lay a foundation for the next chapters on the application and potential of the CSDP and *Operation Sophia*.

The human smuggling business

One of the most agonizing dimensions of the migration influx is probably the strong ties between migration pull factor towards Europe and human smuggler networks. Human smugglers are business men (Gabaudan, 2015) making money off the desperation of refugees. The emergence of networks of human smugglers is possible due to the supply and demand relationship. As described in the previous section, instability and wars in the Middle East and North Africa create push factors for

people to leave these areas. It has been estimated that smugglers running their business from Africa to Europe about \$150 million dollars a year. Getting to Hungary will cost Afghans about €10 000, whereas a place on a boat from Turkey to Greece will cost about €1 000 (Chonghaile, 2015).

The main destinations for refugees from Syria are Jordan, Lebanon and Turkey. However, these countries are struggling with providing the basic needs for these refugees. The number of refugees in Jordan is expected to surpass 1 million this year. For a country with only 6 million inhabitants the facilities that can be offered to refugees is only limited. As explained in the previous section, the lack of food and healthcare in frontline countries can motivate refugees to continue their journey and try to reach Europe, desiring a better life and more possibilities. Some scholars have argued that the limited facilities and the limited capabilities to support refugees in these countries are the major cause for the pull factor towards Europe and therefore also the high demand for the journey to Europe, causing the expansion of the smuggling networks (King's College London, 2015). Many refugees are willing to risk their lives in order to try to find a better life in Europe. Due to the EU's strict border controls, using smugglers and their networks is one of the only ways to cross the borders (De Haas, 2016).

Within Europe's migration crisis there should be focus on law enforcement and human smuggling.

- Catherine Wiesner (2015b), Deputy Assistant Secretary of State, Bureau of Population, Refugees, and Migration

The human smuggling networks operating between Africa and Europe are professional, well organized criminal networks. These networks of smugglers can be defined as transnational criminal networks operating across borders. Because of the fact that smuggling is illegal and smugglers are profit orientated, the position of the migrant is vulnerable (UNODC). The smugglers on the other hand, enjoy a high degree of power and are often reported to have mistreated refugees. The journeys operated by these smugglers are often dangerous and unsafe; refugees refusing dangerous situations have been forced to complete the journey.

"The migrant smuggling business remains a very profitable industry for Libya, and is assessed to generate an annual revenue of € 250 to 300 million and in some cases this may be over 50% of the revenue for some of the towns in Tripolitania. An analysis has shown that the smuggling business mode in Libya is dependent on three vital conditions:

(1) inflow of migrants seeking to use the central Mediterranean Route;

(2) the possibility to operate unmolested by militias, rivaling groups and authorities; and
(3) the capability to provide the transport to Europe or to merchant or military rescue vessels.”
(Credendino, 2016, p. 6)

Border crossing casualties

In 2015 over 300 000 migrants have crossed the Mediterranean on their way to Europe. About 200 000 reached Europe in Greece, and about 110 000 arrived on the coasts of Italy (UNHCR, 2015a). Europe has named the most dangerous and deadliest destination for migrants. In a report published by the International Organization for Migration in September 2015, a total number of 3 072 deaths have been reported in 2015 so far (International Organization for Migration, 2015). Since the year 2000 a total number of at least 22 000 deaths have occurred on the migrant routes towards Europe.

The International Organization for Migration has reported that a number of survivors reaching Europe have stated that the engine of their boat got overheated and the smugglers used the drinking water onboard to cool it down. During that trip 14 migrants died to the direct effects of dehydration and heat exhaustion (International Organization for Migration, 2015). This story is not unique, this year there have been many accounts of similar events taking place in the Mediterranean, where smugglers have mistreated migrants, and in a number of cases resulting in massive deaths. Specifically the Mediterranean route near Italy has generated the most casualties. Both Italy and Greece have experienced migrant flows of around 90 000 through the sea. However, the number of casualties in the group trying to reach Italy was nearly 2 000, whereas in Greece the death rate is about 60.

In the Council Decision of the 18th of May 2015, the Council referred to a statement made on the 20th of April 2015, addressing the security issues regarding the refugee crisis: “(...) *the Council confirmed a strong commitment to act in order to prevent human tragedies resulting from the smuggling of people across the Mediterranean*”¹. Here the Council specifically refers to the security issue regarding the loss of lives at sea which result from the human smuggling networks. According to the Council the immediate priority is “*to prevent more people from dying at sea*”¹.

¹ Council Decision (CFSP) 2015/778 of 18 May 2015 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED) [2015] OJ L122/31

2.3 Conclusions

In conclusion, this chapter aims to elaborate on the current refugee influx from the Middle East to the EU. Overall, two main elements can be distinguished, namely the push factor for refugees to come from the Middle East to the EU, and the pull factor to come to the EU from the Middle East. The former element suggests that the main focus is on looking into the unstable situations in the Middle East. The latter indicates that refugees are fleeing their country, and make the explicit choice to come to Europe. The research paper will focus on this last element, the pull factor, since it is in line with the overall objective to look at the EU CSDP and its abilities in the field of security issues related to the refugee crisis in the Mediterranean. Also, from this perspective there are multiple dimensions to focus on in the light of the refugee crisis. For the purpose of this paper there will only be focus on the CSDP strategy and operations in the field of this crisis.

Overall the conclusion can be made that the Mediterranean smuggler route is a very dangerous one. Migrants are sometimes forced to travel in dangerous boats by the smugglers who receive thousands of dollars for the crossing. There has been much media coverage on capsized ships or boats that are being abandoned by the smugglers after engine fails, resulting in major casualties. One of the main problems that arose alongside instability in the North Africa and Middle East region is the emergence of human smuggling networks. Although these have been present for much longer, they have undergone massive growths due to the massive increase in demand to go to Europe. Due to the large number of deaths in the Mediterranean on smuggler routes, the human smuggling networks have become a major element in the current EU refugee crisis influx.

Looking back at the sub-question of this chapter, *what is the current problem for the EU with regards to the refugee crisis in relation to security issues?*, it is clear that the refugee crisis consists of multiple dimensions. Specifically looking at its relation to security issues, the refugee crisis triggered the emergence of human smuggling networks in countries without stable governments which are made possible due to instability in MENA regions. However, the main security dimension of the refugee crisis as perceived by the European Council seems to be the major numbers of lives lost at sea following the emergence of the human smuggling networks.

3. THE CSDP: AN ANALYSIS OF ITS OBJECTIVES AND POTENTIAL

This chapter will include an analysis of the objectives and potential of the CSDP. This will include a theoretical basis on the CSDP. The purpose of the chapter will be analyse the CSDP on the basis of legal provisions in the Treaty on European Union (TEU), scientific research and expert opinions, and to see to what extent certain legal provisions can be identified in the current refugee crisis. The main aim in this chapter will be to answer sub-question 2: *What are the current tasks and capacities of the CSDP?* The approach to answering the sub-question will be based on the analysis of relevant TEU legal provisions. The first section of this chapter will go into detail on the ‘General Provisions on the Union’s External Action’, more specifically Article 21 TEU. Once the legal wording has been specified the goal will be to link its applicability to the current EU refugee crisis. The latter sections will go into more detail on the relevant treaty provisions of the CSDP. The same will be done in as in the former section, linking the applicability of Article 42, 43 and 44 to the current EU refugee crisis. Specifically, this chapter will analyse the objectives and potential of the legal treaty provisions on the CSDP in reacting to the refugee crisis.

3.1 General Provisions on the Union’s External Action

Before looking at the different treaty provisions on the CSDP in more detail it is important to take a closer look at the general legal provisions on the EU’s external action. Chapter 1 of Title V starts with Article 21 (TEU)² which refers to the Union’s action on the international scene.

Article 21 (1) TEU

The Union’s action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United nations Charter and international law.

Main elements that can be highlighted in this article in relation to the refugee crisis in the Southern Mediterranean are *the universality of human rights and fundamental freedoms and the respect for human dignity*. Both the aspect of human rights and the respect for human dignity are points that can be identified when looking at the loss of lives at sea following migratory flows to Europe through the use of criminal human smuggling networks. Article 21 (1) TEU specifically refers to *the Union’s action* outside the EU and the conditions for this, Article 21 (2) goes into more detail on the goals of external action.

² Consolidated Version of the Treaty on European Union [2010] OJ C83/28

Article 21 (2) TEU

The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

- (a) safeguard its values, fundamental interests, security, independence and integrity;**
- (b) consolidate and support democracy, the rule of law, human rights and the principles of international law;**
- (c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;**
- (d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;**
- (e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;**
- (f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;**
- (g) assist populations, countries and regions confronting natural or man-made disasters; and**
- (h) promote an international system based on stronger multilateral cooperation and good global governance.**

In relation to the refugee crisis a number of principles can be highlighted in Article 21 (2) TEU, such as to *consolidate and support (...) human rights and the principles of international law*. Again there is an emphasis on human rights with regards to the external action of the EU. Looking at this section of the article the human rights which are violated by the human smuggling networks in Libya (as mentioned in Chapter 2) are eligible for external action by the EU. Also, section (c) states that the EU aims to *preserve peace, prevent conflicts and strengthen international security (...)*. Responding to the refugee crisis by tackling human smuggling networks and saving lives at sea could fall in line with the aim to strengthen international security, since a lot of activity of the crisis takes place in international waters. Lastly, section (g) refers to the EU to *assist populations, countries and regions confronting natural or man-made disasters*. The MENA regions, from which human smuggling networks have emerged (such as Libya) do not have stable governments which makes it difficult for the EU to assist ‘populations, countries and regions’ in this area. Firstly, we cannot speak of ‘assisting’ a country but more response to a humanitarian situation, and although there is no government to assist, the EU can respond to the *man-made disaster* which is the refugee crisis in the Southern Mediterranean.

