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This paper analyses the proposal for the creation of a European Peace Facility (EPF), which would allow the EU to deploy military operations more effectively and to finance peace support operations led by other international actors, as well as build its partners' military capacities.

While the proposed EPF is partly a repackaging of existing mechanisms, it would also expand significantly and diversify the EU's ability to engage in new types of military support and assistance, backed by boosted financial resources.

If implemented, the EPF may shift away from the EU's traditional focus on 'soft power', motivated by growing geopolitical volatility and new conflicts close to its borders. This raises the question of how this initiative would fit within the wider EU ambitions to contribute to international peace and security beyond purely military means.

The EU already has a wide variety of instruments and tools available in areas such as civilian crisis management, conflict prevention and human rights. The main challenges are how to use these in a coherent way and how to ensure the necessary safeguards, monitoring systems and conflict sensitivity to ensure EPF activities contribute to positive and sustainable responses to violent conflict and human insecurity.

The governance and institutional capacities of the EPF, including decision-making procedures, institutional organisation, and interaction with other EU services, will all be critical to ensure the EPF's effectiveness in contributing to global peace and security.

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Acronyms

AMIS African Union Mission in Sudan
AMISOM African Union Mission to Somalia

APF African Peace Facility

APSA African Peace and Security Architecture

AU African Union

CARD Coordinated Annual Review on Defence

CBSD Capacity-Building in support of Security & Development

CFSP Common Foreign and Security Policy

COREPER Committee of Permanent Representatives of the EU member states

CSDP Common Security and Defence Policy

DFID Department for International Development (United Kingdom)

DG DEVCO Directorate General for International Cooperation and Development

DIE German Development Institute

ECDPM European Centre for Development Policy Management

ECOWAS Economic Community of West African States

EEAS European External Action Service

EPF European Peace Facility

EU European Union

EU NAVFOR European Union Naval Force

EUISS European Union Institute for Security Studies
EUTM European Union training mission in Mali
FPI Service for Foreign Policy Instruments

GNI Gross National Income

HR/VP High Representative for Foreign Affairs and Security Policy/Vice

President of the European Commission

IcSP Instrument contributing to Stability and Peace

MFF Multiannual Financial Framework
MNJTF Multinational Joint Task Force

MPCC Military Planning and Conduct Capability

NDICI Neighbourhood, Development and International Cooperation Instrument

PESCO Permanent Structured Cooperation
PSC Political and Security Committee

PSO Peace Support Operation

REC Regional Economic Community

RELEX Working Party of Foreign Relations Counsellors
SADC Southern African Development Community

UK United Kingdom
UN United Nations

Introduction

During a speech on 13 December 2017 at a conference on the future of EU security and defence policy, Federica Mogherini, the EU's High Representative for Foreign Affairs and Security Policy (HR/VP), announced the proposal for the creation of a 'European Peace Facility':

"We need to equip ourselves with the means and resources to live up to our new joint ambition on security and defence. With the Commission we are working on the next multiannual financial framework – our spending plans for the next seven years in the Union. In that context I would propose to create a new European Peace Facility, financed and managed together with our Member States. This would allow to be much more efficient in planning and deploying our military missions, but also to support our partners in dealing with our shared security challenges." (HR/VP, 2017)

A concrete proposal for a new EPF was presented by the HR/VP to EU member states in June 2018¹ and is currently subject to an intense discussion regarding its final shape, scope, governance and objectives. These discussions are taking place in parallel to ongoing negotiations on the future Multiannual Financial Framework (MFF) 2021-2027, the EU's long-term budget. While the EPF would be placed outside the MFF, the discussion cannot be isolated from the wider EU financial planning for the next seven-year period.

The EPF proposal was made as part of a wider set of new initiatives either planned or under execution to strengthen the EU's role in the domain of security and defence, both in terms of financing arrangements, operational structures and capabilities. Such initiatives have included the activation of Permanent Structured Cooperation (PESCO) for joint defence capability development among EU member states, the proposal for a European Defence Fund to incentivise joint research and innovation in the European defence industry, a coordinated annual review on defence (CARD) and the establishment of a Military Planning and Conduct Capability (MPCC) to serve as an operational headquarters for small-scale EU military missions under its Common Security & Defence Policy (CSDP).

Such institutional reforms and innovations illustrate the growingly bold European external policy ambitions, including in the domain of military cooperation. This is not a trivial development, but the result of a number of concurrent factors that have pushed forward some of the commitments voiced in the 2016 European Union Global Strategy for Foreign and Security Policy. Such drivers have included growing violent conflict in the EU's neighbouring regions, recent records in irregular migration to Europe, as well as a more assertive Russia and growing doubts over the transatlantic partnership and other multilateral norms and institutions under the Trump presidency, pushing the EU towards more strategic autonomy². Moreover, the planned exit of the UK from the EU has removed a traditionally lukewarm supporter of more European defence integration, thus paving the way for various new initiatives that look for a global role for the EU that goes beyond its traditional focus on civilian 'soft power'³.

The proposal for an EPF is central to this broader process towards a stronger Union of security and defence. As currently proposed, the EPF would be designed to enable the EU to plan and deploy military CSDP missions more effectively, while also financing peace support operations led by other international actors and military capacity-building activities for third countries and regional organisations.

