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REGARDING THE SCOPE OF COMPETENCE OF PEACEKEEPING OPERATIONS: THE COMPREHENSIVE APPROACH OF UN MILITARY OPERATION SOPHIA IN VIEW OF THE MIGRATION CRISIS

Abstract

The evolution of the concept of Security in recent years has arisen from the appearance of complex crises that require the use of the full range of available means by both national and international actors. The migration crisis buffeting international relations in recent years is a clear example of this, and of the need to offer a comprehensive approach to those relations, having recourse to means from both national and foreign policies. In this area, the European Union naval operation Sophia is a clear paradigm as it is developing activities characteristic of a peacekeeping operation, along with others associated with internal security, such as the control of external maritime borders.

Keywords

Security; peacekeeping operation; maritime operation; Petersberg tasks; migrant crisis; comprehensive approach.

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INTRODUCTION

Military operation Sophia in Mediterranean waters is, without a doubt, one of the greatest challenges that the so-called Common Security and Defense Policy of the EU has faced in recent years. In fact, the peculiarity of the migration crisis and the traditionally compartmentalized fields of competence of the Armed Forces have opened a major debate about the feasibility of resorting to military means to face threats, which is traditionally characteristic of national security. In fact, it has been argued that, faced with a crisis, the only acceptable response was the use of police and civilian means, particularly within the scope of the Space of Freedom, Security and Justice, and of the operational ability of the newly created European Border and Coast Guard Agency.

In this study, we first intend to analyze the evolution and scope of peacekeeping operations within the United Nations as well as the European Union in order, in second place, to identify Operation Sophia as a Petersberg operation as per Article 43 TUE, *praeter legem* or, at least, set it within a broad interpretation of the diverse operating modalities. All of this, in view of a world view that requires a global and coordinated response from all available means within national and foreign policy, and in order to face the new threats of the 21st century.

ON THE SCOPE OF THE CONCEPT OF SECURITY AND ITS THREATS IN THE 21ST CENTURY

The classic notion of the concept of Security, in other words, the territorial defense of the State, underwent a major change at the end of the Cold War. Thus, outstanding events such as the Fall of the Berlin Wall and the democratization of the Communist bloc led to a broadening of the concept of Security, considering that there is a progressive reduction of the possibility of an armed attack against the territory of a State, that is to say, an act of aggression characteristic of the foreign dimension of Security¹. In

1 A overview analysis of the concept of Security, in, ACIMOVIC, L., *Problems of Security and Cooperation in Europe*, Sijthoff and Noordhoff, Alphen aan den Rijn, 1981; ACOSTA SÁNCHEZ, M.A., "Coopération et Sécurité aux frontières extérieures européennes: le cas du détroit de Gibraltar", *Annuaire Français de Droit International*, 2008, vol. 54, pp. 197-225, on pp. 198-202; ÁLVAREZ VERDUGO, M., *La política de seguridad y defensa de la UE*, Ed. Dykinson, Madrid, 2004, pp. 29-59; BISCOP, S., *The European Security Strategy. A Global Agenda for Positive Power*, Ed. Ashgate, Aldershot, 2005, pp. 1-14; BOOTH, K., *New Thinking About Strategy and International Security*, Ed. Harper Collins, London, 1991; BUZAN, B., "New Patterns of Global Security in the Twenty-First Century", *International Affairs*, 1991, vol. 67, n° 3, pp. 431-451; COLLET, A., *Défense et Sécurité Internationales face au défis du XXI siècle*, Ed. Lavauzelle, Paris, 2005, pp. 9-10; DAVID, D., *Sécurité: l'après – New York*, Presses de Sciences Po, Paris, 2002, pp. 9-22; DE MONTBRIAL, T., KLEIN, J., *Dictionnaire de Stratégie*, PUF, Paris, 2000, pp. 500-502; ECHEVERRÍA JESUS, C., *Relaciones Internacionales III. Paz, seguridad y defensa en la Sociedad Internacional*, UNED, Madrid, 2013; GHEBALI, V.-Y., SAUERWEIN, B., *European Security in the 1990s: Challenges and Perspectives*, UNIDIR, Genève, 1995, pp. 3 and ss; SHAW, M., "There is no such Thing as Society: Beyond Individualism and Statism in International Security Studies", Review of

addition, this can all be seen with the emergence of new risks and threats of a different nature. Likewise, the 9/11 terrorist attacks included a component within the concept of Security, identifying a series of domestic risks that had a transnational dimension. Thus, national security, part of the hard nucleus of state sovereignty, begins to take on a markedly international nature with the aim of being able to stand up to the terrorist threat².

In our opinion, this dual composition of Security, national and foreign, will mean joining those instruments now existing in the hands of the State so that the military means, characteristic of the foreign aspect, may be applied to the national sphere of Security³. For its part, national security will have a foreign projection through civil, police and judicial means within the context of international cooperation and multilateralism⁴. Indeed, it is precisely in the area of the fight against terrorism where this integration between the two Security dimensions can be discerned most clearly.

Thus, we consider that at the current stage of international relations, the concept of Security is closely related to the idea of peace, understanding this peace in the widest sense of the word, so that Security involves not only a stable situation from an external point of view, but also from the internal position of the State. Therefore, Security implies pacific relations within the International Community and that of its actors, as well as social, economic and political stability at the State level. In other words, national Security and foreign Security share the same field of competence.

From the papers produced within the United Nations, in particular the Report *Un mundo más seguro: la responsabilidad que compartimos. Informe del Grupo de Alto Nivel*

International Studies, 1993, vol. 19, pp. 159-175; TWITCHETT, K.J., "Strategies for Security: Some Theoretical Considerations", in TWITCHETT, K.J. (ed.), *International Security*, Oxford University Press, London, 1971, pp. 2 and ss; WALT, S.M., "The Renaissance of Security Studies", *International Studies Quarterly*, 1991, vol. 35, n° 2, pp. 211-239; WU, J., "Pour un nouveau concept de sécurité internationale", *Défense Nationale*, 2002, n° 1, pp. 19-23.

2 Regarding Security and international terrorism, see an overview, AA.VV., "El Mediterráneo, proceso de Barcelona y su entorno después del 11 de Septiembre", CESEDEN Monographs, 2003, n.º 59; AA.VV., "Las Organizaciones Internacionales y la lucha contra el terrorismo", CESEDEN Monographs, 2005, n.º 75; ARTEAGA, F., "La seguridad interior de la UE: la nueva dimensión de la seguridad europea en el futuro", in AA.VV., "La seguridad europea y las incertidumbres del 11 de Septiembre", CESEDEN Monographs, 2003, n.º 61, pp. 167-190; BANNELIER, K., CHRISTAKIS, T., CORTEN, O., DELCOURT, B., *Le Droit International face au terrorisme*, Ed. Pedone, Paris, 2002; GARCÍA SEGURA, C., RODRIGO, A. (Coord.), *La seguridad comprometida: nuevos desafíos, amenazas y conflictos armados*, Ed. Tecnos, Madrid, 2008; ECHEVERRÍA, C., *La nueva dimensión del terrorismo yihadista salafista*, Cátedra de Estudios Internacionales, Bilbao, 2015; IGLESIAS SÁNCHEZ, S., CONDE PÉREZ, E. (Coord.), *Terrorismo y Legalidad Internacional*, Ed. Dykinson, Madrid, 2012; KIRSCHBAUM, S. (Dir.), *Terrorisme et sécurité internationale*, Ed. Bruylant, Bruxelles, 2004.

3 An example of this is the EU Naval Military EUNAVFORM ED operation Sophia in the area of the fight against immigration in the Mediterranean, as shown below.

4 See peacekeeping operations made up of police contingents with the principal responsibility of training a number of different corps.

sobre las amenazas, los desafíos y el cambio (*A safer world: the responsibility we share. A Report from the High Level Panel regarding threats, challenges, and change*) of 2 December 2004⁵, we can identify the principal threats today, which are the following:

- *Poverty, infectious diseases, and environmental degradation*⁶.
- *Conflicts among States and domestic conflicts*⁷.
- *Nuclear, radiological, chemical and biological weapons*⁸.
- *Terrorism*⁹.
- *Transnational organized crime*¹⁰, which promotes drug and human trafficking¹¹, plus cybercrime, fraud, and the destabilization of markets.

5 See, UN Doc. A/59/565, *Un mundo más seguro: la responsabilidad que compartimos. Informe del Grupo de Alto Nivel sobre las amenazas, los desafíos y el cambio*, of 12.02.2004, at http://www.un.org/en/peacebuilding/pdf/historical/hlp_more_secure_world.pdf. Along the same lines, UN Doc. A/59/2005, *Un Concepto más amplio de seguridad: desarrollo, seguridad y Derechos Humanos para todos*, of 03.21.2005, at <http://www.un.org/spanish/largerfreedom/report-largerfreedom.pdf>. See, BOISSON DE CHAZOURNES, L., “*Rien ne change, tout bouge, ou le dilemme des Nations Unies: propos sur le rapport de Groupe de personnalités de Haut Niveau sur les menaces, les défis et le changement*”, *Revue Générale de Droit International Public*, 2005/1, pp. 147-161; SANJOSÉ GIL, A., “*Algunas reflexiones sobre el Informe del Grupo de Alto Nivel creado por el Secretario General y el futuro del Sistema de Seguridad Colectiva de las Naciones Unidas*”, *Revista Electrónica de Estudios Internacionales*, 2005, n.º 9.