3.2 An Introduction to the CSDP

Since its establishment the EU has developed as an international crisis management actor (Koutrakos, 2013). Since 2003 the EU has conducted more than 25 civilian and military crisis management missions in the world (dated to 2013). Looking back on the EU's historical evolution, starting as a peace project based on economic integration in the 1950s (Koutrakos, 2013), the development of the EU being an international crisis management and military actor is quite exceptional. However, as a part of the Common Foreign and Security Policy (CFSP) the CSDP has advanced into a stand-alone policy field with its own rules, procedures and bodies (Wessel & Van Vooren, 2014).

Article 42 (1) TEU³ introduces the CSDP as part of the EU's CFSP, focusing on peace-keeping, conflict prevention and strengthening international security. The reformed CSDP, previously known as the ESDP has been further developed on the basis of the European Security Strategy. The motivation behind the European Security Strategy (ESS) was the division between EU member states on the US-led invasion of Iraq in 2003. The ESS identifies strategic objectives to defend the EU's security and to promote its values. *"In an era of globalisation, distant threats may be as much a concern as those that are near at hand... The first line of defence will be often be abroad. The new threats are dynamic... Conflict prevention and threat prevention cannot start too early."* (European Security Strategy: A Secure Europe in a Better World 2003, p. 6). The event that triggered the ESS showed the urgency for a common strategic vision to enhance internal cohesion at EU level (European Union External Action).

The CSDP, established in 1999 as the ESDP has two main objectives (Iso-Markku, 2014):

| Common Security and Defence Policy: Main objectives |
|---|
| 1. To respond to crises in the European neighbourhood and beyond, based on the extended Petersberg Tasks, which cover joint disarmament, military advice and assistance, conflict prevention and peace-keeping, as well as tasks of combat forces in crisis management. |
| 2. To ensure that member state are equipped with the necessary civilian and military capabilities to execute the Petersberg tasks in the context of an operation. |

When looking to the main objectives of the CSDP in more detail its relevance in responding to the refugee crisis can be established. The first objective of the CSDP refers to the EU responding *to crises in the European neighbourhood and beyond*. The refugee crisis in this context, more specifically, the

³ Consolidated Version of the Treaty on European Union [2010] OJ C83/38

loss of lives at sea is taking place near the EU's borders. In fact, reaching the EU is the motive behind the migratory and refugee flows. Therefore the Petersberg Tasks which include *military advice and assistance* seems relevant in responding to crises in the European neighbourhood and beyond.

Article 42(1) TEU

The common security and defence policy shall be an integral part of the common foreign and security policy. It shall provide the Union with an operational capacity drawing on civilian and military assets. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks shall be undertaken using capabilities provided by the Member States.

Looking at Article 42 (1) and its possible relevance to the refugee crisis a number of relevant parts can be identified. The treaty provision highlights the conditions for using the CSDP in situations for *peace-keeping, conflict prevention* and *strengthening international security*. The main point that can be identified here with regards to the refugee crisis is *strengthening international security*. Chapter 2 has concluded that the refugee crisis includes a security dimension relating to the loss of lives at sea. Following Article 42 (1), the EU can relate this security dimension to use the CSDP for *strengthening international security*.

Structure and institutions

The two main structures of the CSDP are the Political and Security Committee (PSC) and the European Union Military Committee (EUMC). The PSC is a preparatory body for the Council of the EU, made up of ambassadors from the EU member states. It keeps track of the international situation and helps to define policies within the CSDP; the committee also prepares EU responses to crises. The EUMC is a body which is composed of the Chiefs of Defence of the Member States, the so-called permanent military representatives. This military body provides the PSC with recommendations and advice on military matters within the EU (European Union External Action). These specific organs of the CSDP are not explicitly mentioned in the treaty; instead they are established by Council Decisions⁴.

⁴ COUNCIL DECISION of 22 January 2001 setting up the Political and Security Committee [2001] OJ L27/1 and COUNCIL DECISION of 22 January 2001 setting up the Military Committee of the European Union [2001] OJ L27/4

With the implementation of the Lisbon Treaty in 2009, a new mechanism was introduced: the Permanent Structured Cooperation. This mechanism can be used for capability development between member states within the framework of the EU. At the same time, the position of the High Representative has been strengthened, making it the chair of the Council of Ministers on foreign and security policy (Biscop, 2010). This strengthened position will give new incentive to decision-making.

Decision-making: when will there be common defence?

Article 42 (2) TEU

The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides.

Due to the fact that the CSDP has no guidelines that illustrate whether the EU should react to a certain situation, the decision-making of whether to intervene will be reactive. The lack of a clear strategic framework keeps the CSDP from having preventive elements. Also, due to the reactive nature of operations, certain interests of member states can play a role in whether a CSDP operation is initiated. Article 42 (2) suggests that member states *shall include the progressive framing of a common Union defence policy*. In the case of the refugee crisis this will suggest that a response is possible if the European Council decides this. However, due to many historically strong ties that some European countries might have with third countries, the reason to intervene can be based on a number of different reasons. Also, countries holding the Presidency could possibly have more influence in deciding when to initiate an operation. Whether there are clear guidelines for response or not, the European Council can decide to respond to situations.

Overall the mission of the CSDP does not point in a clear direction. The CSDP has never had a clearly defined strategy by which its actions were guided; in reality, the CSDP has consisted of individual missions and operations launched on a case-by-case basis. The establishment of the CSDP has been characterized as a bottom-up project, executing separate missions as it developed accordingly without holding on to a common strategy. This is also a reflection of the CSDP objective which states the EU should respond to crises, therefore not establishing a comprehensive strategy. The effectiveness of the strategy is therefore slightly fragmented, although the lack of a clearly defined strategy already suggests that the effectiveness is not most optimised.

The main drivers behind EU integration have economic, monetary and fiscal natures. Integration among EU member states took place in a rapid pace, though the security realm seems to be evolved on a different level. The emergence of the CSDP can be ascribed to EU integration in other areas. When integration takes place in one area, this is likely to spill-over to other areas as well. The CSDP consists of a bottom-up approach (Biscop & Coelmont, 2010), meaning a common defence strategy has been built up by undertaking operations following the capabilities and development in the last decade without relying on a so-called 'grand strategy'. Missions and operations are gradually developing instead of relying fully on an existing strategy. Engaging in different missions and operations will guide the EU towards a common CSDP strategy. In contrast, a top-down approach would suggest a clear defined common strategy, to which all operations are guided with an overarching aim.

3.3 The Tasks of the CSDP

Main tasks

Article 43 (1) TEU

The tasks referred to in Article 42 (1), in the course of which the Union may use civilian and military means, shall include disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.

The tasks described above in Article 43 (1) TEU are also known as the Petersburg Tasks of the CSDP. It is the Council that determines the purpose of the tasks; the implementation of a task can then be delegated to a group of member states (EUR-Lex, 2010). This group of member states with sufficient capabilities can then, if they are willing, carry out the task. The group of member states in charge of the task will inform the Council on a regular basis regarding the progress. Specifically, Article 43 (1) TEU refers to the tasks of the CSDP. Referring to the refugee crisis this treaty provision suggests that the EU may use *civilian and military means* including *humanitarian and rescue tasks* in the European neighbourhood. Looking back on Chapter 2 which established the security dimension of the refugee crisis, it seems that responding to the migratory flows in the Southern Mediterranean specifically the loss of lives at sea could cover *humanitarian and rescue tasks* as set out in Article 43 (1) TEU.

Regulation of CSDP Decisions

Article 42 (4) TEU

Decisions relating to the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council acting unanimously on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy or an initiative from a Member State. The High Representative may propose the use of both national resources and Union instruments, together with the Commission where appropriate.

Article 42 (4) TEU which refers to the decision-making within the CSDP states that mission or operation which can either be proposed by the HR/VP or a (group of) member state(s), can be adopted by the Council. Explicitly this means that a mission could be initiated by a group of member states during a crisis. In the case of the refugee crisis a group of member states or the HR/VP could propose action which can result in the launch of a CSDP mission after Council adoption.

Article 43 (2) TEU

The Council shall adopt decisions ..., defining their objectives and scope and the general conditions for their implementation. The High Representative of the Union for Foreign Affairs and Security Policy, acting under the authority of the Council and in close and constant contact with the Political and Security Committee, shall ensure coordination of the civilian and military aspects of such tasks.

The CSDP is part of the CFSP meaning that other EU legal instruments such as Regulations and Directives cannot be issued (Wessel & Van Vooren, 2014). The CSDP provides the EU with certain civil and military assets given by the Member States. The CSDP allows the EU to “play a distinct role as a regional and global security actor, separate from that of the Member States” (Wessel & Van Vooren, 2014, p. 402).