¹ EEAS (2018).

² See e.g. EEAS (2016).

³ Sherriff et al. (2018).

This Discussion Paper aims to build a better understanding of the EPF proposal and offer a brief analysis of the main issues for discussion as regards its thematic scope and governance. In doing so, it offers some reflections as to how the EPF would contribute to the EU's new external action ambitions, including the EU integrated approach to external conflict. This analysis is based on a review of the draft EPF Council decision, relevant policy documents, academic articles and other analyses, complemented by a number of interviews with key stakeholders from the EEAS, the European Commission, EU member states as well as civil society organisations.

A different set of questions relate to how the EPF could contribute to a stronger EU-AU partnership on peace and security and what lessons could be learned from past experiences gained during the implementation of the African Peace Facility (APF). These questions are beyond the scope of the current paper, but will be discussed in a separate paper.

1. Current EU instruments to fund military activities

Currently, the EU has two main instruments that allow it to fund activities in the military and defence domain: the Athena mechanism and the African Peace Facility (APF). Neither is part of the EU budget due to a long-standing view that the EU Treaties prohibit any "expenditure arising from operations having military or defence implications" (Art. 41(2) of the Treaty on European Union) from being charged to the EU budget. While there is disagreement on the precise scope of the Treaty provision (see Section 2.2), the practice has been to refrain from using EU budgetary resources for any military or defence-related activities.⁴

Athena mechanism

Since expenditures for military operations under the EU's CSDP cannot be covered under the EU budget, the Athena mechanism has been designed to share part of the common costs for military CSDP operations among all EU member states, enhancing cost-sharing also beyond those countries contributing national capabilities to a given operation. The Athena mechanism can be used to mobilise funds for certain common operational costs such as transport, infrastructure and accommodation.⁵ The mechanism functions as an intergovernmental system and is replenished according to a key based on the Gross National Income of a member state. EU member states can opt out from the mechanism, whereas non-EU countries may also participate, although they do not have a vote in its decision-making. The management of the mechanism is under the authority of the member states, which convene in a Special Committee. This 'Athena committee' is managed by an administrator appointed by the EU Council.6 The Athena mechanism is currently financing military CSDP operations such the EU training missions (EUTM) in Mali, Somalia and the Central African Republic or the naval anti-piracy operation EUNAVFOR Atalanta. In 2017, an amount of EUR 61 million in commitments was mobilised through the Athena mechanism, whereas in 2016, the amount was around EUR 70 million. This only covered a small share of total costs of military CSDP operations (5-15%), with the remaining costs being covered by participating member states on a "cost lie where they fall" basis.7

African Peace Facility

The APF was created in 2003 to support regional and continental responses to peace and security challenges in Africa, building on the Joint Africa-EU strategy. The APF, funded under the European Development Fund (and hence not part of the EU budget), has channelled a total of EUR 2.7 billion between 2004 and 2017 to financially support the African Union (AU) and regional organisations in Africa, enabling African solutions to African problems in the context of the African Peace and Security Architecture (APSA - see Box 1). The vast majority of this amount (some 91% of total APF funds) was directed towards supporting African-led military peace support operations (PSOs), e.g. to cover payments of daily troop allowances or equipment.⁸ Especially AMIS (African Union Mission in Sudan) and AMISOM (AU Mission in Somalia) have been major beneficiaries of the APF. The remainder of APF funding contributed to capacity-building and institutional development of the APSA at continental (AU) and regional levels (about 7% of the APF). This has included, for instance, the payment of salaries of staff at the AU Peace and Security Department and support to the development of a continental early warning system. Finally, a small share

⁴ Interview with key stakeholder, 8 February 2019.

⁵ The scope of eligible funding is based on a list of common costs which are financed by all contributing states. It is specified in Annexes I, II, III and IV of Council Decision 2011/871/CFSP.

⁶ Council of the EU (2014).

Fiott & Bund (2018).

The APF Action Programmes, however, exclude the provision of weapons and their spare parts, ammunition, soldiers' salaries and military training. See e.g. EC (2014).

(1.2%) of the APF has been reserved for an Early Response Mechanism to allow for quick and flexible responses to urgent crises across Africa.⁹

Box 1: The African Peace and Security Architecture

The African Peace and Security Architecture (APSA) was created following the establishment of the African Union in 2002. It is an elaborate set of institutions to operationalise the AU's normative shift from non-intervention into AU member states' internal affairs to non-indifference and implement the AU's mandate to promote peace, security and stability on the continent. This includes the AU's right to intervene in a member state under grave circumstances such as genocide, war crimes or crimes against humanity, when the AU Assembly decides so.¹⁰

The establishment of the APSA led to the creation of a number of bodies, forming the institutional skeleton of the AU and Regional Economic Communities (RECs) for day-to-day interventions and activities in peace and security. These consist of the Peace and Security Council (PSC) as the AU's main decision-making organ for conflict prevention, management and resolution, and the African Union Commission, which is responsible for the implementation of PSC decisions and operational support. In addition, the APSA also comprises an African Standby Force, a Panel of the Wise as an advisory component, the AU Peace Fund as financial instrument, and a Continental Early Warning System. Through these APSA structures, the AU has engaged in various conflict prevention and crisis management activities in Africa, including Peace Support Operations (PSOs) such as AMISOM or support to mediation activities in Libya.