6 Par. 44-73 of the Report. See objective 1 “put an end to poverty in all its forms throughout the world”, objective 3 “guarantee a healthy life, promote welfare for everyone of all ages” and objective 13 “adopt urgent measures to combat climate change and its effects” from Agenda 2030 for Sustainable Development, adopted by the General Assembly of 25 September 2015, which entered into force on 1 January 2016. UN Doc. A/RES/70/1. Regarding Agenda 2030, see SANAHUJA, J.A., “*Entre Westfalia, Southfalia y cosmópolis: la gobernanza global del desarrollo sostenible en el horizonte 2030*”, in GARCÍA SEGURA, C. (Dra.), *La tensión cosmopolita*, Ed. Tecnos, Madrid, 2016, pp. 243-290

7 Par. 74-106 of the Report. May be seen, for example, in MANGAS MARTÍN, A., *Conflictos armados internos y Derecho Internacional Humanitario*, University of Salamanca, Salamanca, 1990.

8 Par. 107-144 of the Report. See ACOSTA SÁNCHEZ, M.A., “*La no proliferación de misiles balísticos: el Código Internacional de Conducta de La Haya en el contexto internacional y europeo*”, Instituto Español de Estudios Estratégicos, Framework Paper 08/2014, de 06.13.2014.

9 The Report UN Doc. A/59/565, *Un mundo más seguro: op. cit.*, of 12.02.2004, based on Security Council Resolution 1566 (2004), of 8 October *S/RES/1566(2004)*, defines terrorism in paragraph 164 as “Any action, other than the actions already specified in the agreements and Conventions in force regarding specific aspects of terrorism, the Geneva Conventions and Resolution 1566 (2004) of the Security Council, aimed at causing death or grave bodily injuries to a civilian or to a non-combatant, when the purpose of such an action, because of its nature or context, is to intimidate a population or force a government or an international organization to carry out an action or to abstain from doing so”.

10 Par. 165-177 of the Report.

11 Thus, paragraph 1 of Security Council Resolution 2331 (2016) of 20 December *S/RES/2331(2016)*, points out the following: “Condemns in the strongest terms all instances of trafficking in persons in areas affected by armed conflicts, and stresses that trafficking in persons undermines the rule of law and contributes to other forms of transnational organized crime, which can exacerbate conflict and foster insecurity and instability and undermine development”.

The rise in recognized threats has also been reflected in the actions of the Security Council itself. In fact, in recent years we have seen how its Resolutions, based on Chapter VII of the Charter, (threats, the shattering of peace, or acts of aggression)¹², have been notably diversified, particularly in the case of violations of human rights and of the freedom of determination of peoples¹³. Likewise, the use of armed force has been authorized affecting the territorial integrity and the independence of a State, and even in internal armed conflicts and the fight against terrorism¹⁴. Other cases described as “threats to peace” within the framework of Chapter VII have been the humanitarian emergency¹⁵ situations; endangering a democratic process¹⁶; endangering peace-

12 Regarding aggression, there is no reference to it after the end of the Cold War by the Security Council. In fact, in August 1990 it described Iraq's action against Kuwait as an “invasion”. For Professor Díaz Barrado “the central problem is still, in any case, the description of a specific action as aggression”. In this sense, in view of the mentioned resolution (3314 (XXIX)), the description will depend of the concurrence of some factors, of a political as well as legal nature, among which the following should be highlighted: a) first of all, *the first use of armed force* by a State is a *prima facie* proof of an act of aggression; meaning that the burden of proof that such a use did not contravene the general regulation that establishes its prohibition will be placed on the State that used it in the first place; b) furthermore, it is the Security Council who will determine whether an act of aggression has been committed or not, depending this description on the pertaining armed behavior as aggression on *an organism of a political nature*; c) lastly, there are specific forms of behavior and conducts which, based on what has been previously said, *are objectively described as acts of aggression* – though for already mentioned reasons may not, in fact, be described as such – and which are perfectly listed in Article 3 of the mentioned Resolution.” See DÍAZ BARRADO, C., “*La prohibición del uso de la fuerza y sus excepciones: balance a los cincuenta años de Naciones Unidas*”, in MARIÑO MENÉNDEZ, F., *Balance y perspectivas de Naciones Unidas en el cincuentenario de su creación*, Monograms Collection by the Institute of International and European Studies “Francisco de Vitoria”, Madrid, University Carlos III of Madrid/Boletín Oficial del Estado, 1996, pp. 141-163, on p. 153.

13 Originally they referred to the apartheid in South Africa (Security Council Resolutions 182 (1963) of 4 December *S/RES/182(1963)*; 282 (1970) of 23 July *S/RES/282(1970)*; 287 (1970) of 10 October *S/RES/287(1970)*; 311 (1972) of 4 February *S/RES/311(1972)*); and South Rhodesia (Security Council Resolutions 217 (1965) of 20 November *S/RES/217(1965)*; and 232 (1966) of 16 December *S/RES/232(1966)*). More recently we can cite Resolutions 808 (1993) of 22 February *S/RES/808(1993)* and 827 (1993) of 25 May *S/RES/827(1993)* in the case of former Yugoslavia. Security Council resolutions may be seen at <http://www.un.org/es/sc/documents/resolutions/>

14 Security Council Resolutions 660 (1990) of 2 August *S/RES/660(1990)* in the case of Iraq; 713 (1991) of 25 September *S/RES/713(1991)* in former Yugoslavia; 748 (1992) of 31 March *S/RES/748(1992)* in the case of Libya; and 1054 (1996) of 26 April *S/RES/1054(1996)* and 1070 (1996) of 16 August *S/RES/1070(1996)* in Sudan.

15 Security Council Resolutions 770 (1992) of 13 August *S/RES/700(1992)* and 787 (1992) of 16 November *S/RES/787(1992)* in former Yugoslavia; Resolution 794 (1992) of 3 December *S/RES/794(1992)* in Somalia; 1078 (1996) 9 November *S/RES/1078(1996)* in Zaire; and 841 (1993) of 16 June *S/RES/841(1993)* in Haiti due to the crisis that the large number of displaced people and refugees meant.

16 Security Council Resolution 767 (1992) of 24 July *S/RES/767(1992)* on South Africa.

keeping operations¹⁷; economic, social, humanitarian, and environmental instability¹⁸; the proliferation of weapons of mass destruction¹⁹; aggression with nuclear weapons²⁰; internal crises²¹; renewal of judges and modification of the Statutes of International Tribunals for the former Yugoslavia and for Rwanda²²; piracy²³; and the extension of the mandate and period of peacekeeping operations²⁴.

However, as Professor ABELLÁN HONRUBIA²⁵ has pointed out, the recognition as a threat or damage to peace and security has suffered from a lack of coherence, largely due to political decisions by the permanent member States of the Security Council²⁶. Thus, the broadening of the concept would be “selective”²⁷ or non-generalizable, without the possibility of establishing a specific regulatory framework.

17 Resolution 794 (1992) of 3 December *S/RES/794(1992)* in the case of Somalia; and 873 (1993) of 13 October *S/RES/873(1993)*, and 917 (1994) of 6 May *S/RES/917(1994)* on Haiti.

18 Resolution 1170 (1998) of 28 May *S/RES/1170(1998)* about the UN intervention in Africa.

19 Resolution 1172 (1998) of 6 June *S/RES/1172(1998)* about nuclear tests carried out by India and Pakistan.

20 Resolution 984 (1995) of 11 April *S/RES/984(1995)* about the extension of the Treaty of non-proliferation of nuclear weapons.

21 Resolution 2056 (2012) of 5 July *S/RES/2056(2012)* on Mali.

22 Resolutions 1660 (2006) of 28 February *S/RES/1660(2006)*, 1932 (2010) of 29 June *S/RES/1932(2010)* and 1915 (2010) of 18 March *S/RES/1915(2010)*.

23 Resolution 1838 (2008) of 7 October *S/RES/1838(2008)* on Somalia.

24 In this case, there is plenty of experience: Security Council Resolutions 1689 (2006) of 20 June *S/RES/1689(2006)* on Liberia; 1746 (2007) of 23 March *S/RES/1746(2007)* and 1806 (2008) of 20 March *S/RES/1806(2008)* on Afghanistan; 1751 (2007) of 13 April *S/RES/1751(2007)* on the Democratic Republic of the Congo; 1910 (2010) of 28 January *S/RES/1910(2010)* on Somalia; 1911 (2010) of 28 January *S/RES/1911(2010)* on Ivory Coast; 2085 (2012) of 20 December *S/RES/2085(2012)* on Mali. See Section “*Crónica de paz y seguridad*” in the Electronic Magazine of International Studies available at <http://www.reei.org/>.

25 See ABELLÁN HONRUBIA, V., “*La ampliación del concepto de mantenimiento de la paz y seguridad internacionales por el Consejo de Seguridad de las Naciones Unidas: fundamento jurídico y discrecionalidad política*”, in PÉREZ GONZÁLEZ, M. (Coord.), *Hacia un Nuevo Orden Internacional y Europeo. Homenaje al profesor M. Díez de Velasco*, Tecnos, Madrid, 1993, p. 3-26, on pp. 3-18.

26 Such was the case of the lack of action by the Security Council regarding the dictatorships in Argentina and Chile.

27 As described by Professor Aznar Gómez. See AZNAR GÓMEZ, M., *Responsabilidad internacional del Estado y acción del Consejo de Seguridad de las Naciones Unidas*, Ministry of Foreign Affairs, Madrid, 2000, pp. 87-98. About the weight of the role played by the United States in this area, see SÁNCHEZ RODRÍGUEZ, L.I., “*Poder imperial y Derecho Internacional. La pax americana*”, in VARGAS GÓMEZ-URRUTIA, M., SALINAS DE FRÍAS, A. (Coord.), *Soberanía del Estado y Derecho Internacional: Homenaje al profesor Juan Antonio Carrillo Salcedo*, Volume II, University of Sevilla, Sevilla, 2005, pp. 1293-1310.