3.4 The Capacities of the CSDP

Currently, all EU member states participate within the CSDP, although Denmark has an ‘opt-out’ for defence cooperation under the CSDP. In the CSDP, the European Council (the heads of state/government of EU member states) as well as the Council (of Ministers) decides unanimously. Defence and security are, and will always remain, sensitive issues since national sovereignty is

involved. Not all countries are involved in all EU missions and operations⁵. The common strategy can show signs of fragmentation due to the fact that not all member states are involved. In every CSDP mission the composition of countries can differ. All in all the execution of a strategy relies on the member states themselves following a largely intergovernmentalist form of cooperation.

Article 44 (1) TEU

The Council may entrust the implementation of a task to a group of Member States which are willing and have the necessary capability for such a task. Those Member States, in association with the High Representative of the Union for Foreign Affairs and Security Policy, shall agree among themselves on the management of the task.

The EU has no fixed army; instead it depends on the CSDP forces contributed by EU member states (European Union, 2015). The willingness to participate in CSDP missions is on a case-by-case basis and is assessed by every member for every new mission. Launching new operations rely on unanimous decision-making in the Council. In the case of the refugee crisis launching an operation would be in the interest of a number of countries that are directly confronted with the crisis. Following the Council decision to launch an operation the member states with necessary capabilities and willingness with agree on the management of the set out task.

Under the Treaty of Lisbon, Article 42 (2) states that the European Council will act unanimously to progressively develop a 'common EU defence policy'. This means that the European Council, thus the heads of state/government may decide on the further development of defence issues. However, actual CSDP decisions are taken by the Council (of Ministers) and since the entry into force of the Lisbon Treaty in 2009 the HR/VP heads the CFSP thus also the CSDP (*"The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by Member States, in accordance with the Treaties"*⁶).

As mentioned earlier, each operation is undertaken individually; therefore Member State engagement is assessed on a case-by-case basis. The question could then be raised, why choose one specific operation over another? One example; in 2008 the EU had an operation in Chad and the

⁵ EUTM Somalia: 11 contributing member states; EUCAP Sahel Niger: 11 contributing member states; EU NAVFOR ATALANTA Somalia: frequent rotation, and EUCAP Nestor: 17 contributing member states, retrieved from European Union External Action (2016a).

⁶ Consolidated version of the Treaty on European Union [2010] OJ C83/30

Central African Republic for the protection of displaced person from Darfur. However, during this time the EU was also asked by the UN to intervene in Eastern Congo in order to safeguard human security, but they decided not to. Again, without a clear overall strategy, justifying when to intervene, and when not to intervene seems to be difficult. The CSDP strategy does not entail guidelines when to or when not to intervene; this suggests more fragmentation due to the fact that it would be difficult to predict whether the EU would intervene in a crisis when it is happening.

When looking at the numbers, the aim of the CSDP is to have the possibility to be able to deploy 50 000 to 60 000 troops, together with air and maritime forces, command and control, strategic transport and additional support services within the period of 60 days, for the total period of at least one year (Biscop & Coelmont, 2010). In general this means that there should be 180 000 deployable troops without including logistic support. Besides the deployable troops the EU also has two Battlegroups of 1 500 troops on stand-by for rapid response operations. Each Battlegroup should be able to deploy within 10 days, for the period of at least four months. EU member states can adopt deployment missions in multiple frameworks such as the CSDP, NATO and OSCE.

Financing

Athena is a mechanism which handles the financing of common costs relating to EU military operations under the CSDP (European Council, 2015a). It was established by the Council Decision of 27 March 2015 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena)⁷. Article 6 of the Council Decision establishes a special committee. Athena is under the authority of this special committee with representatives of the member states that contribute to the funding of operations. In total, 27 of the 28 member states contribute to Athena with the exception of Denmark, which has an opt-out of the entire CSDP. Currently six active missions are being financed through Athena, including EUANVFOR MED: *Operation Sophia*. In addition, military assets and personnel are provided by the states involved in the operation, including running costs and personnel.

3.5 Conclusions on the application of the CSDP

European security and defence is unique within European integration. Unlike economic integration, CSDP integration within the EU is based on voluntary cooperation with all possibilities to keep national sovereignty when states decide this. The CSDP is therefore a cooperation framework with

⁷ Council Decision (CFSP) 2015/528 of 27 March 2015 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena) and repealing Decision 2011/871/CFSP

some issues worth mentioning. One of the main objectives of the CSDP is to respond to crises in the European neighbourhood and beyond. However, it seems that there are no clear guidelines which the EU can follow to assess whether it should launch an operation under the framework of the CSDP. There is also a level of voluntariness in the CSDP since each operation demands the commitment of individual member states. Data shows that so far the CSDP has been seen as a means for low-intensity operations; which is reflected in the financing construction. Due to European integration in other areas, it seems unavoidable to not have an EU framework on defence cooperation; however, legal treaties seem to limit this to crisis management. Also, it seems that CSDP missions are launched in regions where some EU countries have interests or historic and cultural ties.

In conclusion, there is no clear direction in which the EU tries to steer the CSDP towards, apparent from the EU treaties. Firstly, Article 21 TEU refers to the Union's external action in relation to human rights and the goals of EU external action. The legal treaty provisions on the CSDP⁸ can be interpreted in the way that action under the CSDP can be justified in the case of the refugee crisis. In conclusion, when looking at the application and the potential of the CSDP and the sub-question *what are the current tasks and capacities of the CSDP?*, treaty provisions (Article 42 (1) TEU and 43 (1) TEU) refer to the EU using *civilian and military means* including *humanitarian and rescue tasks* and responding to *crises in the European neighbourhood*. Together with the possible initiative coming from either the HR/VP or member states, responding to the refugee crisis through the CSDP seems relevant. However, as this chapter has illustrated, situations that can be perceived as a crisis will have to be assessed on a case-by-case basis. The objectives of the CSDP and the legal treaty provisions lack clear guidelines as to whether a situation demands response by the EU, however, the legal provisions can be interpreted to react to situation with the CSDP when the HR/VP or member states find this relevant.

⁸ Consolidated version of the Treaty on European Union [2010] OJ C83/38

4. CASE STUDY: THE APPLICATION OF EU NAVFORMED OPERATION

SOPHIA

This chapter will include empirical evidence for the main research question. This chapter further examines CSDP *Operation Sophia* in order to assess the application of the CSDP on the EU refugee crisis in the Mediterranean. The main aim of this chapter is to assess how the EU uses the CSDP for the EU refugee crisis in the Mediterranean in practice and how this relates to the goals set out in the objectives of the CSDP. The sub-question that will be answered in this chapter is: *How can the practical application of the CSDP be assessed with regards to the EU refugee crisis?*

This chapter will consist of multiple sections in order to come to a valid answer to the sub-question. Thierry Tardy (2014) suggests EU CSDP operations can be operationalized in two ways namely: the reality of ‘the comprehensive approach’ and ‘the measurement of impact and the related methodological and political challenges’. Tardy states that applying these two approaches on CSDP should be widely acknowledged and that this could become an overall approach to objectively see how CSDP operations work out. *Operation Sophia* will be analysed based both methods followed by a comparative conclusion on both approaches with regards to the application of the EU military operation on the crisis. Section 4.1 and 4.2 might have some overlap or repetition, however, since they aim to independently analyse *Operation Sophia* similarities and/or differences can contribute to the conclusions made in section 4.3.

4.1 Approach 1: The Comprehensive Approach in the Operation

In order to get a clear understanding of what will be measured in this section it is important that the concept of ‘the comprehensive approach’ is clearly defined. First of all, there is a broader understanding of ‘the comprehensive approach’ which sees an integrated EU approach towards a third country, a region or a group of countries. This approach suggests that the EU has a set of objectives that are developed by relevant EU institutions and uses its policies as tools to implement the set out objectives (Woollard). However, for the purpose of this thesis the narrow understanding of ‘the comprehensive approach’ will be used. This definition differs from the broad understanding in the sense that it specifies civil-military integration. More specifically, the narrow understanding limits ‘the comprehensive approach’ to crisis management. This ‘comprehensive approach’ towards crisis management has been set out in the Council Conclusions of December 2008 and is similar to the concept used by NATO (Woollard), although not merely focussing on military aspects, but also the civilian CSDP. Also, this ‘comprehensive approach’ should not be confused with the ‘EU Comprehensive Approach towards Migration’ as mentioned in this thesis as well. Following the

concept set out by Woollard, *Operation Sophia* will be analysed with regards to dimensions falling under this comprehensive approach as stated by Helly and Galeazzi (2015): (1) develop a shared analysis, (2) define a common strategic vision, (3) focus on prevention, (4) mobilise the different strengths and capacities of the EU, (5) commit to the long term, (6) linking policies and internal and external action, (7) make better use of EU Delegations, and (8) work in partnership.