The eight RECs (e.g. ECOWAS, SADC) and two Regional Mechanisms (e.g. the Eastern Africa Standby Force) that are recognised by the AU have similar sets of structures under the APSA. The relation between the AU and RECs is covered in various legal documents, yet in practice, the overlapping mandates and unclarified questions over subsidiarity and complementarity create institutional challenges for effective coordination and cooperation.¹²

Since its establishment, the APSA has been largely reliant on external funding, with an estimated 90% of the total peace and security costs of the AU covered by external partners. The EU, through the APF, has been a major contributor to the operationalisation and implementation of APSA, although the AU has recently sought to reduce its reliance on external donors by mobilising more own resources through the introduction of a 0.2% levy on eligible goods entering Africa.¹³

⁹ EC(2018).

¹⁰ AU (2000).

¹¹ Desmidt & Hauck (2017).

¹² Ibid.

¹³ *Ibid* and Apiko & Aggad (2018).

Capacity-building in support of Security & Development

The EU recently introduced the so-called Capacity-Building in support of Security & Development (CBSD) initiative under the Instrument contributing to Stability and Peace (IcSP), the EU's main financing instrument to finance interventions in the domain of crisis response and conflict prevention. The CBSD initiative was initially proposed by the Commission and the HR/VP as a so-called 'train and equip' programme that would enable the EU to provide training, equipment, infrastructure or advisory support to military actors, thus filling in a gap in the scope of EU military capacity-building. It would notably allow the EU to support the provision of adequate facilities, uniforms or communication equipment for military contingents participating in EU training missions (EUTM) such as those in Somalia or Mali.¹⁴

Yet concerns over both the legality and the political desirability of using EU budgetary resources for military capacity-building led to a reframing of the initiative to a support programme for **capacity-building to military actors for civilian actions with a sustainable development objective**. Concretely, this can comprise post-conflict reconstruction of civil infrastructure, mine clearance, small arms and light weapons programmes, support to border guards or humanitarian aid, as well as certain training activities or communication and transport equipment for military actors. The CBSD initiative was formally introduced through the adoption of an amendment to the IcSP regulation placing such activities under the scope of the instrument, while also topping up the IcSP's budget with EUR 100 million to cover additional expenditures within the scope of CBSD for the period 2018-2020.¹⁵ The CBSD initiative nevertheless explicitly excludes regular military spending, such as lethal equipment or combat training.¹⁶

What seems to set the CBSD initiative apart is its development logic. Still, many concerns were voiced during the decision-making process on CBSD by civil society, researchers and some members of the European Parliament regarding how and under which circumstances investments in military capacity-building might contribute to sustainable development beyond the buzzword of the 'security-development nexus'. They point at limited evidence that the operationalisation would be based on proper risk analysis, do-no-harm strategies and an evidence-based theory of change on how to maximise the potential positive impact on conflict dynamics.¹⁷ While the EU already provided support to military actors for certain reconstruction and development-related activities before, ¹⁸ voices within both civil society and the research community warned that CBSD would set a legal precedent for using EU budget resources for financing support to military actors, thus entering a legal grey zone and furthering the 'securitisation' of EU development funds.¹⁹

¹⁴ EC and High Representative of the European Union for Foreign Affairs and Security Policy (2015).

¹⁵ EC (2016).

¹⁶ Fiott & Bund (2018).

¹⁷ EPLO (2017); EPLO (2018) and Euractiv (2017).

¹⁸ Interview with key stakeholders, 8 February 2019.

¹⁹ EPLO (2017); Bergmann (2017).

2. The EPF proposal: Repackaging or reinventing EU peace and security policy?

2.1. Proposed thematic scope of the EPF

The EPF as proposed by the HR/VP in the draft Council decision is designed to equip the EU with a mechanism to fund a range of activities under the Common Foreign and Security Policy (CFSP) outside the EU with military and defence implications. Specifically, the EPF would support four types of actions:

- contributing to the funding for military operations under the EU CSDP, replacing and enhancing the current Athena mechanism;
- 2. providing military and defence-related capacity-building to third countries, regional and international organisations to address conflicts and resolve international security threats (e.g. equipment support through CSDP operations, complementing their training mandates);
- **3.** providing support to military peace support operations conducted by international, regional or country partners, as currently partially covered by the African Peace Facility (e.g. AMISOM);
- 4. supporting a broader set of operational actions with a military or defence nature under the CFSP.²⁰

While the EPF would partly be a repackaging of existing mechanisms with the purpose of simplifying funding streams, it would also significantly expand and diversify the EU's ability to engage in military support and capacity-building through new types of assistance currently unavailable to the EU, backed up with significantly boosted financial resources. On the one hand, it would enhance current practices by providing for more flexibility and a widened scope of activities. On the other hand, it would lead EU external action into new directions previously uncharted.