In any case, we consider that the legal framework established by the United Nations would allow the Security Council, at its own discretion, to broaden its functions as well as the description of “threat to international peace and security” to a larger number of areas that could not be foreseen at the moment of the signing of the Charter of San Francisco in 1945. The principles and objectives of the Charter would be the only limits that the Security Council would encounter in order to take action to achieve peace, adopting all the measures that are legally conferred upon it. This interpretation also has the support of the General Assembly²⁸ as well as of the International Court of Justice²⁹. The latter considers that the Charter should be applied based on a functional and flexible interpretation in order to allow its organizations, particularly the Security Council, to carry out the tasks they have been assigned.

Yet, in our opinion, we should highlight the role of international cooperation at a State level, and of international organizations, in order to face these threats, adopting coherent and efficient measures in the response given, which would mean a comprehensive approach to the crises. The objective is a greater efficiency of Collective Security through multilateral action, particularly with the exchange of information and fast alert in the face of an imminent crisis that may affect peace and security. And all of this within the framework of the United Nations Charter.

We feel that Security is aimed at facing all risks and hostile agents that may, in any way, harm the society we live in, and that are emerging in the 21st century. This Security must be seen within a broad context so that the said risks and hostile agents are not only considered to be those which threaten territorial integrity, but also and equally, to any type of element that may imply a rupture of the values recognized by the International Community. Likewise, the concept of Security tends toward presenting a multinational nature. This means that “Security” is not limited to the State solely as an autonomous and sovereign power, but would also cover all the elements that are part of such State. Thus, we would have the classic military type of Security, to which a

28 Resolution of the General Assembly A/RES/53/51, Declaration regarding the prevention and elimination of controversies and situations that threaten international peace and security, and about the role of the United Nations in this area, of 12.05.1988; and Resolution of the General Assembly A/RES/46/59, Declaration on the actions by the United Nations in the area of international peacekeeping and security, of 12.09.1991, available at <http://www.un.org/es/ga/72/resolutions.shtml>.

29 Among others, see: Avis de la CIJ, *Réparation des dommages subis au service des Nations Unies*, of 04.11.1949; Avis de la CIJ, *Compétence de l'Assemblée générale pour l'admission d'un Etat aux Nations Unies*, de 03.03.1950, p. 137; Avis de la CIJ, *Effet du jugement du Tribunal Administratif des Nations Unies accordant une indemnité*, of 07.20.1954, p. 50; Avis de la CIJ, *Certaines dépenses des Nations Unies (article 17, paragraphe 2, de la Charte)*, of 07.20.1962, p. 158; Avis de la CIJ, *Conséquences juridiques pour les Etats de la présence continue de l'Afrique du Sud en Namibie (Sud-Ouest africain) nonobstant la résolution 276 (1970) du Conseil de sécurité (1970-1971)*, of 06.21.1971, p. 49; and, in particular, Avis de la CIJ, *Licéité de l'utilisation des armes nucléaires par un Etat dans un conflit armé*, of 07.08.1996, par. 25, available at <http://www.icj-cij.org/en>.

political, economic, social, and environmental characteristics would be added, dealing jointly with both the national³⁰ and the foreign Security of the State.

Finally, we must emphasize that the existing interconnection among the new threats means that any of them, such as terrorist actions or organized crime, may affect each one of the current dimensions of Security. Thus, a terrorist action may destabilize the rule of law or provoke a health and environmental crisis on a large scale. For its part, organized crime feeds on illegal trafficking – of people, weapons, and narcotics – and foments corruption within a State, thereby destabilizing its social, political, and economic structure³¹.

ON THE UNITED NATIONS PEACEKEEPING OPERATIONS

It is well known that the main function of the United Nations, as principal International Organization for universal goals, is international peacekeeping and security, managed by the Security Council, as per Article 24 of the Charter. This organization holds the utmost responsibility in this area through the mechanism of Collective Security, acting on behalf of all the members of the UN. The origin of Peacekeeping Operations is to be found in the difficulties with carrying out this task of peacekeeping which emerged during the Cold War period. These operations may be defined as “measures, of a military or paramilitary nature, carried out in the territory of reference, and with the consent of one or more States, whose essential aim is, under circumstances of international tension highly dangerous to international peace and security, to contain and control a conflict or a critical situation, preserving or restoring physical

30 Within the threats to national Security, we can mention trafficking in human beings, drugs, organized crime, attacks to food security, cyber delinquency, illegal immigration, smuggling, terrorism, natural disasters, fraud, and destabilization of the markets. See CENTRE DES HAUTES ETUDES DE L'ARMEMENT, *La Sécurité intérieure européenne*, 37^{ème} Session Nationale du Chear 2000-2001, Groupe A/Comité 5, Paris, June 2001. Within the European context, see Doc. Consejo 5842/2/10, *Estrategia de Seguridad Interior para la Unión Europea: Hacia un modelo europeo de seguridad*, of 02.23.2010; Doc. COM (2010) 673 final, *Comunicación de la Comisión al Parlamento Europeo y al Consejo, La Estrategia de Seguridad Interior de la UE en acción: cinco medidas para una Europa más segura*, of 11.22.2010. Finally, Doc. COM (2015) 185 final, *Comunicación de la Comisión al Parlamento Europeo, al Consejo, al Comité Económico y Social Europeo y al Comité de las Regiones, Agenda Europea de Seguridad*, of 04.28.2015; and Doc. COM (2017) 261 final, *Comunicación de la Comisión al Parlamento Europeo, al Consejo Europeo y al Consejo, Séptimo informe de situación relativo a una Unión de la Seguridad genuina y efectiva*, of 05.16.2017. Documents available at <http://www.consilium.europa.eu/register/es/content/int/?lang=es&typ=ADV>.

31 See RICHMOND, O., “Emerging Concepts of Security in the European Order: Implications for “Zones of Conflict” at the Fringes of the EU”, *European Security*, 2000, vol. 9, n.º 1, pp. 41-67, on p. 62; TRAUNER, F., “The internal-external security nexus: more coherence under Lisbon?”, IESUE, Occasional Paper, n.º 89, Marzo 2011. Also, Resolution of the European Parliament, of 06.10.1991, on the perspectives of a European security policy: the importance of a European security policy and its repercussions for the European Political Union, DO, C 183, of 15.07.1991.

peace, facilitating an atmosphere in which, through negotiations or any other means for peaceful settlement, those interested try to overcome their differences with words, not with weapons”³².

In our opinion, the concept of Peacekeeping Operations must be interpreted broadly, so that it includes missions of observers as well as armed forces missions, which are different, basically, in their competence and the nature of their components. The observers’ missions are made up of observers or unarmed military liaisons, individually recruited. Their main function is to observe and verify the implementation of agreements sponsored by the United Nations, to inform the Secretary General of possible irregularities, maintain continuous contact among the parties, restore peace³³, etc. For their part, the peacekeeping armed forces act in a more conventional way, are recruited by their national contingents, and are integrated hierarchically. Their main functions are to prevent the resumption of hostilities, to control weapons, deter foreign intervention, ensure the effective restoration of the Government, keep public order, etc.³⁴

32 Definition of REMIRO BROTONS, A. *et al. Derecho Internacional*, Tirant lo Blanch, Valencia, 2010, p. 699. About Peacekeeping Operations within the United Nations, also see AA.VV., “*Las Misiones de Paz de la ONU*”, Cuadernos de Estrategia, 1994, n.º 18; CARDONA LLORENS, J., “*El mantenimiento de la paz y la seguridad internacionales*”, in DIEZ DE VELASCO, M., *Las Organizaciones Internacionales*, 16ª ed., Ed. Tecnos, Madrid, 2010, pp. 226-282, in pp. 247-263; ID., “*Las Operaciones de Mantenimiento de la Paz de las Naciones Unidas: ¿hacia una revisión de sus principios fundamentales?*”, Cursos Euromediterráneos Bancaja de Derecho Internacional, 2002, vol. VI, pp. 759-891; CARRILLO SALCEDO, J.A., “*Consideraciones sobre el fundamento, naturaleza jurídica y significado de las operaciones de las Naciones Unidas destinadas al mantenimiento de la paz*”, *Revista Española de Derecho Internacional*, 1965, vol. XVIII, pp. 164-174; ESCOBAR HERNÁNDEZ, C., “*Paz y Derechos Humanos: una nueva dimensión de las Operaciones de Mantenimiento de la Paz*”, *International Law Courses in Vitoria-Gasteiz 1996*, pp. 47-102; FERNÁNDEZ SÁNCHEZ, P.A., *Operaciones de las Naciones Unidas para el mantenimiento de la paz: análisis jurídico de las operaciones de las Naciones Unidas para el mantenimiento de la paz*, 2 vols., University of Huelva, Huelva, 1998; IGLESIAS VELASCO, A., *Las operaciones de mantenimiento de la paz: concepto, evolución histórica y características*, Universidad Autónoma de Madrid, Madrid, 2003; PÉREZ GONZÁLEZ, M., “*Las Naciones Unidas y el mantenimiento de la paz: cincuenta años de esfuerzos*”, Cuadernos de Historia Contemporánea, 1995, n.º 17, pp. 61-78; SÁNCHEZ RODRÍGUEZ, L.I., “*Las Operaciones de Mantenimiento de la Paz: aspectos actuales*”, in, MARINÑO MENÉNDEZ, F. (coord.), *Balance y perspectivas de las Naciones Unidas... op. cit.*, pp. 189-203; VILLAR Y ORTIZ DE URBINA, F., “*El sistema de mantenimiento de la paz de la ONU: Cincuenta años después de su creación*”, in, “*Jornadas sobre el Cincuenta Aniversario de las Naciones Unidas*”, Colección Escuela Diplomática, n.º 2, BOE, Madrid, 1995, pp. 25-40.