4.1.1 Develop a shared analysis

The launch of *Operation Sophia* is part of the EU Comprehensive Approach towards Migration (see Annex A). *Operation Sophia* is the military aspects of this approach aimed at lowering the migration influx and creating stability in Europe's neighbours. However, the specific operation, not looking at its part in the overall approach is aimed at the loss of lives at sea in the Mediterranean following migrants and refugees' efforts to come to Europe. It was Italy that had already launched 'Operation Mare Nostrum' in October 2013, also aimed at tackling the increasing migratory flow numbers and ship wreckages off the coast of the Italian island Lampedusa (Ministrero della Difesa, 2014). Operation Mare Nostrum soon became too costly for Italy to fund alone, costing over € 9 million per month. After Operation Mare Nostrum ended one year later, the EU's border security agency Frontex launched 'Operation Triton', which was aimed at securing Europe's borders and saving lives. In contrast, *Operation Sophia* is a military operation which has the aim to disrupt the human smuggling networks in the Mediterranean (European Union External Action, 2015a).

The development of a shared analysis has emerged from Italian initiative in launching an operation in order to decrease the loss of lives off and migratory flows off the coast of Italy. This soon shifted to an EU operation, due to financial reasons and EU interests under Italian leadership. This operation was seen as an EU responsibility to reduce to loss of lives at sea near Europe's borders.

4.1.2 Define a common strategic vision

On the 23rd of April 2015, the EU Prime Ministers and the EU Ministers of Defence agreed to strengthen defence cooperation in the EU refugee crisis directly following the deaths of a large number of refugees in their attempt to cross the Mediterranean Sea.

"The aim of this military operation (*Operation Sophia*) is to undertake systematic efforts to identify, capture and dispose of vessels as well as enabling assets used or suspected of being used by migrant smugglers or traffickers" (European Union External Action, 2015a).

During the last few months a number of member states have joined the operation after previously stating that their capacities would limit participation, such as Austria [REDACTED]. Currently, 24 of the 28 member states are officially participating in the operation (European Union External Action, 2015b), see figure 4.1.

According to the European Union External Action Services the main aim of *Operation Sophia* is to “tackle the root causes of the human emergency in the Mediterranean - in cooperation with the countries of origin and transit - and fight human smugglers and traffickers” (European Union External Action, 2015a). Specifically, the common strategic vision focuses on the Southern Mediterranean and the smuggling networks off the coast of Libya.

The first phase focuses on surveillance and assessment of human smuggling and trafficking networks in the Southern Central Mediterranean;

The second phase of the operation provides for the search and, if necessary, diversion of suspicious vessels;

The third phase would allow the disposal of vessels and related assets, preferably before use, and to apprehend traffickers and smugglers. (European Union External Action, 2015b)

The European Union External Action Service emphasizes that “the Council shall assess whether the conditions for transition beyond the first phase have been met, taking into account any applicable UN Security Council Resolution and consent by the Coastal States concerned” (European Union External Action, 2015b). This means that the Council will either need UNSC consent or individual states’ consent to execute parts of this operation in domestic waters and/or territories.

In reality much of the human smuggling is taking place on land, therefore some say that the capabilities are not sufficient looking at the scope of the current crisis (Coffey, 2015). There are also a number of different perspectives between EU member states. Italy, for example is highly motivated to engage in EU (military) operations working towards safety [REDACTED], while others are more sceptic towards EU integration (Szemerkenyi, 2015). Overall, most EU member states participate in the operation and hereby support the need for action. However, the exact vision on the crisis is not always common.

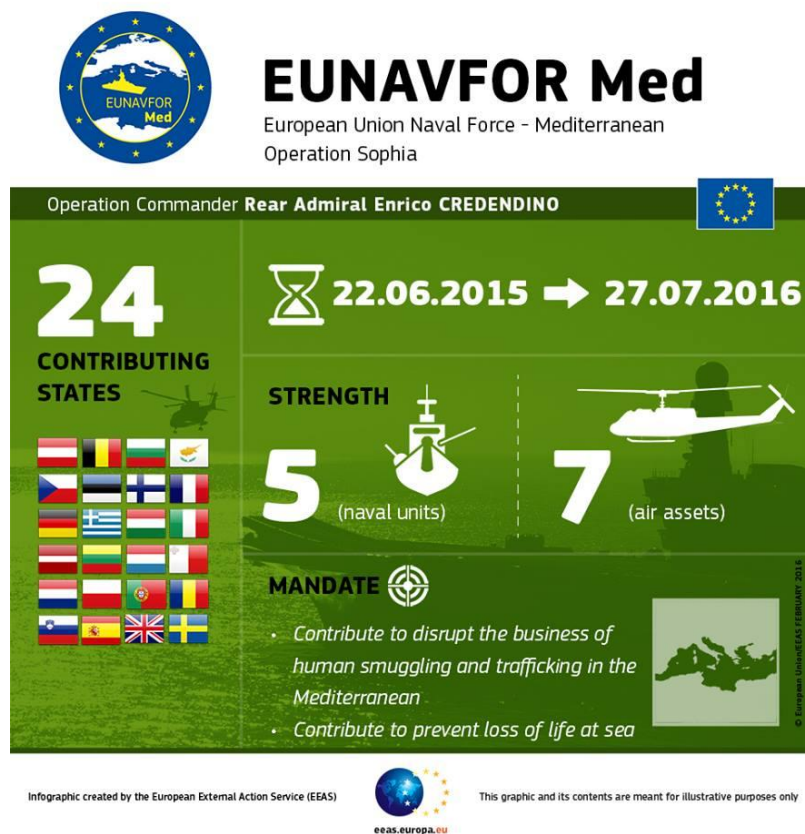


Figure 4.1: EU NAVFORMED *Operation Sophia* (European Union External Action, 2015b)

4.1.3 Focus on prevention

The focus of *Operation Sophia* seems to be on prevention, due to the wording “contribute to prevent loss of life at sea” (European Union External Action, 2015b) in its mandate. However, to “contribute to disrupt the business of human smuggling and trafficking in the Mediterranean” (European Union External Action, 2015b) suggests that there is an underlying issue that is not being tackled. As mentioned in chapter 2, there are a number of push and pull factors why refugees choose to travel to Europe. These factors possibly enable the emergence of human smuggling networks, making the instability in the Middle East and North Africa the main purpose behind the migratory flows, and thus possibly also emergence of human smuggling networks in the Southern Mediterranean.

In practice, Operation Sophia is not primarily aimed at creating stability in MENA areas such as Syria, Afghanistan etc. or preventing the overall migratory flows from this area, instead it reacts to the crisis in the Southern Mediterranean concerning direct migratory flows to Europe, including the dangerous journeys and the operating of the human smuggling networks.

4.1.4 Mobilise the different strengths and capacities of the EU

The force strength of *Operation Sophia* varies since it is dependent on the rotation and composition of various warships and other assets that are assigned to the operation. All assets are contributed by individual member states. The Italian aircraft carrier 'Cavour' is the flagship of the operation; a total of 5 naval units and 6 air assets are also currently deployed (European Union External Action, 2015b). All military and personnel are provided by the contributing states including the running costs and personnel costs. There is also a common budget of € 11.8 million for the entire duration of the operation which is monitored by CSDP financing mechanism *Athena*⁹ which all CSDP members finance.

Athena is a mechanism which handles the financing of common costs relating to EU military operations under the CSDP. Athena is under the authority of a special committee with representatives of the member states that contribute to the funding of operations. In total, 27 of the 28 member states contribute to Athena with the exception of Denmark, which has an opt-out of the entire CSDP. Currently six active missions are being financed through Athena, including EUANVFOR MED: *Operation Sophia*. In addition, military assets and personnel are provided by the states involved in the operation, including running costs and personnel. (European Council, 2015a)

The different strengths and capacities are mobilised in this CSDP operation, mainly states with comprehensive naval assets contribute to the operation; Italy as a geographical naval country with the necessary experience is leading the operation, other countries with naval assets contribute, and other member states contribute financially.

4.1.5 Commit to the long term

Operation Sophia is a phased military operation which is aimed to last a period of one year. All three phases of the operation are planned to be completed within this year. However, currently the operation is still in phase 2A, since there is no mandate to operate in territorial waters and/or soil. The UN has issued a resolution for the support of the first part of the operation including the search and diversion of suspicious vessels in the high seas (United Nations Security Council meetings coverage, 2015). Though this is not necessary for the EU in order to act, this does increase the international and political support, improving the legitimacy of the operation. However, as

⁹ Council Decision (CFSP) 2015/528 of 27 March 2015 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (*Athena*) and repealing Decision 2011/871/CFSP

mentioned before, the next stages of the operation include aspects that have not received support in the international community. In this case the lack of international support severely influences the execution of the operation since this is legally necessary in the form of a UNSC mandate.

In accordance with the Article 13 on the *Entry into force and termination* of the Council Decision¹⁰ dated 18 May 2015 the operation shall end no later than 12 months after having reached Full Operational Capability (FOC).

In practice, there is no commitment for the long term to keep Operation Sophia running. The operation has been launched as a measure for crisis management for the EU refugee crisis among a number of other measures. It can be expected that the EU will re-evaluate the need for this military operation since it has been launched alongside a number of other (non-military) measures.

4.1.6 Linking policies and internal and external action

Initially, the CSDP was designed as a tool for crisis management outside the EU. Therefore it has always been distinct from other policy responses that were aimed at tackling internal security issues, which are traditionally terrorism, organised crime and illegal migration. However, *Operation Sophia* clearly combines both internal and external domains. The operation has established a connection between both internal and external security issues. *Operation Sophia's* mandate includes both the reducing the loss of lives at sea and disrupting the human smuggling networks (crisis management outside the EU) as part of the EU Comprehensive Approach to Migration (internal issues).