Four major changes can be identified: First, in contrast to the Athena mechanism, the EPF would provide a permanent fund to not only make funding for military CSDP operations more predictable and flexible, but also enhance the scope of common costs to include e.g. transport costs to and from operational theatres, force protection for non-executive missions and deployment of the EU Battlegroups. As such, the proposal aims to have 35-45% of total operational costs covered through the EPF, in contrast to the current 5-15% under the Athena mechanism, thus increasing the percentage of funding to be shared among all EU member states.²¹

Second, the EPF aims to **fill in a gap in current EU military support.** The EU is currently able to provide training to third countries' armed forces through its military training missions, but cannot provide them with basic material such as uniforms, communication equipment or sanitation facilities.²² By adding a component of military capacity-building, the EPF should enable the EU to provide various types of military support, including training, equipment, infrastructure and advice, also as part of a single **'integrated support package'** to complement and support the mandate of a CSDP operation.²³ Unlike existing instruments such as the APF or the IcSP, it would be possible to provide lethal support, e.g. in the form of arms, ammunition or combat training. Enabling the EU to provide military equipment is arguably a logical consequence of earlier strategic decisions of the EU to build capacities of armed forces through its military training missions and aims to improve their effectiveness.

²⁰ EEAS (2018).

²¹ Ibia

²² EC and HR/VP (2015).

²³ EEAS (2018).

Third, the EPF would have a dedicated component to **fund military PSOs**, replacing the current APF and expanding its scope. Contrary to the APF, the EPF would not be geographically limited to the African continent. Moreover, support would no longer be restricted to operations led by the AU or regional organisations, but also enable direct contributions to peace operations led by third states or to international organisations on a global basis,²⁴ including potentially the UN.²⁵ Stated differently, PSO support would no longer be restricted to the formally recognised organisations that make up the APSA. Widening the scope of PSO support would address some shortcomings of the APF, e.g. by enabling direct EU support to Somali armed forces after a potential withdrawal of AMISOM, or by allowing training support to troopcontributing countries in the context of multinational military operations. In addition, the reasoning is that allowing direct funding to individual countries would allow for more flexibility.

Fourth, the EPF would provide support for **broader actions of a military or defence-related nature** in support of the objectives of the CFSP. While the broad formulation proposed by the HR/VP aims to maximise flexibility of the EPF for new needs yet unforeseen, the vagueness has also met with criticism from some member states, which have asked for further clarifications.²⁶

It is also useful to identify what would not be included under the EPF. First, while the APF mainly channels funds in support of PSOs, it also contains a dedicated component for institutional development to the APSA institutions, e.g. for the payments of staff salaries within the AU Commission or the procurement of communication and information equipment. It is foreseen that such support would after 2020 mostly not be funded through the EPF, but through the proposed 'Neighbourhood, Development and International Cooperation Instrument' (NDICI) of the regular EU budget. This follows the argument that such capacitybuilding programmes do not have direct military dimensions and can easily be justified as development spending under the regular budget.²⁷ A few forms of capacity-building, e.g. support to military training or to Command and Control systems, as previously funded under the APF, would nevertheless likely be within the scope of the future EPF. Also quick responses to crises to prepare for a PSO, as currently funded under the APF's Early Response Mechanism, would continue to be funded under the EPF, in contrast to mediation and preventive diplomacy activities, which would be within the scope of the NDICI.²⁸ In addition, support under the APF has in some cases also contained funding for the civilian components of PSOs, supporting e.g. policing capacities or human rights observers. It needs to be clarified whether the military focus of the EPF would also allow for civilian support to a PSO, or whether such support would need to be covered by other EU budgetary resources.

Second, the current CBSD initiative introduced under the IcSP would not be integrated in the EPF, but remain under the EU budget as part of the NDICI. Although CBSD support does involve military actors, the development rationale of the initiative motivates its inclusion in the budget - and hence its exclusion from the EPF, which comprises actions beyond the restrictions of the EU's development policy rationale.²⁹ Keeping the CBSD under the NDICI is a specific wish from member states, who would like to keep as much as possible under the budget.

²⁴ EEAS (2018).

²⁵ EEAS (2019).

²⁶ Tweede Kamer der Staten-Generaal (2018).

²⁷ Interview with key stakeholder, 8 February 2019.

²⁸ Interview with key stakeholder, 22 February 2019.

²⁹ EEAS (2018).

2.2. Is a more minimalist scope for the EPF possible?

The viability of the EPF crucially depends on the willingness of member states to support the concept politically and make substantial financial contributions to the Facility, in addition to what they already provide under the EU budget. Generally speaking, member states seem to be overall supportive of the EPF's underlying ambitions, as it would give the EU a tool to respond to security challenges in a bolder way than is currently possible.³⁰

The HR/VP has proposed a financial scope for the EPF of **EUR 10.5 billion** for the period 2021-2027. As the current APF has disbursed some EUR 2.7 billion in the whole 2004-2018 period, and the Athena mechanism has in the past years disbursed between EUR 60 and 70 million annually, it is clear that the proposed allocation for the EPF would present a significant increase in current practice. While this can be partly explained by the broadened thematic and geographic scope of the Facility, as well as heightened ambitions in terms of political projection, various member states have expressed concerns that the financial proposal put forward are insufficiently motivated, making it impossible for them to determine what the implications would be on their national budgets.³¹ Furthermore, the formulation of some of the activities, especially the 'other actions with a military or defence nature under the CFSP', has received criticism for being too vague.³²