33 We can highlight, the United Nations Truce Supervision Organization in the Middle East (UNTSO), the United Nations Military Observer Group in India and Pakistan (UNMOGIP), the United Nations Observer Mission in Georgia (UNOMIG).

34 Among others, we can highlight, the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), the United Nations Peacekeeping Force in Cyprus (UNFICYP), the United Nations Disengagement Observer Force in the Golan (UNDOF), the United Nations Interim Force in Lebanon (UNIFIL), the United Nations Mission in Sierra Leone (UNAMSIL).

However, currently, the difference between observers and armed forces is complex. In fact, this separation made sense when it referred to the classic peacekeeping operations of military nature or those of the *first generation* during the Cold War period. At the end of the latter, and the beginning of a new era in International Relations, crises of a much more heterogeneous nature emerged, which would require global and multidimensional responses. These new operations, called *second generation* operations, entail an extension of functions and a greater complexity of structure, taking on a multifunctional dimension parallel with to the current multidimensional concept of Security. Due to this, its components are not only military, but also include civilians and police components under a joint command— all in order to achieve a comprehensive approach to international crises. P. Picone even speaks of *third generation* missions, which would be those in which the Security Council authorized one or more States to use armed force to carry out its functions in the face of attacks that have taken place – as in the case of Yugoslavia –. These are the so-called *Peace-enforcement* operations³⁵.

Within this multifunctional make-up, these operations may carry out tasks in the following areas:

- *Prevention of conflicts*. This includes preventive displacement of forces, interposition, rapid alert, and surveillance of the situation.
- *Guarantee and control of movements*. This implies the creation of flight restriction areas, security areas, blockades, sanctions, and guaranteeing safe transit.
- *Protection and humanitarian aid*. This aims particularly to ensure, militarily, the humanitarian labor carried out by International Organizations or NGOs.
- *Supervision of a situation of peace after the conflict*. This task entails major participation on the part of the civilian component, including the police. It involves tasks of demobilization, disarmament, aid in the removal of mines, vigilance of electoral processes, and the restructuration of the security forces. These missions complete those carried out during the conflict stage, and they tend to ensure the stability needed to ensure that the State or region returns to a stage of global peace.
- *Military aid to civilian structures*. In order to help to bring about peace and create political trust.

This multifunctional character of the operations was given expression, within the United Nations, through the Report written by the then Secretary General Boutros Boutros-Ghali in June 1992. In fact, this Report³⁶, which was classified as a high-level non-official

35 PICONE, P., “*Il peace-keeping nel mondo attuale: tra militarizzazione e amministrazione fiduciaria*”, *Rivista di Diritto Internazionale*, 1996, vol. 79, n° 1, pp. 5-33, in pp. 16-31.

36 UN Doc. A/47/277-S/2411, Report of the Secretary General pursuant to the means to reinforce the capacity of the UN in Preventive Diplomacy, Peacemaking and Peacekeeping, of 06.17.1992 (An Agenda for Peace), available at <http://www.un-documents.net/a47-277.htm>; UN Doc. A/50/60-S/1995/1-3, Supplement to An Agenda for Peace. Document of the position of the Secretary General delivered on the occasion of the fiftieth anniversary of the United Nations, of 01.03.1995, available at <http://www.un.org/documents/ga/docs/50/plenary/a50-60.htm>. See ACOSTA SÁNCHEZ, M.A., *La Política*

document, and entitled “An Agenda for Peace”, manifested the different means that exist to reinforce the capacity of the United Nations regarding preventive diplomacy, peacemaking and peacekeeping³⁷. The Report cited the following actions for peacekeeping:

- a) *Preventive Diplomacy*, which consists of avoiding the emergence of differences among the parties, preventing existing differences from turning into an open conflict, and should conflict break out, avoid its spread as much as possible. It may involve measures of trust in the area of disarmament or in that of weapons control, or the establishment of demilitarized areas.
- b) *Peace-keeping*. These actions coincide with the classic *second-generation* operations. Cooperation is sought with the agreements and regional organizations of Chapter VIII of the Charter, including NATO³⁸.
- c) *Peace-making*. This involves reuniting all parties in conflict, mainly through pacific means such as those mentioned in Article 33.1 of the Charter: negotiation, investigation, mediation, arbitration, legal settlement, recourse to organizations or regional agreements, or other pacific means to be chosen by the parties involved.
- d) *Post-conflict Peace-building*, which is usually undertaken by missions of observers, and is carried out after a conflict in order to define and undergird the structures pertinent to the reassertion of peace. There is a wide range of tasks to be undertaken, such as disarmament, reestablishment of public order (carried out by police contingents), repatriation of refugees, advisory support and training of security personnel, vigilance of election processes, and assistance in the protection of human rights.

Europea de Seguridad y Defensa y la Gestión de Crisis Internacionales – Las operaciones Petersberg, Ed. Dykinson, Madrid, 2008, pp. 114-120.

37 A comment in, GARGIULO, P., “*Le Nazione Unite di fronte alle sfide del duemila: l’Agenda per la pace*”, La Comunità Internazionale, 1993, vol. XLVIII, pp. 571-586; GIOIA, A., “*The United Nations and Regional Organizations in the Maintenance of Peace and Security*”, in, BOTHE, M., RONZITTI, N., ROSAS, A., *The OSCE in the Maintenance of Peace and Security*, Ed. Kluwer, The Hague/London/Boston, 1997, pp. 191-236, in, 222-225; SCHRICKE, C., “*L’Agenda pour la paix de Boutros Boutros-Ghali: analyse et premières réactions*”, Annuaire Français de Droit International, 1992, vol. 38, pp. 11-31; THIERRY, H., “*L’Agenda pour la paix*” et la Charte des Nations Unies”, in, AA.VV., *Le développement du rôle du Conseil de Sécurité*, Colloque Académie de Droit International de La Haye, 1992, Ed. Martinus Nijhoff, The Hague, 1993, pp. 375-384; TORRES BERNÁNDEZ, S., “*Perspectivas en la contribución de las Naciones Unidas al mantenimiento de la paz y la seguridad internacionales: comentarios y observaciones sobre la Declaración de los miembros del Consejo de Seguridad de 31.01.1992*”, in, PÉREZ GONZÁLEZ, M. (Coord.), *Hacia un nuevo orden internacional y europeo: ...op cit.*, pp. 727-769; VILLANI, U., “*Il ruolo delle Organizzazioni regionali per il mantenimento della pace nel sistema dell’ONU*”, La Comunità Internazionale, 1998, vol. LIII, n.º 3, pp. 428-460, on pp. 438-442.

38 See UN Doc. A/RES/49/57, Declaration on the improvement of cooperation among the United Nations and regional organizations regarding international peacekeeping and security, of 02.17.1995, available at <http://www.un.org/es/ga/72/resolutions.shtml>; UN Doc. A/55/305 – S/2000/809. Thorough examination of the issue of peacekeeping operations in all its aspects, of 08.17.2000 (Brahimi Report, available at <http://www.un.org/documents/ga/docs/55/a55305.pdf>).

According to this description, multifunctional operations are peace-making operations to which peacekeeping elements are added, strengthening the comprehensive approach. Therefore, there are actions in which participate not only military elements but also police and diplomatic units³⁹, with the aim of supervising and verifying the ceasefire, the withdrawal of troops, electoral processes, protection of human rights and assistance to civil administration. This seems to entail that the current peacekeeping operations would not be characterized by the nature of their components – military or civilians – but rather by their competence scope and the objectives to be reached.

Finally, in 2015, the “Report of the High-level Independent Panel on Peace Operations: *on uniting our strengths for peace: politics, partnership and people*”⁴⁰, was adopted, containing a clearly comprehensive vision of crisis management. The said Report gives a more realistic view of “peace operations”, a wider and more multidimensional concept than the traditionally used “peacekeeping operations”. Furthermore, cooperation with regional entities is advocated, as is sharing strengths in the name of peace and security. Political design and execution of peace operations and a more flexible use of them is specifically upheld. On the other hand, the prevention and mediation of conflicts is supported, as are the protection of civilians and more clarity in the authorization of the use of force; and, finally, the Report advocates better preparation, more clearer mandates, and the sharing of advantages among all actors in the area of peacekeeping and security, encouraging the participation of regional International Organizations.

PEACEKEEPING OPERATIONS IN THE EUROPEAN UNION – THE PETERSBERG OPERATIONS

In the case of the EU, its clear will to play a more active role in international peacekeeping and security issues had its turning point with the crises in Yugoslavia that wracked the European continent in the final decade of the past century. In fact, the dismemberment of Yugoslavia and the Kosovo crisis evidenced the lack of an infrastructure adequate for grave crises situations in the territory affected. In meeting this challenge, and beginning with the Cologne European Council in June of 1999, the EU decided to develop those aspects of its foreign policy most related to security through the Common Security and Defense Policy (hereinafter CSDP), as a mechanism providing capabilities of prevention of conflicts and of crisis management.

39 In fact, “An Agenda for Peace” specifically says that “Peace-keeping is the deployment of a United Nations military and/or police personnel frequently civilians as well”. UN Doc. A/47/277-S/2411, *op. cit.*, párr. 20.

40 UN Doc. A/70/95 – S/2015/446, of 06.17.2015. See UN Doc. S/2015/682, Report of the Secretary General on the future of the UN peacekeeping operations: application of the recommendations of the High-level Independent Panel on peacekeeping operations of 09.02.2015, available at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_446.pdf.