“Operation Sophia is the first operation that explicitly brings together the internal and external security agendas, in the sense that an internal security and societal challenge is partly handled – in terms of prevention and mitigation – through an action that takes place outside of the EU.”
(Tardy, 2015, p. 2)

Some experts [REDACTED] agree that a military operation is not the way to handle the EU refugee crisis since the operation is merely treating the symptoms and not the root causes; overall the refugee influx crisis seems to be more of an issue for justice and home affairs and humanitarian aid, however, it does seem logical that the EU launched this mission in the first place since crisis management was necessary due to high number of lives lost at sea.

¹⁰ Council Decision (CFSP) 2015/778 of 18 May 2015 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED) [2015] OJ L122/31

4.1.7 Make better use of EU Delegations

According to the European Union External Action Service the EU Delegation in Libya, the EU is running a € 30 million programme in order to tackle a number of Libya's pressing needs concerning: reconciliation, elections and the constitutional process, protection of human rights and women's empowerment, security and justice, border management and security, migration, public administration reform, health, education, vocational training and culture, and media and civil society (European Union external Action, 2016c). In the 6 months evaluation report on *Operation Sophia* Rear Admiral Credendino (2016, p. 22) has stated "from a military perspective, we are ready to move to phase 2B (operating in the territorial waters of Libya) where we can make a more significant impact on the smuggler and traffickers business model. (...) Central to this and to the whole transition to phase 2B, is an agreement with the Libyan authorities. (...) As a European Union, we must therefore apply diplomatic pressure appropriately to deliver the correct outcome."

The European Union External Action Service suggests that there is EU presence within Libya to secure a number of issues and rights, also under the European Neighbourhood Policy (European Union external Action, 2016b); the EU supports countries in the MENA region with regards to political and economic reform. However, there is no evidence that the EU Delegation uses its position to receive a legal consent from Libya to operate in territorial waters and/or soil. Also due to the instability in the area, it is difficult to communicate with an acknowledged Libyan state or government.

4.1.8 Work in partnership

As mentioned before *Operation Sophia* is part of the larger EU Comprehensive Approach to Migration. Besides this specific CSDP operation in the Southern Mediterranean, other actions include (European Union External Action, 2015b): (1) an increased partnership with the African Union and African regional organizations, countries of origin and transit of the mixed migratory flows, IOM, UNHCR and other partners, (2) increased EU presence in the Mediterranean, notably through the Frontex operations in the Mediterranean, Triton and Poseidon, (3) increased support to border management in the region, including through the CSDP mission, in particular reinforcing EUCAP SAHEL Niger, (4) improvement of the security/humanitarian/human rights situations and socio-economic conditions in countries of origin – so that people build a future in their country, (5) EU efforts and support underpinning regional cooperation frameworks and in particular the Rabat and Khartoum processes, (6) cooperation with transit countries in controlling the flows and combat

smugglers more effectively, and (7) building capacities in countries of origin and transit to enable local authorities to tackle the issue more effectively.

Article 9 of the Council Decision¹¹ highlights the possibility of participation by third states:

Article 9: Participation by third states

- 1. Without prejudice to the Union's decision-making autonomy or to the single institutional framework, and in accordance with the relevant guidelines of the European Council, third States may be invited to participate in the operation.**
- 2. The Council hereby authorises the PSC to invite third States to offer contributions and to take the relevant decisions on acceptance of the proposed contributions, upon the recommendation of the EU Operations Commander and the EUMC.**
- 3. Detailed arrangements for the participation by third States shall be the subject of agreements concluded pursuant to Article 37 TEU and in accordance with the procedure laid down in Article 218 of the Treaty on the Functioning of the European Union (TFEU). Where the Union and a third State have concluded an agreement establishing a framework for the latter's participation in crisis management missions of the Union, the provisions of such an agreement shall apply in the context of EUNAVFOR MED.**
- 4. Third States making significant military contributions to EUNAVFOR MED shall have the same rights and obligations in terms of day-to-day management of the operation as Member States taking part in the operation.**
- 5. The Council hereby authorises the PSC to take relevant decisions on the setting-up of a Committee of Contributors, should third States provide significant military contributions.**

Although this does not actively encourage the participation of third states in the operation the possibility of expanding the operation beyond the EU becomes a possibility. The Council does authorise the PSC to invite third states to take up responsibilities in the CSDP operation and provides a legal basis on which states can make military contributions.

CSDP Operation Sophia is part of a larger approach including partnership with African regional organizations, EU Frontex operations and regional projects in order to increase stability within the regions where the migratory flows to Europe originate from. However, these partnerships are all coordinated on a higher level and entails no direct partnerships within Operation Sophia.

¹¹ Council Decision (CFSP) 2015/778 of 18 May 2015 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED) [2015] OJ L122/31

4.2 Approach 2: The Impact of the Operation

The following chapter will analyse the impact of the operation through methods established by Ginsberg and Penksa (2012) in 'The European Union in Global Security: The Politics of Impact'. The authors suggest analysing specific CSDP operations following their established "methodology for measuring and evaluating CSDP operations" (Ginsberg & Penksa, 2012, p. 137). The method includes measuring the internal politics of the operation (mission catalyst, mission mandate, mission launch and mission evaluation) and the external effects (functional impact and political impact). Ginsberg and Penksa (2012) argue that if CSDP missions are measured through their methodology, independent and objective analysis of individual CSDP operations are possible.

4.2.1 Internal politics of the operation

4.2.1.1 Mission catalyst

The first point of analysis is the 'mission catalyst'. This entails the catalysts for the launch of the operation and its geographical context.

"Europe cannot permit the Mediterranean to become a mass grave for refugees". The refugee crisis can only be solved by a comprehensive approach at European level, including sea rescue operations and combating human traffickers.

- Frank-Walter Steinmeier (2015), German Foreign Minister

Operation Sophia has been initiated following the high level of loss of lives at sea, tackling the specific objective to reduce the further loss of lives at sea in the European neighbourhood, specifically in the international waters near Libya, and eventually also aimed at the territorial waters of Libya and Libyan soil. As described in Chapter 2, the emergence of human smuggling networks near the coast of Libya and the major number of lives lost at sea have triggered the establishment of *Operation Sophia*.

There seems to be a correlation between the set out objectives of the CSDP (to respond to crises in the European neighbourhood) and the motives behind the establishment of *Operation Sophia*. In technical terms, tackling an EU 'neighbourhood' problem with a CSDP operation seems to be a mission catalyst. Overall the humanitarian issue combined with the presence of smuggling networks demands an intervention of some sort from the European countries playing a role in this crisis. Generally speaking, it would seem acceptable to launch a military operation aimed at disrupting networks causing major crises.

“Numbers indicate the scale of the problem: since the beginning of 2015, almost 522,000 refugees and migrants have landed in Europe and whilst the eastern/Balkan route (considered a land route) has seen an eightfold increase, the flow on the central route is still slightly higher “than last year, but it remains without doubt, the riskiest.” (“EU NAVFORMED OP Sophia,” 2015)

The EU has established a number of main catalysts for the launch of *Operation Sophia* as formulated in the Council Decision on a European Union military operation in the Southern Central Mediterranean¹².

“(1) On 20 April 2015, the Council confirmed a strong commitment to act in order to prevent human tragedies resulting from the smuggling of people across the Mediterranean.”

“(2) On 23 April 2015, the European Council expressed its indignation about the situation in the Mediterranean and underlined that the Union will mobilise all efforts at its disposal to prevent further loss of life at sea and to tackle the root causes of this human emergency, in cooperation with the countries of origin and transit, and that the immediate priority is to prevent more people from dying at sea. The European Council committed to strengthening the Union's presence at sea, to preventing illegal migration flows and to reinforcing internal solidarity and responsibility.”

“(3) The European Council of 23 April 2015 also committed to fighting the traffickers in accordance with international law, by undertaking systematic efforts to identify, capture and destroy vessels before they are used by traffickers, and invited the High Representative of the Union for Foreign Affairs and Security Policy (HR) to start preparations for a possible Common Security and Defence Policy (CSDP) operation to this effect.”

“(4) On 11 May 2015, the HR informed the UN Security Council about the crisis of migrants in the Mediterranean and the ongoing preparation for a possible Union naval operation, in the framework of the Union's Common Security and Defence Policy. In this regard, she expressed the need for the Union to work with the support of the UN Security Council.”

According to Peter Wittig (2015) the main reaction to the refugee crisis should be to find a common EU approach and support the frontline states, and countries such as Turkey, fight the human traffickers, and commit to European solidarity. Although the human smuggling networks may not be one of the root causes of refugee crisis, it is a serious element in the crisis demanding some sort of

¹² Council Decision (CFSP) 2015/778 of 18 May 2015 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED) [2015] OJ L122/31

action by the EU. Nathalie Tocci, Special Adviser to EU HR/VP Federica Mogherini has stated that the refugee crisis is one of the largest refugee influxes since World War II and that the severity of the crisis, referring to the loss of lives at sea, demands action from the EU. Launching EU NAVFOR MED *Operation Sophia* shows that “something has been done there” (Tocci, 2015).

The mission catalyst of Operation Sophia is the high number of lives lost at sea and the EU common need for action. The EU has launched a CSDP operation following crisis management needs in Europe’s neighbourhood.