In this light, disagreements exist among member states on what should be the EPF's precise scope. For instance, the inclusion of equipment support in the form of arms and ammunition remains a controversial issue: While some member states, especially those with a tradition of neutrality, are less keen to support the idea, other member states see the ability to fund lethal support as the essence of the proposal's objective to help enhance the fighting capacity of armed forces. Likewise, differences persist on what level of EU solidarity should be allowed for military CSDP operations. Some member states, especially those less active in military CSDP operations, are happy with the functioning of the current Athena mechanism and would prefer to keep the current system in place, outside the EPF.³³ These disagreements also drive the discussion to a wider debate on the core principles of EU external action, which has traditionally been rooted in a vision of the EU as a peace project, and how this identity can be reconciled with a growingly uncertain geopolitical environment, new conflicts surrounding Europe and the increasing concentration of poverty in fragile and conflict-affected states, as well as growing demands by some for a bolder and more autonomous EU at the global stage.³⁴

Where member states have found more agreement is the demand that any activities that can be funded under the EU's regular budget should not be covered by the EPF. This has revamped a discussion on the precise scope of Art 41(2) TEU, which prohibits the use of the EU budget for 'expenditure arising from operations having military or defence implications'. The prevailing legal interpretation and practice until now has been that this Treaty provision restricts using any EU budgetary resources for activities that serve military objectives, including the whole breadth of CFSP and development budgets. This interpretation has in particular been pushed by the European Commission as the institution responsible for the implementation of the EU budget. Yet some favour a more limited interpretation of the provision, arguing that the prohibition does not apply to the EU's development instruments, which have their legal basis outside Art. 41 TEU. Even more specifically, it is argued by some that the term 'operations' in the Treaty

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³⁰ Interview with key stakeholders, 13 February 2019, 27 February 2019; Personal communication with key stakeholders, 12 October 2018.

³¹ See e.g. Tweede Kamer der Staten-Generaal (2018).

Interview with key stakeholders, 13 February 2019, 27 February 2019; Personal communication with key stakeholders, 12 October 2018.

³³ Interview with key stakeholder, 13 February 2019; interview with key stakeholder, 22 February 2019.

³⁴ Sherriff et al. (2018).

should be interpreted more narrowly as 'military CSDP operations'.³⁵ The legal services of the European Commission, the EEAS and the Council are in disagreement as to whether a more narrow or a broader interpretation of the Treaties should be pursued.

If the more narrow interpretation is pursued (i.e. that Art. 41(2) only applies to military CSDP operations, but not to other CFSP activities), this would leave scope for keeping the assistance and capacity-building measures under the regular EU budget (the CFSP budget line more specifically), since they are not linked to military operations. The consequence would be that the EPF's **scope would be significantly reduced** to only the common costs of military CSDP operations, whereas the military assistance measures (including PSO support) would be subject to the rules and procedures currently applied to all CFSP measures.³⁶ As various member states are also doubtful over the need to change the current Athena mechanism, that raises questions over whether the concept of the EPF is the right to do at all.

Yet, an alternative scenario that keeps military support under the EU budget could prove particularly problematic for two reasons. First, any funding for activities with military and defence implications under the EU budget would likely reopen a legal debate on the interpretations of the EU Treaties every time when lethal support or other forms of politically contested assistance are on the table. Second, it would require a U-turn from the Commission, which has consistently applied the broader restriction on the use of the EU budget for military and defence-related activities since its introduction by the Amsterdam Treaty of 1999.

Consequently, while a more limited EPF may be theoretically possible, the likelihood of such a scenario is low, and member states may ultimately agree with a broader EPF if a few other concessions are made (e.g. on the budgetary ceilings). In any case, the precise scope of the EPF would need to be clarified at the political level in an overarching agreement before further details are to be agreed upon.

2.3. Would the EPF contribute to or hamper a more integrated approach?

The EPF's aim as proposed would be to contribute to the overall policy objective of preventing conflict, preserving peace and strengthening international security, as laid out in the EU Treaties.³⁷ At the same time, the EPF is explicitly put forward as a facility that would only cover military and defence-related expenditures in as far as they cannot be covered by the EU budget, building on the principles of subsidiarity and complementarity. This raises various questions as to how the EPF would effectively contribute to the wider peace and security commitments.

Enabling military actors in conflict situations comes with risks

The nature of the world's conflicts has undergone several changes in recent decades, as many conflicts are protracted and transnational or cross-border in nature, often characterised by non-conventional and asymmetric warfare with a growing involvement of non-state armed groups or governments with limited control or legitimacy. That **such conflicts require a broad set of responses beyond purely military action** has been recognised by the EU in various strategies and policy documents. In this context, the 2016 EU Global Strategy introduced the Union's ambitions to realise an integrated approach to conflicts and crises by using all available policies and instruments of the EU in a coordinated way throughout the various phases of conflicts and involving the local, national, regional and global levels.³⁸ More specific political directions were formulated in the January 2018 Council Conclusions on the integrated approach.

³⁵ Tardy (2015).

³⁶ Interview with key stakeholder, 13 February 2019.

³⁷ EEAS (2018).

³⁸ EEAS (2016).