The origin and development of this CSDP, within which the new “*peace-maker*” aspect of the EU is framed, has been widely studied and analyzed⁴¹, for which reason we will focus on the material aspect of it. In fact, we must point out the will of the EU within the framework of the CSDP to launch a wide range of operations, as per Article 43.1 TUE. These can be grouped into operations of a civilian nature as well as operations whose nature is more classic because they are military operations. But also, as something new, the EU proclaims itself to hold the capacity for launching, as well, hybrid civilian-military operations, in order to be able to offer a global and multidimensional response to crises anywhere in the world⁴².

This readiness and the amalgam of operations will allow the EU to stop being recognized solely as a civilian power, and proceed to equip itself with military means and infrastructures. Thus, the EU, through its new policy, is developing a concept of *Hard Security* – security and defense *stricto sensu* with military components –, but it also amplifies and improves its instruments of Soft Security – crisis management and prevention of conflicts – which have given it so much weight in the international scenario⁴³.

Though far from representing a functional autonomy on the part of the EU, this situation permits a glimpse of more intense future relations with NATO, favoring coherent *burden sharing* and respectful of the competences of each one of the organizations.

The operations that the EU may carry out, those called Petersberg *Operations*, form a set of actions, of varying levels of intensity, which have not been defined in any text or legal document.

41 Not being exhaustive, we can cite the following recent works: ACOSTA SÁNCHEZ, M.A., *The EU's Military Crisis Management Operations. Petersberg Tasks and International Peace*, Lambert Academic Publishing, Saarbrücken, 2011; BARCELÓ, M. J., *Las misiones de paz de la Unión Europea*, Ed. Tirant lo Blanch, Valencia, 2015; GARCÍA PÉREZ, R., “*Las misiones PESD como instrumento de la política exterior de la UE*”, International Law and International Relations Courses in Vitoria- Gasteiz 2009, pp. 21- 71; GREVI, G., HELLY, D., KEOHANE, D. (Ed.), *European Security and Defence policy. The first 10 years (1999- 2009)*, EUISS, Paris, 2009; HOWORTH, J., *Security and defence policy in the European Union*, 2^a ed., Ed. Palgrave Macmillan, Basingstoke, 2014; KOUTRAKOS, P., *The EU Common Security and Defence Policy*, Oxford University Press, Oxford, 2013; ROLDÁN BARBERO, J. (Coord.), *La nueva política de seguridad y defensa de la Unión Europea*, University of Granada, Granada, 2012; SIMÓN, L., “*Command and control? Planning for EU military operations*”, EUISS, Occasional Paper, n.º 8, January 2010; SOLANA *et al.* «More Union in European Defence», CEPS Report, February 2015; TARDY, T., “*CSDP in action. What contribution to international security*”, EUISS, Chaillot Papers, n.º 134, May 2015.

42 See JOIN (2013) 30 final, Joint communication to the European Parliament and to the Council, the integral approach adopted by the EU regarding foreign conflicts and crises, of 12.II.2013.

43 See KHANNA, P., “The Metrosexual Superpower”, *Foreign Policy*, July/August 2004, pp. 66-68. Also ACOSTA SÁNCHEZ, M.A., “*Seguridad internacional en el Estrecho de Gibraltar: más allá de una separación de funciones (Burden Sharing) entre la UE y la OTAN*”, in, DEL VALLE GALVEZ, A. (Dir.), ACOSTA SÁNCHEZ, M., REMI NJIKI, M. (Coord.), *Inmigración, Seguridad y Fronteras - Problemáticas de España, Marruecos y la UE en el área del Estrecho*, Ed. Dykinson, Madrid, 2012, pp. 413-434.

As per 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 joint 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 stabilization. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.”

With regard to the statement in Article 43.1 TEU, a series of reflections may be drawn. First, the operations are not limited to those of a military nature, as reference is made to *civilian and military* means. This signifies the recognition of Petersberg actions of a civilian nature aimed at acting within the area of international peace-keeping and security, in accordance, as well, with international practice. Secondly, it specifically mentions *joint disarmament operations*, which means resorting to civilian as well as military means. Finally, and in third place, the contents imply the possibility of carrying out the rest of the enumerated operations by means of civilian, military or civil-military actions.

In the end, we are presented with a recognition of the civilian crisis management operations as real Petersberg *Operations*, parallel to the traditional or classic actions of military nature. Nonetheless, a fact open to criticism is that the different categories of civilian missions⁴⁴ were not listed. This may be due to allowing for the possibility of gradually increasing these categories as international practice demands, as has happened to date within the EU.

In our opinion, the Petersberg *Operations* could presently be defined as “the set of operative actions that the EU carries out within the CSPD for the prevention of conflicts and for crisis management, which involve the deployment to the territory of a third State, with its previous consent, of military as well as civilian contingents, with supplies from member States, and previously identified”⁴⁵.

In seeking to identify the range of Petersberg Operations mentioned in the TEU, the following may be cited⁴⁶:

44 As civilian missions would be for a democratic State: police operations; reform of the security sector; border control; observation missions; and of support to the Special Representatives.

45 ACOSTA SÁNCHEZ, M.A., *The EU's Military Crisis Management Operations...op. cit.*, p. 67. Also see, ACOSTA SÁNCHEZ, M.A., “Las operaciones Petersberg de la UE y el Tratado de Lisboa”, *Revista de Estudios Europeos*, 2009, n.º 51, pp. 9-43.

46 CORIO, M., “Aspectos militares de la gestión de crisis en el marco de la PESD”, *Revista de Estudios Políticos*, 2003, n.º 119, pp. 351-380, on p. 372; INTERNATIONAL CRISIS GROUP (ICG), “EU Crisis Response Capability: Institutions and Processes for Conflict Prevention Management”, Report n.º 2, Brussels, 26 June 2001, pp. 2-5; ORTEGA, M., “L'intervention militaire et l'UE”, IESUEO, Cahier de Chaillot, n.º 45, mars 2001, pp. 105-108; PECLOW, V., “UE: l'humanitaire prépare-t-il le militaire?”, in, ADAM, B., BIQUET, J.-M., CORTEN, O., *Militaires-humanitaires. À chacun son rôle*, GRIP, Bruxelles, 2002, p. 85; ROSCINI, M.,

-Humanitarian operations. These humanitarian operations should not be confused with actions of humanitarian aid by the Commission (Article 214 TFEU⁴⁷), despite their being closely linked. Humanitarian operations of a military nature require previous authorization from the host State and do not imply the use of force, so that, saving exceptions, a mandate from the Security Council is not necessary.

The concept of this type of operations is quite broad, but it should, in no way whatsoever be confused with actions of humanitarian intervention. In fact, to the traditional concept of humanitarian operations, understood as armed protection of the aid carried out by governmental or non-governmental organizations to benefit the populations in need, other functions must be added, beginning with undertaking second-generation peace operations. Thus, in accordance with UN practice, these operations may also imply the use of military means to restrict flights or movement of military forces, the creation of security areas, the establishment of democratic governments, the imposition of a ceasefire, disarmament, training personnel in removal of mines, and the protection of humanitarian convoys *stricto sensu*. In some cases, the Security Council has even authorized the use of force to ensure effective humanitarian aid, particularly in Bosnia and Herzegovina, Somalia and Rwanda⁴⁸. Within the scope of the EU, an example of

*“L’art. 17 del Trattato sull’Unione Europea e i compiti delle Forze di pace”, in, RONZITTI, N. (dir.), *Le Forze di pace dell’Unione Europea*, Centro Militare di Studi Strategici, Rubbetino Editore, Roma, 2005, pp. 49-79; VAN HEGELSOM, G.-J., “The relevance of the law of armed conflict for the conduct of Petersberg tasks”, in, “Proceedings of the Bruges Colloquium: the impact of the International Humanitarian Law on current Security Policy trends, 26-27 October 2001”, *Collegium*, 2002, n° 25, pp. 109-120, on pp. 113-114.*

47 Art. 214 TFEU: 1. The Union’s operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Union. Such operations shall be intended to provide ad hoc assistance and relief and protection for people in third countries who are victims of natural or man-made disasters, in order to meet the humanitarian needs resulting from these different situations. The Union’s measures and those of the Member States shall complement and reinforce each other. 2. Humanitarian aid operations shall be conducted in compliance with the principles of international law and with the principles of impartiality, neutrality and non-discrimination. 3. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures defining the framework within which the Union’s humanitarian aid operations shall be implemented. 4. The Union may conclude with third countries and competent international organizations any agreement helping to achieve the objectives referred to in paragraph 1 and in Article 21 of the Treaty on European Union. The first subparagraph shall be without prejudice to Member States’ competence to negotiate in international bodies and to conclude agreements. 5. In order to establish a framework for joint contributions from young Europeans to the humanitarian aid operations of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall determine the rules and procedures for the operation of the Corps. 6. The Commission may take any useful initiative to promote coordination between actions of the Union and those of the Member States, in order to enhance the efficiency and complementarity of Union and national humanitarian aid measures. 7. The Union shall ensure that its humanitarian aid operations are coordinated and consistent with those of international organizations and bodies, in particular those forming part of the United Nations system.

48 CARRILLO SALCEDO, J.A., “Le rôle du Conseil de Sécurité dans l’organisation et la réglementation du “droit à l’assistance humanitaire”, in, AA.VV., *Le développement du rôle du Conseil*

this type of humanitarian operation was the EU military operation in the Democratic Republic of the Congo (Artemis).

-Rescue operations. The term for this type of operations refers, in general, to those operations whose intent is to save citizens who are in imminent danger due to a situation of crisis and are located in a third State⁴⁹.