4.2.1.2 Mission mandate

The second point of analysis is the decision-making process of the EU and its Member States to agree to the type of mission mandate.

Following the Council Decision of 18 May 2015¹³ the EU established the mission of *Operation Sophia* as follows:

Article 1: Mission

1. The Union shall conduct a military crisis management operation contributing to the disruption of the business model of human smuggling and trafficking networks in the Southern Central Mediterranean (EUNAVFOR MED), achieved by undertaking systematic efforts to identify, capture and dispose of vessels and assets used or suspected of being used by smugglers or traffickers, in accordance with applicable international law, including UNCLOS and any UN Security Council Resolution.

2. The area of operation shall be defined, before the launching of EUNAVFOR MED, in the relevant planning documents to be approved by the Council.

The main mission of *Operation Sophia* is “to undertake systematic efforts to identify, capture and dispose of vessels as well as enabling assets used or suspected of being used by migrant smugglers or traffickers” (European Union External Action, 2015b). The military operation is military part of the EU’s Comprehensive Approach to migration and mobilizes all efforts to prevent further loss of life at sea, tackle the root causes of the human emergency in the Mediterranean – in cooperation with the countries of origin and transit – and fight human smugglers and traffickers.

¹³ Council Decision (CFSP) 2015/778 of 18 May 2015 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED) [2015] OJ L122/31

Article 2: Mandate

1. EUNAVFOR MED shall operate in accordance with the political, strategic and politico-military objectives set out in the Crisis Management Concept approved by the Council on 18 May 2015.

2. EUNAVFOR MED shall be conducted in sequential phases, and in accordance with the requirements of international law. EUNAVFOR MED shall: (a) in a first phase, support the detection and monitoring of migration networks through information gathering and patrolling on the high seas in accordance with international law; (b) in a second phase, (i) conduct boarding, search, seizure and diversion on the high seas of vessels suspected of being used for human smuggling or trafficking, under the conditions provided for by applicable international law, including UNCLOS and the Protocol against the Smuggling of Migrants; (ii) in accordance with any applicable UN Security Council Resolution or consent by the coastal State concerned, conduct boarding, search, seizure and diversion, on the high seas or in the territorial and internal waters of that State, of vessels suspected of being used for human smuggling or trafficking, under the conditions set out in that Resolution or consent; (c) in a third phase, in accordance with any applicable UN Security Council Resolution or consent by the coastal State concerned, take all necessary measures against a vessel and related assets, including through disposing of them or rendering them inoperable, which are suspected of being used for human smuggling or trafficking, in the territory of that State, under the conditions set out in that Resolution or consent.

3. The Council shall assess whether the conditions for transition beyond the first phase have been met, taking into account any applicable UN Security Council Resolution and consent by the coastal States concerned. 4. EUNAVFOR MED may collect, in accordance with applicable law, personal data concerning persons taken on board ships participating in EUNAVFOR MED related to characteristics likely to assist in their identification, including fingerprints, as well as the following particulars, with the exclusion of other personal data: surname, maiden name, given names and any alias or assumed name; date and place of birth, nationality, sex; place of residence, profession and whereabouts; driving licenses, identification documents and passport data. It may transmit such data and data related to the vessels and equipment used by such persons to the relevant law enforcement authorities of Member States and/or to competent Union bodies.

The Council Decision¹⁴ refers to the three sequential phases to which the operation shall be launched including the details on the decision-making processes of the course of the next phases. The Council specifically refers to Articles 4 (4)2 and 43 (2) TEU in the official Council Decision on the launch of the operation referring to the CSDP as the legal basis.

As stated before, the overall strategy of the CSDP seems to lack clear definition, however *Operation Sophia* is part of the EU's comprehensive Approach to migration (see Annex A). In the context of the CSDP, *Operation Sophia* focuses on the human smuggling networks in the Mediterranean in order to tackle the refugee crisis in the EU. The operation is part of a bigger approach, which is non-military aimed at resolving a larger issue, since disrupting the networks will not eliminate the root causes of the refugee crisis. As the military element of the comprehensive approach, *Operation Sophia* should focus on its mandates which are, as derived from the European Union External Action (European Union External Action, 2015b):

- to disrupt the business model of human smuggling and trafficking networks in the Mediterranean
- to contribute to reducing the further loss of lives at sea

Originally, the operation is executed on the high seas near the coast of Libya with the aim to disrupt human smuggling networks operating in this area and reducing the loss of lives at sea due to these networks. The operation is ambitious and aims to expand the operation to both territorial water and ground in order to tackle these networks in Libyan territories.

4.2.1.3 Mission launch

The third point of analysis is the procedure for launching a mission in terms of planning, financing, capabilities and skilled personnel.

The specifications of *Operation Sophia* are (European Union External Action, 2015b):

- ~ The operation shall end no later than 12 months after having reached full capacity.
- ~ EUNAVFOR MED will be conducted in sequential phases and in full compliance with international law, including humanitarian, refugee, and human rights.
- ~ Phase 1: surveillance and assessment of human smuggling and trafficking networks in the Southern Central Mediterranean.
- ~ Phase 2: boarding, search, seizure and diversion of vessels on the high seas used for human smuggling, and then doing the same in the territorial and internal waters of Libya

¹⁴ Council Decision (CFSP) 2015/778 of 18 May 2015 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED) [2015] OJ L122/31

~ Phase 3: taking all necessary measures against a vessel and related assets, including through disposing of them or rendering them inoperable in the territory of Libya.

The current contributing states of *Operation Sophia* are (24 of 28 member states): Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, France, Germany, United Kingdom, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovenia, Spain and Sweden (dated March 2016). The composition of the force strength of the operation will vary on the frequent rotation and composition of the various warships and other assets assigned to the operation. The flagship of the operation is the Italian Aircraft carrier *Cavour*, in the second phase of the operation, 5 surface naval units and 7 air assets will be deployed (European Union External Action, 2015b). Some scholars have stated that the operation is modest tackling this major crisis with only 5 naval units and 7 air assets (Coffey, 2015), while others claim that the capabilities are more than sufficient, since you are tackling fishing boats (used by the smugglers) with large naval ships ().

Article 8 of the Council Decision¹⁵ refers to the procedure for the financing of *Operation Sophia*:

Article 8: Financial Arrangements

1. The common costs of the EU military operation shall be administered in accordance with Decision (CFSP) 2015/528.

2. The financial reference amount for the common costs of EUNAVFOR MED shall be EUR 11,82 million. The percentage of the reference amount referred to in Article 25(1) of Decision (CFSP) 2015/528 shall be 70 % in commitments and 40 % for payments.

Section 1 refers to the Council Decision¹⁶ on CSDP financing mechanism *Athena*. The latter section sets out the budget for the operation in more details with reference to the Council Decision establishing *Athena*.

Overall, looking from an EU perspective, it is efficient to deal with crises affecting the EU with all EU member states. In October 2015, 22 of the 28 member states contributed in the operation, meaning that the total number of contributing states (24 in March 2016) has grown since the initial mission launch. The operation is commanded by Italy as Italy is largely connected to the issue due

¹⁵ Council Decision (CFSP) 2015/778 of 18 May 2015 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED) [2015] OJ L122/31

¹⁶ Council Decision (CFSP) 2015/528 of 27 March 2015 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (*Athena*) and repealing Decision 2011/871/CFSP

to its geographical location, but also due to its priorities in security issues in a EU context (Italian Defense attaché to the US, 2015) . Before there was an CSDP mission in the Mediterranean, Italy initiated their own mission 'Mare Nostrum' [REDACTED] which has been largely replaced by Operation Sophia.

4.2.1.4 Mission evaluation

The fourth point of analysis is the internal effects within the EU foreign policy decision-making system.

Currently the Council has made a positive assessment to move on to the first step of the second phase of *Operation Sophia* after the gathering of information and intelligence has proved to be successful. At present there is still no UNSC resolution or consent of Libya (European Council, 2015b), the first step of phase to therefore focuses on 'the high seas' and 'in accordance with international law', which will be adopted by the Political and Security Committee. The main focus of the operation is supposed to be on disrupting human smuggler networks as opposed to the rescue of migrants (Tardy, 2015). Following UNSC Resolution No. 2240 the EU states that the focus of the operation is specifically on targeting migrant smuggling groups from Libya (Estrada-Cañamares, 2016). Besides unflagged vessels, the operation is now also authorized to interdict Libyan vessels. The PSC Decision implementing UNSC Resolution No. 2240 on *Operation Sophia*¹⁷ states:

Article 1

The European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED operation SOPHIA) is hereby authorised to conduct boarding, search, seizure and diversion, on the high seas, of vessels suspected of being used for human smuggling or trafficking under the conditions set out in UNSC Resolution 2240 (2015), in accordance with Decision (CFSP) 2015/778, for the period set out in that Resolution including any subsequent extensions of that period by the Security Council.