These notably include the importance of facilitating civil-military coordination, as well as the need to promote conflict-sensitive responses with respect for human rights, international humanitarian law and protection of civilians.³⁹

It is important to see the EPF concept through the lens of these wider EU ambitions. In this context, military capacity-building in countries that face domestic conflict bring various dilemmas, especially because many of these countries have (semi-)authoritarian regimes and/or a poor track record on human rights and good governance. For instance, a recent report described how the conduct of Malian government troops, often marked by ethnic stigmatisation, retaliatory executions of civilians after the death of soldiers and other forms of abuse, was an important reason for young people in Mali to join non-state armed groups. The inability of the state to provide basic security and services in parts of the country caused a lack of trust from the population in security forces and proved a source of division and insecurity itself.⁴⁰ Similarly, other experts have pointed out how attempts to train and equip armed forces in Somalia have led to several defections and put arms in the wrong hands in the absence of proper civilian oversight structures and monitoring systems.⁴¹ There are also various other examples of military training and equipment provided that were used to suppress civilian protests or ended up on the black market.⁴² In such contexts, helping third countries build functional armed forces may be counterproductive for the EU's and local interests if it does not encourage broader reforms of the security sector and initiatives to build trust and resilience and provide mechanisms for peaceful conflict resolution through civilian means as well.

By the same logic, training and equipping national armies of countries contributing troops to a multinational peace operation (e.g. under UN or AU flag) may undermine the effectiveness and legitimacy of the operation when aspects of troop behaviour, human rights and civil-military relations are not duly addressed and troop-contributing countries have a poor track record in these domains.⁴³ There have also been instances where externally supported train-and-equip programmes in post-conflict countries shifted attention away from supporting security sector reform to getting the troops of that country ready for deployment in other conflicts abroad.⁴⁴ In addition, experts have also pointed out that military capacity-building for governments that are party to the conflict or whose legitimacy is contested may reduce room for engagement with non-state actors and reduce the willingness of the host government to seek political settlements or invest in basic services.⁴⁵

Yet this is not to say that the EU has in the past ignored questions of human rights. Quite the contrary, the EU already currently finds itself often supporting military actors on 'softer' topics such as human rights or protection of civilians (e.g. as part of the EU Training Missions), yet is often not able to provide them with military training or equipment preparing them for combat. Indeed, overcoming this shortcoming is precisely the purpose of the EPF.

The real question therefore is how the EU can reconcile its ambition to improve military performance of its partners while also ensuring that questions of accountability, human rights and civil-military relations are duly integrated in its support programmes. The EU already has various tools to do so, yet they need to be further developed in light of its broader ambitions, especially for cases that would involve lethal equipment support through the EPF.

³⁹ Council of the EU (2018).

⁴⁰ Raineri (2018).

⁴¹ Attree & Street (2018).

⁴² See e.g. HRW (2013), p. 17-18; DW (2016).

⁴³ Willén (2018).

⁴⁴ Ibid

⁴⁵ De Coning (2018).

The current proposal is to apply national arms trade rules to implementing partners under the EPF on the basis of mutual recognition (i.e. a company would need clearance for the delivery of equipment according to national procedures), although the EU may add additional checks or requirements in terms of auditing, monitoring and verification of compliance.⁴⁶ The **need for safeguards** such as risk assessments, monitoring systems, verifications on compliance with human rights obligations and mechanisms for withdrawing support in case of violations or abuses is briefly touched upon in the EPF proposal, but would need more concrete ideas on how it would be implemented going forward. Lessons could in this context not only be learned from the APF experience, but also from the train-and-equip programmes of EU member states and other countries, such as France, the US and Germany.

Linking EU instruments in a conflict-sensitive way

While the awareness of the need for more integrated responses is clearly reflected in various policy documents, the practice still lags behind. For instance, the recent evaluation of the APF pointed at the limited efforts from troop-contributing countries (TCCs) within the Multinational Joint Task Force (MNJTF) fighting Boko Haram in the Lake Chad region to operationalise the civilian component as foreseen in its concept of operations. While the operation is mandated to deal with issues of civil protection, human rights and disarmament, demobilisation and reintegration, limited concrete support from the operation's participating countries has hampered the operationalisation of such non-military tools.⁴⁷ A similar pattern emerges with the G5 Sahel Joint Force, which receives substantial support from the EU through the APF to address terrorism and insecurity in the border areas of the G5 Sahel countries.⁴⁸ The Force has seen some small steps in the creation of civilian and police components tasked with monitoring military units, providing trainings on human rights and the rule of law and investigating human rights violations. Yet a report from the UN Secretary-General nevertheless criticised the overall limited efforts from the G5 Sahel countries and international partners alike to take substantive steps beyond purely military solutions, including the provision of basic social services, recovery and development.⁴⁹

How to address such shortcomings may go beyond the scope of the EPF itself. Indeed, **the Facility would not operate in a vacuum**, as the EU has a diverse set of other instruments available, ranging from political dialogue and development assistance to restrictive measures and crisis management operations. The EU also has developed comprehensive strategies for various fragile or conflict-affected regions such as the Horn of Africa or the Sahel that look beyond the traditional instrument focus but rather aim to reconcile various aspects of EU external action, including security and development, under a single framework.