Regarding its legal regulation⁵⁰, the rescue of nationals in a third State would not infringe on the territorial integrity or political independence of the State, as we would not be dealing with a humanitarian intervention. In our opinion, this type of operations is much more limited as there is no aggression. In any case, we would agree that this type of operations could be legitimized through the concept of protection of Human Rights, and as long as it tended to protect the life or health of its nationals⁵¹. We find numerous examples of this in recent decades, such as the rescue of British citizens

de Sécurité, cit, pp. 157-167 ; DOMESTICI-MET, M.J., (dir.), *Aide humanitaire Internationale: un consensus conflictual?*, Ed. Economica, Paris, 1996, pp. 89-94; ELIASSON, J., "Humanitarian Action and Peacekeeping", in, OTUNNU, O., DOYLE, M.(ed.), *Peacemaking and Peacekeeping for the New Century*, Rowman and Littlefield Publishers, New York, 1998, pp. 203-230; ESCUDERO ESPINOSA, J.F., *Cuestiones en torno a la intervención humanitaria y el Derecho Internacional actual*, Universidad de León, León, 2002, pp. 29-37; LATTANZI, F., *Assistenza umanitaria e intervento di umanità*, Giappichelli, Torino 1997, pp. 59-75; LEURDIJK, D.A., "Background Paper: United Nations Protection force (UNPROFOR)", in, AZIMI, N. (ed.), *Humanitarian action and Peacekeeping Operations*, Kluwer, London/The Hague/Boston, 1997, pp. 69-83; TORRELLI, M., "Les zones de sécurité", *Revue Générale de Droit International Public*, 1995/4, p. 812; WHITMAN, J., "A cautionary note on humanitarian intervention", *Journal of Humanitarian Assistance*, September 1995, n° 1, available at www.jha.ac.

49 In case of natural disasters or terrorist attacks, the mechanism of civil protection in the area of crisis civilian management will go into effect, involving rescue operations (Article 196 TFEU). This action of civilian crisis management cannot be considered as a Petersberg Operation type and it intervenes in situations such as floods, earthquakes, fires or man-made disasters (those provoked by human activities and resulting from, for example, technological risks or terrorist threats) like the one caused by the *Prestige*. Regarding this issue, see TORRES CAZORLA, M.I., "¿Lecciones aprendidas? El papel de la Unión Europea en materia de prevención y coordinación en caso de catástrofe", in, GARCÍA SAN JOSÉ, D., SÁNCHEZ PATRÓN, J.M., TORRES CAZORLA, M.I. (Coords.), *Bioderecho, Seguridad y Medioambiente*, Ed. Tirant lo Blanch, Valencia, 2015, pp. 151-173. Also in the same collective work, BAUTISTA HERNÁEZ, A., "Recientes avances en la regulación de la Unión Europea en materia de catástrofes: el Mecanismo de Protección Civil de la Unión", pp. 174-194.

50 BETTATI, M., "Un droit d'ingérence?", *Revue Générale de Droit International Public*, 1991/3, pp. 648-651; JORGENSEN, K. (ed.), *European Approaches to Crises Management*, Kluwer, the Hague/London/Boston, 1997, pp. 142-143; REMIRO BROTONS, A. et al. «Derecho...» *op. cit.*, pp. 929-930; RONZITTI, N., *Rescuing Nationals Abroad Through Military Coercion and Intervention on Grounds of Humanity*, Martinus Nijhoff, Dordrecht, 1985.

51 See SCHWEISFURTH, T., "Operation to Rescue Nationals in Third States Involving the Use of Force in Relation to Protection of Human Rights", *German Yearbook of International Law*, 1980, vol. 23, pp. 159-180. Also *La protection des droits de l'homme et le principe de non-intervention dans les affaires intérieures des États*, in, AA.VV., *Annuaire de l'Institut de Droit International, Résolutions 1957-1991*, Pedone, Paris, 1992, pp. 205-213. See Article 15 of Organic Law 5/2005 of National Defense, *BOE*, n.º 276, of 11.18.2005.

in Cyprus in 1974, and in Aden in 1986; Belgians and French in Rwanda in 1990, in Zaire in 1991; and French citizens in Yemen in 1994⁵².

What are more difficult to justify are cases in which the beneficiary is not a national. In any case, it is understood that the right to intervene only exists when there is danger to the life of the beneficiaries, so that it is the notion of *quasi* emergency, in the medical sense, which establishes the condition of legitimacy.

-Peacekeeping Operations. These operations coincide with the classic UN *second-generation* operations, although the organizational chart and the decision-making procedure established within the CFSP / CSDP should be applied. Thus, they would be non-coercive operations, formed by a group of States, with the authorization of the State where the action was to take place; they would be impartial and of limited duration. This type of operations lacks authorization to use force except in case of legitimate defense.

Its main function is to observe and guarantee peacekeeping, ensuring ceasefire and prevention of conflicts. Some clear examples of Peacekeeping Petersberg Operations are the military operations in the Former Yugoslav Republic of Macedonia (*Concordia*), in Bosnia and Herzegovina (*Althea*), and in the Democratic Republic of the Congo (*EUFOR RD Congo*), in Chad and the Republic of Central Africa (*EUFOR Tchad/RCA*), and in Somalia (*Atalanta*).

-Operations with the participation of combat forces for crisis management, including peacemaking operations. The contingents in these operations may use force; therefore, in this modality, we may associate peacemaking with peace enforcement. The special characteristic of this type of operations is found in the fact that it faces a situation of serious crisis, beyond the level of intensity of the rest of the operational modalities which are notable for intervening in a situation of peace and stability. Although our starting point is the fact that the EU does not have operating capacity for this type of operations, and to the detriment of NATO, it is true that in recent years a series of relief elements have been gradually incorporated into the European process of integration. In fact, the achievement of a *common defense* (Article 42.2 TEU), along with the incorporation of a clause of mutual assistance (Article 42.7 TEU), or the recent development of the Permanent Structured Cooperation (Article 46 TEU⁵³) may entail the assumption of this type of operations by the EU in the short and medium term.

52 See ZICCARDI CAPALDO, G., *Terrorismo Internazionale e garanzie collettive*, Giuffrè Ed., Milano, 1990, pp. 20-45. Regarding "humanitarian interventions", see BETTATI, M., "Un droit..." *op. cit.*, p. 648.

53 See ACOSTA SÁNCHEZ, M.A., "La cooperación estructurada permanente: ¿un primer paso hacia la integración en la seguridad y defensa europeas?", *Revista General de Derecho Europeo*, 2018, n.º 45; MURILLO COZAR, B., "El lanzamiento de la cooperación estructurada permanente: un nuevo éxito en la seguridad y defensa de la Unión Europea", *IEEE*, Documento de Opinión, 32/2018, of 03.23.2018, available at http://www.ieee.es/Galerias/fichero/docs_opinion/2018/DIEEEO32-2018_Coop-Estrcut-Perman_UE_SegyDef_BeatrizCozar.pdf.

-*New operations incorporated by Lisbon.* The new operations incorporated by Lisbon would thus be joint operations for disarmament, as well as of military advice and assistance, of prevention of conflicts, and Post Conflict Peace-building operations.

The following observations may be made regarding their contents:

- a) *Civilian-military Joint Operations for Disarmament*, which include post-conflict weapon-destruction and weapon-control programs;
- b) *Military Advice and Assistance Operations*, which include cooperation with the armed forces of a third State or of a regional or sub-regional organization to create democratic forces through the exchange of appropriate practices; for example through training actions such as de-mining operations like operations EUSEC RD Congo and EU SSR Guinea Bissau. Also to be cited within this category are border operations such as EUBAM Libya, EUBAM Moldova and Ukraine, and EUBAM Rafah.
- c) *Conflict-prevention Operations*, which imply rapid alert and resorting to measures, not solely military, that will allow strengthening of trust and security;
- d) Finally, *Post conflict Peace-building Operations*, which involve the use of civilian and military instruments aimed at military, democratic, and public security reform.

In order to clarify the scope of the Petersberg *Operations*, in its Conclusions of 14 November 2016, the Council has specified the civilian and military operations which, depending on the means available, the EU could launch within the framework of the PSCD.

While not an exhaustive list, the following operations may be cited: – Joint operations for crisis management in situations of high risk in areas surrounding the EU; – Joint stabilization operations, including air operations and special forces operations; – Civilian and military rapid response operations, including military rapid response operations which, among other things, have recourse to EU battle groups, whether within their own units or as part of a host of forces adapted to the operations; – Civilian substitution or execution operations; Air security operations, including close air support and air surveillance; – Creation of civilian capabilities, and operations to reform the security sector (supervision, tutorship and advice, training), in relation, among others, with the police; the establishment of the Democratic State; border management, the fight against terrorism, resilience, response to hybrid threats, and civilian administration, as well as civilian supervision operations; – Creation of military capabilities through operations of advice, training and tutorship, including the efficient protection of the forces, if needed, as well as operations of supervision/observation; – and finally, maritime security or surveillance operations, also on a long-term basis in areas close to Europe⁵⁴.

54 See Council Doc 14149/16, Council conclusions on implementing the EU global strategy in the area of security and defense, of 11.14.2016. We should consider this list as an extension or clarification of the Petersberg operations found in Article 43.1 TEU, although, in our opinion, *praeter legem*, therefore the list should be updated in primary legislation. Also see the modalities listed in the Military Rapid Reaction Concept in the EMUE, in Council Doc. 17036/1/14 REV 1, EU Military Rapid Response Concept, of 01.08.2015.

In the end, we feel that the aim of Article 43.1 TEU is to resize the range of Petersberg Operations, starting from an operative undertaking of actions already planned, so that the possibilities each one of them offers are extended, as per the Conclusions of the Council of November 2016.

MILITARY OPERATION SOPHIA IN THE MEDITERRANEAN: A PARADIGM OF COMPREHENSIVE APPROACH WITH RELATION TO INTERNATIONAL CRISES?