"Following EU NAVFORMED activities, 16 suspected smugglers and traffickers have so far been prosecuted by the Italian authorities with 16 boats seized. Last but not least, 3076 lives have been saved at sea including 2273 men, 635 women, 164 children and 4 babies." ("EU NAVFORMED OP Sophia," 2015, p. 7)

¹⁷ Political and Security Committee Decision (CFSP) 2016/118 of 20 January 2016 concerning the implementation by EUNAVFOR MED Operation SOPHIA of United Nations Security Council Resolution No 2240 (2015)

Rear Admiral Credendino (2016) has stated that in order to move to the following phases (2B: territorial waters of Libya, 3: land territory of Libya) there needs to be “a government of national accord with which to engage”, or Libyan consent which is not yet the case. Within the UNSC the EU has faced opposition from Russia and China (Estrada-Cañamares, 2016). Currently the EU is working on the members of the UNSC to convince that it should be able to do more and move on to the next phases of the mandate.

However, three months into the operation it seems that the approach towards human smugglers is not achieving the foreseen results because of the rescuing of refugees. Captain Gueglio has stated that until now only 18 people have been arrested for human smuggling, not including any ‘big catches’ (“Aanpak mensensmokkelaars lukt niet door zorg voor vluchtelingen,” 2015). The main attention of the military operation is forced to focus on rescuing refugees in the Mediterranean. Also, the future phases of the operation (2B and 3) do not seem yet seem feasible.

4.2.2 External effects of the operation

4.2.2.1 Functional impact

The first point of the external effects of the operation can be measured through its functional impact. Looking back at the mission mandate, the external functional impact of the operation can be related to the technical effects of an operation, mostly aimed at raising security and human welfare.

Operation Sophia is a military operation that combines both internal and external security agendas (Tardy, 2015). The tasks of the operation are carried out outside of EU borders, though motives are derived from the prevention and reduction of internal challenges. Within the operation and at EU level there is cooperation with Foreign Security and Justice agencies such as Europol and Frontex, specifically Operation Triton, taking place in the Mediterranean.

“The EUNAVFOR MED operation is but one element of a broader EU comprehensive response to the migration issue, which seeks to address not only its physical component, but also its root causes as well including conflict, poverty, climate change and persecution.” (“EU NAVFORMED OP Sophia,” 2015, p. 6)

In a report written on the evaluation of *Operation Sophia* after 6 months, the Operation Commander, Rear Admiral Enrico Credendino of the Italian Navy stated that the responsible EU bodies need to “speed up the process of forming a ‘reliable’ government in Libya”. The main reason behind this is

that with a stable Libyan government the EU expects permission to operate within Libyan territorial waters (phase 2B) and also to extend with EU operations on Libyan grounds (phase 3).

The EU has high ambitions with Operation Sophia and the rest of the EU Comprehensive Approach to Migration with raising stability and human welfare for the Libyan region. However, due to the fact that a Libyan government to engage with is not present, it is difficult to move the operation to the next phases. Thus the ambition to create security and human welfare in this area seems out of reach so far.

4.2.2.2 Political impact

The second point of the external effects of the operation includes the political impact. Where the previous point has focussed on the security and human welfare issues this point emphasizes the effects of a CSDP operation on the domestic politics and foreign policies of the host country and the degree of support among domestic political leaders and society.

As mentioned before, the second and third phases of *Operation Sophia* require a mandate from the UNSC or consent of Libyan authorities to carry out the tasks in the territorial and internal waters of Libya. The second phase comprises of 'the boarding, search, seizure and diversion on the high seas of vessels used for human smuggling', and the second step of this phase includes undertaking these tasks in the territorial and internal waters of Libya. This second step in the second stage requires a mandate from the UNSC or the consent of Libya. In addition, the complete third phase will require a UNSC mandate or Libyan consent in order to 'take all necessary measures against a vessel and related assets, including through disposing of them or rendering them inoperable in the territory of Libya'. It is the Political and Security Committee that decides when the conversion to the next phase will take place. Compared to previous CSDP military operations, EUNAVFOR MED has inventive aspects, more specifically the endorsement to 'take all necessary measures', including the persuasive nature of the operation (Tardy, 2015).

The UN has issued a resolution for the support of the first part of the operation including the search and diversion of suspicious vessels in the high seas. Though this is not necessary for the EU in order to act, this does increase the international and political support, improving the legitimacy of the operation. However, as mentioned before, the next stages of the operation include aspects that have not received support in the international community. In this case the lack of international support severely influences the execution of the operation since this is legally necessary in the form of a UNSC mandate.

Currently, Libya has no official government. This makes it difficult for the EU to receive support for Operation Sophia which is primarily aimed at the human smuggling business off the coast of Libya, with intentions to operate in domestic waters. So far there is no evidence that there will be either international (UN) or Libyan support for the future phases of the operation ([REDACTED]).

4.3 Conclusions on CSDP missions as a means for the EU refugee crisis

The following section will conclude on both theories on which *Operation Sophia* has been operationalized. The matrix tables will show the dimensions of both approaches, aiming to conclude whether *Operation Sophia* is a means to tackle the EU refugee crisis in the Mediterranean. This will then help us later in answering the main research question on the application of CSDP in general to the refugee crisis. Based on the analysis of the previous two sub-chapters 4.1 and 4.2 the dimensions will be measured on a scale rating from --, -, +, to ++. This section will allow a comparison for both analyses, which can generate a conclusion on the application of the CSDP on the EU refugee crisis. The measurement of applicability by no means tries to be an absolute scale on which to specifically measure its level. Instead, this scale has been derived on the basis of rule of thumb. The main goal of this scale and the measurement of applicability will be to be able to compare the previously established dimensions. Although the scale cannot measure each section separately, it aims to compare the previously established dimensions and depict its relevance among one another. Scaling the applicability for the different dimensions will give the opportunity to make some preliminary and exploratory conclusions which can support answers to the sub-question in this chapter. Therefore it should be kept in mind that this chapter merely aims to find a way to illustrate the findings, rather than building a specific measurement of applicability.

| Approach 1: The comprehensive approach to crisis management | |
|--|---------------|
| Dimension: | Applicability |
| 1. Develop a shared analysis | ++ |
| 2. Define a common strategic vision | ++ |
| 3. Focus on prevention | -- |
| 4. Mobilise the different strengths and capacities of the EU | + |
| 5. Commit to the long term | - |
| 6. Linking policies and internal and external action | + |
| 7. Make better use of EU Delegations | ++ |
| 8. Work in partnership | + |

| Approach 2: The impact of the operation | |
|---|---------------|
| Dimension: | Applicability |
| 1. Mission catalyst | ++ |
| 2. Mission mandate | ++ |
| 3. Mission launch | + |
| 4. Mission evaluation | - |
| 5. Functional impact | - |
| 6. Political impact | -- |

The sub-question of this chapter is: *How can the practical application of the CSDP be assessed with regards to the EU refugee crisis?* Following the comparison, a number of conclusions can be made on the basis of the analysis of case study *Operation Sophia* with the two approaches suggested by Tardy.

The main aim of the launch of Operation Sophia is to react to the EU responsibility to reduce to loss of lives at sea near Europe's borders. In practice, Operation Sophia is not primarily aimed at creating stability in MENA areas such as Syria, Afghanistan etc. or preventing the overall migratory flows from this area, instead it reacts to the crisis in the Southern Mediterranean concerning direct migratory flows to Europe, including the dangerous journeys and the operating of the human smuggling networks.

There are a number of different perspectives between EU member states. Overall, most EU member states participate in the operation and hereby support the need for action. However, the exact vision on the crisis is not always common. *Operation Sophia* has been launched as a measure for crisis management for the EU refugee crisis among a number of other measures, currently there are no explicit aims for long term, structural operation in the Southern Mediterranean.

Some experts say that a military operation is not the way to handle the EU refugee crisis since the operation is treating the symptoms and not the root causes; however, it does seem logical that the EU launched this mission in the first place since crisis management was necessary due to high number of lives lost at sea. The mission catalyst of *Operation Sophia* is the high number of lives lost at sea and the EU common need for action. Originally, the operation is executed on the high seas near the coast of Libya with the aim to disrupt human smuggling networks operating in this area and reducing the loss of lives at sea due to these networks. The operation is ambitious and aims to expand the operation to both territorial water and ground.

Overall, looking from an EU perspective, it is efficient to deal with crises affecting the EU with all EU member states. However, three months into the operation it seems that the approach towards

human smugglers is not achieving the foreseen results because of the rescuing of refugees. Until now only 18 people have been arrested for human smuggling, not including any 'big catches' ("Aanpak mensensmokkelaars lukt niet door zorg voor vluchtelingen," 2015). The main attention of the military operation is forced to focus on rescuing refugees in the Mediterranean. Also, the future phases of the operation (2B and 3) do not seem yet seem feasible. There is no Libyan government to engage with making it difficult to move the operation to the next phases. Thus the ambition to create security and human welfare in this area seems out of reach so far. Also, a UNSC mandate for these future phases has not (yet) been issued, making it unclear what the future of the operation entails.

5. CONCLUSION

5.1 The Application of the CSDP framework

All sub-conclusions made in the previous chapters will be brought together here in order to answer the research question of this thesis which is:

To what extent is the CSDP framework capable of dealing with the current EU refugee crisis?

Firstly, this paper sets out the definition for the refugee crisis which is the basis for the rest of the thesis. This paper defines the refugee crisis in its context as the lives lost at sea (the Southern Mediterranean) during migratory flows to the EU following instability in MENA areas, causing human smuggling networks to emerge and expand. The Mediterranean smuggler route is a very dangerous one.