That is why the negotiation on the EPF could not be isolated from wider discussions on the future MFF 2021-2027. Current proposals for the new MFF foresee a significant increase in the CFSP budget from a bit more than EUR 2 billion (current prices) that was foreseen for the 2014-2020 period to EUR 3 billion. This would significant boost the capacities of the EU to conduct a range of non-military activities such as civilian crisis management, conflict resolution and stabilisation measures, or the deployment of EU Special Representatives. Moreover, MFF proposals foresee the creation of a Neighbourhood, Development and International cooperation Instrument (NDICI) with a proposed total value of EUR 89.2 billion. This NDICI would integrate various existing instruments in the domain of development and international cooperation. While the current IcSP (worth EUR 2.3 billion) would not be retained as a separate instrument under the new MFF, the NDICI would have a dedicated thematic programme on stability and peace (EUR 1 billion).

⁴⁶ Interview with key stakeholder, 8 February 2019.

⁴⁷ Mackie et al. (2017).

⁴⁸ EC (2019).

⁴⁹ UNSC (2018).

This would be alongside the geographic programmes (totalling EUR 68 billion) where security, stability and peace figure among the five areas of cooperation, although the programming phase will determine where and how much support will be given to this area. In addition, a rapid response pillar of a proposed EUR 4 billion would be foreseen to enable rapid mobilisation of (non-programmable) funds in the domains of stability, conflict prevention, resilience and broader EU foreign policy priorities. The total proposed resources for EU external action under the MFF would entail a 13% increase in real terms (not including the EPF itself) compared to current instruments.⁵⁰ Still, some have observed that the NDICI would provide less scope for longer-term conflict prevention and peacebuilding support programmes and place a greater emphasis on the EU's own security concerns, rather than contributing to global security.⁵¹

In any case, the key challenge would be to apply available resources for military capacity-building under the EPF and funds for civilian peace, security and development measures under the EU budget in a coordinated, consistent and complementary way. This requires proper strategies that make explicit how military capacity-building support would contribute to both short- and long-term security, peace and development efforts and in synergy with funding programmes in the domain of democratic governance, human rights, development and resilience-building. The EU strategies for the Sahel or the Horn of Africa are already providing good examples of such frameworks. What is key is that such a strategy at country or regional level should be rooted in a proper conflict analysis shared across various EU bodies involved. This should be accompanied by functioning coordination mechanisms across relevant EU services, involving both headquarters-level staff and field staff in EU Delegations. Diplomatic tools and political dialogue could also help inform decision-making on the provision of capacity-building by informing EU institutions on partner countries' track records and ambitions in the domains of defence sector transparency and civilian oversight, anti-corruption and sound public financial management, human rights and protection of civilians, and the provision of basic services. EPF programmes should also make use of the conflict sensitivity methodologies developed within the EEAS and DG DEVCO over the past years. Such steps would help the EU to make better informed decisions on risks and, to the extent possible, ensure that partners live up to certain standards, not only in military terms but also in wider questions of good governance and commitments to peace and security.

⁵⁰ Jones et al. (2018).

⁵¹ Ibid.

3. How would the EPF be governed?

3.1. Reconciling two governance logics

Important questions around the EPF discussion relate to the legal basis and future governance rules of this new of-budget Facility. The integration of the Athena mechanism and the APF into a single facility means creative solutions have to be found to reconcile two systems of governance. One is rooted into intergovernmental security cooperation and another contains elements of EU development policy governance. The challenge in reconciling both relates to the level of ownership EU member states would have over the EPF. More importantly, it should also be ensured that the EPF's governance is fit for purpose.

Decision-making procedures: who would be in charge of the EPF?

Whereas the current European Development Fund (and hence the APF funded under it) was created through an intergovernmental agreement among member states requiring ratification at the national level, the current EPF proposal has opted for a legal basis within the EU's CFSP.⁵² This has a few consequences. First, member states within the EU Council would have the decision-making power and full control over the activities funded under the EPF. Given the exclusively military focus of the EPF, every activity would require a unanimous decision. Second, proposals for actions can be submitted to the Council by member states, as well as by the HR/VP or by the High Representative with the support of the Commission. Proposals for assistance actions can take the form of multiannual action programmes or adhoc assistance measures (in addition to CSDP operations or other operational actions under the CFSP). In the case of a multiannual action programme, the Council would authorise the HR/VP to take decisions on specific assistance measures within a clearly defined scope, although prior approval by the Political and Security Committee (convening member states at ambassadorial level) acting by consensus would still be required. This keeps all measures firmly within the member states' control, as it it would suffice the opposition from a single member state to an action to prevent it from being implemented.

This decision-making structure retains elements from both the APF (especially the multiannual action programmes) and the Athena mechanism (the unanimity requirement within the Council). It deviates from the current APF, where the right of initiative lies solely with the Commission, and where action programmes require a qualified majority within the COREPER (Committee of Permanent Representatives of the member states). By giving member states both the right to submit proposals and a veto over their approval, individual countries would be more able to push their priorities on the agenda or use their vote within the Council as a bargaining chip. It also builds in an important check when sensitive cases of lethal assistance are on the table. Moreover, the option of adopting ad-hoc measures in addition to multiannual programmes also increases the scope of decision-makers to mobilise EPF resources to formulate responses to the urgent priorities of the day. While this enhances the flexibility of EU responses, it also may come with an increasing share of resources that will be crisis-led and steered by high-level political priorities without necessarily being rooted in a longer-term strategy. Retaining an option for multiannual action programmes is therefore an important tool to continue more sustainable, predictable and strategic forms of collaboration with long-time partners such as the AU.