Keeping in mind the evolution of the concepts of Security, of international peace-keeping operations, and more specifically, of the scope of the EU Petersberg Operations, we should determine how the competence *ratione materiae* of Operation Sophia fits into this framework.

This is because the factual framework within which Operation Sophia takes place is totally new. Thus, the migration crisis that is buffeting the international scenario, and more specifically affecting Europe, is concentrated, particularly, in the central southern region of the Mediterranean. This means an enormous arrival of thousands of migrants of sub-Saharan origin coming from the Lybian coasts⁵⁵. On the one hand, the political situation of Lybia must be kept in mind, where up to as many as three different governments exist in a country of almost two million square kilometers, with continual clashes among different factions. It is, therefore, an example of what has been called a *Failed State*⁵⁶.

On the other hand, the threat that the EU is facing is not exactly the illegal immigration that is reaching the coasts of the EU, but rather the transborder criminality which is really responsible for the immigration flow in such conditions that unfortunately accidents and shipwrecks are made easier, with the well-known dramatic consequences. This is the reason why, starting with a holistic approach regarding security,

55 On the immigration crisis in the Mediterranean, see ACOSTA SÁNCHEZ, M.A., “*Inmigración marítima en el Mediterráneo: las iniciativas de la UE y la protección de los derechos humanos*”, Anuario de los Cursos de Derechos Humanos de Donostia-San Sebastián, vol. XVII (2017), Cizur Menor: Ed. Aranzadi, 2018, pp. 23-59, as well as the ample bibliography cited. Also, GONZÁLEZ ENRÍQUEZ, C., «La crisis de los refugiados y la respuesta europea», *Analysis by the Elcano Royal Institute*, ARI 67/2015 of 11.18.2015; GONZÁLEZ VEGA, J., “Mitos y mistificaciones: la Unión Europea y la protección internacional (a propósito de la “crisis de los refugiados”)”, *Revista de Derecho Comunitario Europeo*, 2017, vol. 56, pp. 27-75; GORTÁZAR ROTAECHE, C., «La crisis de los refugiados: la hora de Europa», *Analysis by the Elcano Royal Institute*, ARI 5/2016 of 01.18.2016. Finally, FUENTE COBO, I., «Las migraciones en el espacio euromediterráneo: los escenarios posibles», *IEEE*, Analysis Document. 32/2017, 06.28.2017, available at http://www.ieee.es/Galerias/fichero/docs_analisis/2017/DIEEEA32-2017_Migraciones_SeguridadRegional_IFC.pdf;

56 See JIMÉNEZ PIERNAS, C., «Estados débiles y Estados fracasados», *Revista Española de Derecho Internacional*, 2013, vol. LXXV, n.º 2, pp. 11-49.

and more specifically within the European Migration Agenda for 2015⁵⁷, it was proposed to resort to military means to fight criminality, seeking to reinforce the presence of the EU at sea and prevent illegal flows of immigration.

Military operation EUNAVFOR MED Sophia⁵⁸, in force presently until November 2018, emerges from this proposal. The mission concentrates on three different well-defined areas⁵⁹:

- i) As a central task⁶⁰, to detect, capture and eliminate the ships and other means that the border-crossers or traffickers in persons use or are suspected of using, as per the applicable international Law, including the United Nations Convention on the Law of the Sea, as well as the mandates of the Security Council.

Within this original competence, Operation Sophia will take action in three consecutive phases:

PHASE I: supports the detection and monitoring of the migration networks through the collection of information and using patrols on the high seas in accordance with international law.

PHASE II: This phase started on 7 October 2015 and consists of boarding, searching, imprisoning and diverting on the high seas the ships suspected of being used for illegal trafficking or human trafficking, in accordance with the pertinent international laws, included in the United Nations Convention on the Law of the Sea⁶¹, and

57 Doc. COM (2015) 240 final, Communication from the European Commission to the European Parliament, to the Council, to the European Economic and Social Committee, and to the Committee of the Regions: A European Migration Agenda, of 05.13.2015, available at <https://eur-lex.europa.eu/homepage.html?locale=es>. Also see, Conclusions of the European Committee, of March 2015 (EUCO 11/15, of 03.20.2015) and Conclusions of the European Council, of June 2015 (EUCO 22/15, of 06.26.2015), available at <http://www.consilium.europa.eu/es/european-council/conclusions/>. See DEL VALLE, A., «Unión Europea, crisis de refugiados y limes imperii», *Revista General de Derecho Europeo*, 2016, n.º 38.

58 Decision 2015/778/PESC of the Council, of 18 May 2015, on an EU military operation in the South Central Mediterranean, *DO*, L 122, of 05.19.2015, <https://eur-lex.europa.eu/homepage.html?locale=es>. See Resolution of the Security Council 2240 (2015) of 9 October.

59 An extension of functions has been granted by Decision 2016/993/PESC of the Council, of 20 June 2016 (*DO*, L 162, of 21 June 2016) and by Decision 2016/2314/PESC of the Council, of 19 December 2016 (*DO*, L 345, of 12.20.2016). See VACAS FERNÁNDEZ, F., “The European operations in the Mediterranean Sea to deal with migration as a symptom. From the Italian operation Mare Nostrum to Frontex operations Triton and Poseidon, EUNAVFOR-MED and NATO’s assistance in the Aegean Sea”, *Spanish Yearbook of International Law*, 2016, n.º 20, pp. 93-117, on pp. 103-106.

60 So it was considered by the Council, in its Conclusions dated 06 02 17, classifying the other two tasks as “of support.” See, Conclusions of the Council on Libya, of (Council Doc. 5321/17), available at <http://data.consilium.europa.eu/doc/document/ST-5321-2017-INIT/es/pdf>. Along the same lines, Conclusions of the European Council of June 2017 (EUCO 8/17, of 23.06.2017).

61 Published in the *BOE (Spanish Official Gazette)*, n.º 39, of 02.14.1997

the Protocol against illegal trafficking in immigrants (Palermo Protocol⁶²). Also, in accordance with any applicable resolution of the United Nations Security Council or the consent of the coastal State in question, [the Operation] will board, search, imprison or divert on the high seas or in territorial waters and interior waters of the said State, the boats suspected of being used for illegal trafficking or human trafficking, under the conditions established in the pertinent resolution or consent.

PHASE III: In accordance with any applicable resolution of the United Nations Security Council or the consent of the affected coastal State, [Operation Sophia] will adopt all necessary measures, including elimination or disablement, against a ship and the related means that are suspected of being used in illegal trafficking or human trafficking in the territory of the afore-mentioned State, under the conditions established in said resolution or consent⁶³.

The other two “support” competences would be:

- II) to provide training to the Lybian Coast Guard and Navy, including training on human rights and humanitarian international law, and, in particular, to fight against illegal trafficking and human trafficking⁶⁴;
- III) and to contribute to guaranteeing the arms embargo imposed by Resolution 170 of the Security Council (2011) of 26 February, and those subsequent, particularly Resolution 2292 (2016) of 14 June.

In our opinion, given this diversity of competences, it is difficult to fit Operation Sophia into one of the actions mentioned in Article 43.1 TEU, especially because it is not aimed at a State actor or at a part of the conflict. However, we may presume that its functions could fit into the concept of “Maritime Surveillance and Security” already included in the Conclusions of the Council of November 2016. Let us see their *ratione materiae* scope.

Thus, by “Maritime Security”, we should understand the maritime areas where International Law – in particular the United Nations Convention on the Law of the Sea – and National Law are applied, security for navigation and for citizens is guaranteed, infrastructures and resources are protected, and legitimate national and international interests are safeguarded⁶⁵.

62 Published in the *BOE (Spanish Official Gazette)*, n.º 233, of 09.29.2003.

63 It does not seem that the conditions are the proper ones to be able to continue on to PHASE III for the time being. See Council Doc. 8842/17, EU Naval Force in the South Central Mediterranean (EUNAVFOR MED Operation Sophia) Information Communication Strategy, de 05.05.2017.

64 See SWD (2017) 238/2 final Joint Staff Working Document, Second report on the implementation of the EU Maritime Security Strategy Action Plan, of 06.19.2017, available at <http://www.consilium.europa.eu/register/es/content/int/?lang=es&typ=ADV>.

65 Concept in Council Doc. 8592/112 EU Maritime Security Operations (MSO) Concept dated 17.04.2012. See as well Council Doc. 15294/07, EU Maritime rapid Response Concept, dated 17.11.2007. For EU Maritime Security Strategy, “The Armed Forces of the member States may play a

For its part, a “Maritime Security Operation” would be one carried out by naval forces of the member States within the framework of the CSDP; this may be done in coordination with other specialized means of the EU – see the European Border and Coast Guard Agency –, and in order to combat threats and risks such as illegal trafficking by sea. Among those threats and risks are illegal activities such as trans-border organized crime, or territorial conflicts and crises; they may all need the combination of national and international security within the framework of a comprehensive scope.