Looking at the security issues involved in this crisis it is useful to look into the CSDP in more detail. By analysing the CSDP, its application and potential a number of conclusions can be made. Following Article 21 TEU on provisions of the Union's external action and Article 42 and 43 TEU on the CSDP it seems both justifiable and necessary to launch external action under this framework both humanitarian and human rights are at stake in the Southern Mediterranean taking place in the direct neighbourhood of the EU. More specifically Articles 42 (1) and 43 (2) refer to the EU using *civilian and military means* including *humanitarian and rescue tasks* and responding to *crises in the European neighbourhood*. Within the objectives of the EU the wording of the EU to be a *crisis management actor* can also be identified. In multiple Council meetings, different representatives of member states have acknowledged the severity of the refugee crisis. Although the preferred methods to respond are not common, there is consensus that action needs to take place. Looking at the legal treaty provisions of the TEU and the priorities of the EU with regards to crisis management it seems justified and necessary to use the CSDP as a means to tackle the refugee crisis.

Specifically looking at the CSDP operation launched following the refugee crisis *Operation Sophia*, a number of conclusions can be made with regards to the mission mandate, its ambitions and preliminary outcomes. In practice, Operation Sophia is not primarily aimed at creating stability in MENA areas such as Syria, Afghanistan etc. or preventing the overall migratory flows from this area, instead it reacts to the crisis in the Southern Mediterranean concerning direct migratory flows to Europe, including the dangerous journeys and the operating of the human smuggling networks. *Operation Sophia* has been launched as a measure for crisis management for the EU refugee crisis among a number of other measures, currently there are no explicit aims for long term, structural

operation in the Southern Mediterranean. Some experts say that a military operation is not the way to handle the EU refugee crisis since the operation is treating the symptoms and not the root causes; however, it does seem logical that the EU launched this mission in the first place since crisis management was necessary due to high number of lives lost at sea. The mission catalyst of *Operation Sophia* is the high number of lives lost at sea and the EU common need for action. Originally, the operation is executed on the high seas near the coast of Libya with the aim to disrupt human smuggling networks operating in this area and reducing the loss of lives at sea due to these networks. The operation is ambitious and aims to expand the operation to both territorial water and ground.

Overall, looking from an EU perspective, it is efficient to deal with crises affecting the EU with all EU member states. However, three months into the operation it seems that the approach towards human smugglers is not achieving the foreseen results because of the rescuing of refugees. Until now only 18 people have been arrested for human smuggling, not including any 'big catches' ("Aanpak mensensmokkelaars lukt niet door zorg voor vluchtelingen," 2015). The main attention of the military operation is forced to focus on rescuing refugees in the Mediterranean. The mandate set out in this operation, including phases 2B and 3, including activity in Libyan waters and territory seems ambitious. Looking at the crisis in the Southern Mediterranean, which has reached a new high following the Eastern EU border controls and the EU – Turkey action plan, the situation is not yet stable. The future phases seem necessary for success in the operation. However, a UNSC resolution is needed in order to execute these phases. It is also a possibility that a Libyan government can give consent for these phases, however, due to the instability in Libya it seems that investing in a stable government demand action as well.

On the one hand, the CSDP framework is applicable to the refugee crisis and its potential becomes clear in the legal treaty provisions. The launch of *Operation Sophia* seems to combine the different strengths of the EU member states and brings European defence to a unique level. However, this operation has been launched in a time of crisis among multiple other actions. At the time it was necessary to create as many reactions as possible to tackle the refugee crisis. Since the operation is reaching its 12 month limit soon it will be interesting to see how the operation is evaluated, and how future steps under CSDP framework will be evaluated.

5.2 Consequences of the findings

5.2.1 The future of *Operation Sophia*

Operation Sophia has been unique in the sense that it has brought the CSDP closer to EU borders. It can be expected that this trend is going to continue as instability around the EU is likely to remain.

Specifically this operation has shown that there is a role for defence in the refugee crisis and border security in general. The findings of this thesis suggest that *Operation Sophia* is quite unique within the CSDP operations so far. It has been launched as crisis management, while member states have argued its necessity. However, the findings so far do suggest that the operation does not tackle any of the root causes of the refugee crisis. On the other hand, the crisis has had such massive consequences; the EU is tackling it with as many elements as it can under the EU Comprehensive Approach toward Migration. Although the operation might not tackle the crisis directly, the extent of the crisis demands a response.

In conclusion, the main findings show that *Operation Sophia* does show some potential, but overall it seems that the refugee crisis goes beyond the capacities of the CSDP alone. The analysis of this operation has shown that the EU relies on international partners in events striking its borders. The CSDP limits the EU to a certain extent. The findings therefore show that the EU's action is limited by international actors or unstable regions in the neighbourhood.

5.2.2 The future of new CSDP operations

What becomes clear when looking at the process of launching new operations under the framework of the CSDP is that there is no clear strategy or direction expressed by the EU. By analysing the legal treaty provisions on external action it becomes apparent that there is no clear strategy stating when and in what situations EU member states should launch missions or operations. Some have argued that the CSDP and NATO are often launching duplicating missions, while others have stated that both are completely complementary. However, it should be acknowledged that the relation between NATO and the EU CSDP and their specific features are somewhat blurred. Lastly, what became clear in a number of panel discussions visited for this research is the dependency on member states' input. The CSDP fully gains its strengths (and also weaknesses) from what individual member states put in. The member states are the CSDP and without the commitment of member states there is no CSDP.

All in all, the main findings of this thesis show that the CSDP lacks a clear direction, has been used mainly for 'low intensity operations' and is fully dependent on Council cooperation and initiative. As literature has stated before, this thesis supports statements made about the necessity of a 'CSDP Whitebook' (Bakker, Drent, Landman, & Zandee, 2016) translating aims, priorities and objectives into the CSDP.

5.3 Limitations of the thesis and suggestions for future research

5.3.1 Limitations: Uniqueness of the operation

This thesis aimed to look at the application of the CSDP framework on the refugee crisis. The refugee crisis has been defined in this thesis to clearly only refer to the security issues regarding the loss of lives at sea. The EU has launched 'the Comprehensive approach to Migration', including many other sub-actions. However, due to clearly analysing *Operation Sophia* and legal treaty provisions on the CSDP, a number of conclusions on the action relating to the refugee crisis can be made. It should be acknowledged that this thesis merely looked into *Operation Sophia* and the security issues of the refugee crisis in relation to the CSDP. Therefore, any conclusions made in this thesis cannot directly be generalised to other CSDP operations launched in crisis management. Also, *Operation Sophia* has been referred to a 'unique' compared to other operations, making it difficult to make any broader conclusions on the CSDP in general or provide any recommendations for further action. Although this thesis clearly limits any further conclusions on the CSDP to the refugee crisis specifically it is still useful to look at the functioning of the CSDP in crisis situations.

5.3.2 Future research: Cooperation with NATO

Following some of the points laid out in this thesis it could be interesting for future research to focus on the CSDP in relation to NATO. In 2016 it became clear that NATO would be engaging in the refugee crisis with an operation as well (NATO, 2016). Although there focus was on the Greek islands, as opposed to Italy, the mandate of the operation is quite similar. On May 19th 2016, NATO stated it would expand its anti-terror mission *Active Endeavour* to help the EU tackle the human smuggling networks from Libya ("NAVO wil EU-missie mensensmokkel ondersteunen," 2016). The US Secretary of State John Kerry stated that NATO has unanimously agreed to support the EU mission *Sophia*. However, a formal decision has not yet been made and how this will work in practice is not yet clear. NATO chef Stoltenberg has stated that the most important problem is finding out what to do with migrants that are rescued close to the Libyan coast. Looking at these tentative issues that are arising during the operation it is safe to say that these issues could demand further research.

5.4 Important final remarks

On May 23rd 2016 the EU decided to extend *Operation Sophia* with a year. This was announced after the majority of this thesis had already been completed. This shows that the refugee crisis is a very current topic with major changes and decision taking place in a fast pace. It has been proposed that the operation will most likely be extended by extending its mandate by training and supporting

Libyan coastguard and the navy. How this will be done exactly is not yet clear. Since a change in mandate is expected, it could be useful to conduct further research on this. In the end, it is not yet clear how this extension and expansion will be given shape. However, this event does support the findings that stated that the operation should be expanded in terms of its mandate and taking further steps.

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Annex A

The EU comprehensive approach towards migration also includes (besides EUNAVFOR MED: Operation Sophia):

- Increased partnership with the African Union (including organisation of a joint summit this Autumn) and African regional organizations, countries of origin and transit of the mixed migratory flows, IOM, UNHCR and other partners;
- Increased EU presence in the Mediterranean, notably through the FRONTEX operations in the Mediterranean, Triton and Poseidon;
- Increased support to border management in the region, including through the CSDP missions, in particular reinforcing EUCAP SAHEL Niger;
- Improvement of the security/humanitarian/human rights situations and socio-economic conditions in countries of origin – so that people build a future in their country;
- EU efforts and support underpinning regional cooperation frameworks and in particular the Rabat and Khartoum processes;
- Cooperation with transit countries in controlling the flows and combat smugglers more effectively;
- Building capacities in countries of origin and transit to enable local authorities to tackle the issue more effectively.