These Maritime Security Operations may carry out *Maritime Deterrence and Defense Operations* in order to protect national sovereignty and integrity; *Crisis Response Operations* of a general nature, including *Peacekeeping and Peace-Enforcement Operations*, and *Naval Diplomacy Operations*. More specifically:

- * Surveillance of maritime areas, focusing on gathering and exchanging information with other actors, especially to provide rapid response in case of any threat.
- * Maritime protection of communication lines, sea lanes, infrastructures, etc.
- * Control and/or prohibition in maritime areas: secure or avoid navigation in specific areas in accordance with an international mandate, search and inspection of suspicious ships, and verification of embargoes.
- * Actions of counter-terrorism and against the proliferation of weapons of mass destruction, as in the case of NATO’s *Active Endeavour Operation*.
- * Maritime Law Enforcement actions, particularly against piracy and international crime, within the framework of the EU Global Security Strategy of June 2016⁶⁶.
- * Maritime presence, along the lines of naval diplomacy or as a mechanism representing a show of power.
- * Reform of the maritime security sector to support failed or fragile States, in order to advise and train national authorities.
- * Support for land operations such as humanitarian or environmental protection operations.

strategic role on and off the sea, and offer a scope, a flexibility and a world-wide access which permit the EU and its member States to contribute to all types of maritime responsibilities. It is essential that its sustained presence support freedom of navigation and contribute to good governance through dissuasion, prevention and the fight against illicit activities in the world-wide maritime sphere. In this sense, one of the key factors is respect for the corresponding international legislation, including the principle of exclusive jurisdiction on the high seas of the State of the flagship, as well as the functional immunity of the personnel carrying out official functions at sea.” See, Council Doc.11205, EU Maritime security Strategy, dated 06.24.2014. Documents available at <http://www.consilium.europa.eu/register/es/content/int/?lang=es&typ=ADV>.

66 Council Doc. 10715/16, EU Global Strategy on Foreign Policy and Security: a common vision, a joint action: a stronger Europe, of 06.28.2016.

Regarding “Maritime Surveillance” or “Surveillance of Maritime Borders”, we should look to the Space of Freedom, Security and Justice⁶⁷ for their identification. These would include:

- * avoiding unauthorized crossing of borders, actions against transborder organized crime, and detaining people who cross borders illegally;
- * arresting, boarding and searching, as well as seizure of the ship;
- * positive measures such as intercepting suspicious boats that may try to enter the Union without going through border controls; also, regulations to deal with search and rescue situations that may arise during maritime border surveillance operations, and regulations aiming to successfully close these operations, which would include disembarkation in a “safe place”⁶⁸.

In all cases, International Law of the Sea regulations applicable in the context of maritime aid; must be respected, in particular the principle of nonrefoulement.

Thus, we consider that Operation Sophia is a clear example of the comprehensive approach to crisis management, putting together different competence areas within the framework of the Maritime Security Strategy⁶⁹, one where the High Representative should closely collaborate with the President of the Commission⁷⁰. Moreover, the

67 Considering (i) of Regulation 2014/656/EU of the European Parliament and Council, dated 15 May 2014, by which norms are established for the surveillance of external maritime borders within the framework of the operative cooperation coordinated by the European Agency for the Management of Operative Cooperation on the External Borders of the member States of the European Union, *DO*, L 189, dated 27.06.2014; and Art. 13.1 of Regulation 2016/399/EU of the European Parliament and Council, dated 9 March 2016, by which a Community Code of rules is established for the crossing of borders by persons (the Schengen Border Code), *DO*, L 77, dated 23.04.2016, available at <https://eur-lex.europa.eu/homepage.html?locale=es>. See ESTEVE GARCÍA, F., “*The Search and Rescue Tasks Coordinated by the European Border and Coast Guard Agency (Frontex) Regarding the Surveillance of External Maritime Borders*”, *Paix et Sécurité Internationales Magazine*, 2017, n.º 5, pp. 93-116, available at <http://catedras.uca.es/jean-monnet/revistas/paix-et-securite-internationales>.

68 The term “safe place” may be understood as: a place in which a lifesaving operation is considered to have finalized, and where the safety of the lives of survivors is not threatened, and their basic human needs may be met and means of transport found for their transfer to their next or final destination, taking into account the protection of their fundamental rights in accord with the principle of nonrefoulement”. Art. 2.12) of Regulation 2014/656/EU *cit*.

69 In fact, among the objectives of the Maritime Security Strategy are that of contributing to safety on the sea and to the security of the external maritime border of the EU. And among its interests, the effective management of the external maritime borders of the Union and the maritime areas of interest to it, with the aim of preventing and impeding illegal cross-border activities. See Council Doc. 11205/14, European Union Maritime Security Strategy, dated 24.06.2014.

70 See Doc. COM (2013) 30 final, Joint Communication to the European Parliament and to the Council, the integrated focus adopted by the EU with regard to foreign crises and conflicts, dated 11.12.2013. Likewise, Doc. COM (2017) 820 final/2, Communiqué of the Commission to the European Parliament, to the European Council and to the Council, a contribution of the Commission to the

link between national and international policies of the EU having the same aim can be demonstrated in a number of different ways. On the one hand, through coordination between agencies, or actions of different types, of foreign and of national policy. See, for example, the coordination between the European Border and Coast Guard Agency and Operation Sophia. On the other hand, in a more comprehensive but perhaps more complex manner, we would have the possibility that an instrument such as a military operation of maritime nature might carry out national as well as foreign actions.

It is our belief that it is in this second case where the complexity of the nature of the areas of competence of Operation Sophia is produced, and this occurs from the moment it assumes the maritime (border) surveillance tasks resulting in the rescue of vessels in danger—an activity which, let us not forget, is part of International Common Law and is, therefore, mandatory to all State actors. In addition, the complexity of which we are speaking may also be viewed from a number of different angles.

In the first place, there is the very nature of Operation Sophia, framed within the context of the CSDP and following a particular structure and logistic. The contribution of the member States, their chain of command and even the extent of their original *ratione materiae* do not clearly manifest the scope of their real functions. In fact, it is our belief that a clarification of its tasks should be undertaken through a modification in the Decision of Creation, with special emphasis on coordination with the European Border and Coast Guard Agency, and more specifically with its new maritime Operation *Themis*, which substitutes for the former *Triton*.

In the second place, there is a need for special training in matters of rescue and lifesaving activities within military operations at sea. It is taken as a given that the military contingents are trained, initially, for the task originally foreseen in the Decision of Creation of Operation Sophia. A task, on the other hand, which falls within the lines of traditional peacekeeping operations. However, the complex reality of the migrant crisis and the indirect assumption of domestic security functions carry with them the need for a specific form of training in this respect. Two possible systems could be proposed. On the one hand, there could be advance training of the personnel, particularly of the successive relief contingents during the operation, to be carried out through the European Security and Defense School, and its possible branches at national level. On the other hand, we return to the need for greater and better coordination with the instruments associated with the Space for Freedom, Security and Justice, specifically with the European Border and Coast Guard Agency. Training could be planned *in situ* on board the ships of Operation Sophia, to be carried out by the members of Frontex, particularly in material relevant to human rights and fundamental freedoms.

In the third place, and no less important, reference should be made to the excessively strict dividing line between functions within the scope of the CSDP and of the Space for Freedom, Security and Justice, which hinders the comprehensive focus of

thematic debate on the part of the leaders of the EU on future steps regarding the domestic and foreign aspects of migration policy, dated 13.12.2017.

European action in the face of the crisis. Nonetheless, the Commission has now proposed a series of actions in this respect⁷¹, although it is necessary to stress these and obtain clear and efficacious results. Among these proposals are the following: addressing the need for close collaboration between the High Representative and the President of the European Commission in order to guarantee strategic and operative coherence in the policy and strategy of foreign relations, especially with regard to the foreign effects of domestic policies; better use of diplomatic means and of foreign relations at the disposition of the EU, and defense of its interests with regard to domestic policy and international problems; efforts to determine and make known the policies and instruments having both domestic and foreign effects and to strengthen their potential in both directions; and finally, ensuring that domestic policies form the framework of analysis of crises, strategic reflection and documents relative to action abroad, whenever this is possible and pertinent.

FINAL IDEAS

Based on the present study, a number of final ideas may be obtained:

I. With the end of the Cold War, a clear evolution in the concept of Security was produced, following the rise in new threats and more complex risks. In effect, Security, from a multidimensional point of view, would come to mean protection of those values essential to the coexistence of the whole of the earth's peoples, without limiting itself, therefore, to protection of national territory, but rather going beyond this to embrace principals related to the maintenance of peace, respect for human rights and fundamental freedoms, economic and ecological solidarity and peaceful cooperation among States. The relational character of all of these bears emphasizing, for which reason a unified global response is required regarding them, through the combining of instruments from both foreign and domestic policies.

II. This new vision of Security has its own projection upon international peace operations. Thus, within the context of the United Nations, what were *peacekeeping operations* have become *peace operations* given the necessarily global nature of response in the face of complex crises requiring the use of the entire range of means available.

All of this may be seen with greatest clarity within the context of the EU, since, while the TEU identifies a series of operative undertakings referred to as Petersberg, the evolution of threats and risks tends to clarify, hone and even amplify this typology, fusing tasks belonging to different policies as well.

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71 See Doc. COM (2013) 30 final, joint Communiqué to the European Parliament and to the Council, The integrated focus adopted by the EU regarding foreign conflicts and crises, dated 11.12.2013.

III. The migrant crisis which is so greatly affecting the process of European integration presents characteristics of such a particular nature that it perforce requires a coherent and complete response. This should be effected through what the EU defines as an “integrated focus”, in such a way as to focus all policies involved towards a common objective. This inevitably requires clear coordination among all institutions in order to avoid useless duplication and to thus achieve a global response to the situation.

IV.- Finally, military operation Sophia appears to be a paradigm of “integrated focus”, given that it indirectly assumes competences and mandates proper to domestic policy institutions such as the Space for Freedom, Security and Justice, especially with reference to “border surveillance”. In any case, this situation necessarily requires a clarification of competences translated into a modification of the Decision of Creation of the operation; and, as well, a greater and better coordination with the institutions belonging to domestic security policy, especially the European Border and Coast Guard Agency. Only in coordinated fashion, and taking maximum advantage of all available means, will it be possible to achieve global action in the face of the migrant crisis.

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