⁵² Interview with key stakeholder, 8 February 2019.

How to ensure day-to-day management and accountability?

As the EPF would be established under the legal basis of the CFSP, implementation would be entrusted to the HR/VP. The EEAS would support this task and be responsible for the operational management of the Facility, including programming, identification and formulation of actions. The Director of the Service for Foreign Policy Instruments (FPI) of the European Commission would be responsible for the day-to-day financial management.⁵³ This is a deviation from the current practice, as APF expenditures are currently managed by DG DEVCO, whereas the Athena mechanism is administered by staff within the General Secretariat of the EU Council. This illustrates a **shift of responsibilities from the European Commission** (DG DEVCO in particular) to the EEAS, which is the result of the change on the legal base and hence the shift in the institutional lead (from the Commission to the Council and the HR/VP).

In addition, an EPF Committee would be established, composed of member state representatives and chaired by a representative of the HR/VP. This committee would be responsible for all management-related decision-making on the EPF, in particular approval of budgets and accounts, as well as drawing up financial rules for the implementation of expenditure.⁵⁴ Who would chair the Committee has at this stage not been clarified, although it would likely be either a representative of the HR/VP or a representative from the member state holding the rotating presidency of the EU Council. In any case, the EPF Committee would be an important body to ensure accountability in the EPF governance structures. As the EPF would be established as an intergovernmental CFSP instrument, the European Parliament would have no formal oversight role. That said, the European Parliament has signalled its wish to be involved, including through regular briefings by the HR/VP, the EPF administrator and the CSDP operation commanders and even to have budgetary discharge powers over the EPF.⁵⁵ This is currently established practice for other intergovernmental or off-budget instruments (e.g. the European Development Fund) and would enhance transparency and accountability of the EPF. Yet, as the EPF would be a CFSP instrument, any involvement of the European Parliament beyond information would lack legal base in the Treaty.

The proposed governance structure is aims to significantly enhance consistency and efficiency. In the current situation, the existing instruments (Athena mechanism, APF, IcSP) are managed by different services, report to different institutions, function according to different procedures and act under different committees. The EPF would simplify this, as a single institution would be responsible for decision-making (the Council), and only two services would be involved in the management of the EPF (EEAS and FPI) under the single political leadership of the HR/VP. With the EPF committee, the Facility would act under only one committee using a single set of procedures. As such, the proposed governance structures would reduce costs and facilitate consistency. At the same time, integrating a wider set of responsibilities and activities in (mostly) existing structures must also ensure that experiences and lessons learned from the past are properly captured.

Financing the EPF: How to share the burden?

Similar to the Athena mechanism, the APF would be financed by contributions of EU member states, following a GNI-based distribution key. While the EPF would be outside the EU budget, it would nevertheless function in parallel to the EU's MFF according to the same time perspective (i.e. from 2021 to 2027). This would allow member states to determine an overall amount the EPF would be able to spend for a seven-year period, while also agreeing on annual ceilings.⁵⁶ By linking the EPF to the MFF negotiations, member states can decide on EPF financial allocations as part of a broader debate on how much they wish

⁵³ EEAS (2018).

⁵⁴ *Ibid* p. 4.

⁵⁵ EP (2018).

⁵⁶ EEAS (2018).

to spend on EU external action more broadly, and what share activities in the military or defence sphere should occupy within this framework. Yet, as the EPF would operate according to a largely intergovernmental logic, individual member states may decide to not participate in the Fund or in specific actions funded under it. By the same logic, non-EU countries could also voluntarily contribute to the Facility, albeit subject to prior approval from the Council. Such contributions can be earmarked for specific actions or operations.⁵⁷ This creates opportunities, for instance, for the UK to continue participating in EU military activities also post-Brexit. In an explanatory memorandum, the UK already stated that it is considering contributing to the EPF as a non-member state, either to the Facility as a whole or to specific components of it, as part of a special security partnership with the EU.⁵⁸ At the same time, the proposal would still exclude the UK from voting within the Council as well as within the EPF Committee, even when it concerns operations to which it contributes financially or in kind.

3.2. EU institutional capacities: bridging siloes and mindsets

The evolution of EU instruments for peace and security has over time led to a fragmented EU financing architecture for peace and security that spreads policy responsibility among several bodies such as DG DEVCO, FPI, the EEAS, and the Council.⁵⁹ The EPF partly aims to address this problem by **harmonising** existing instruments with military dimensions and therefore giving opportunities for more coherence and flexibility under the single authority of the HR/VP.60 At the same time, it would arguably contribute to a further institutional entrenchment of military activities on the one hand, and civilian means of security, crisis management, conflict prevention and development, which would be subject to different decision-making and institutional management systems. One point of view is that keeping separate financial instruments for military action and civilian types of EU engagement would help balance the EU's approach to the securitydevelopment nexus, as it would set stricter limitations concerning the use of development funds for (military) security purposes and maintain more budgetary space for civilian measures. 61 At the same time, keeping military and civilian instruments institutionally separate risks maintaining siloes and path dependencies. In light of the EU's ambitions to strengthen civil-military cooperation as part of its integrated approach to external conflict, much of the success of the EPF in contributing to sustainable peace and conflict prevention will depend on the extent to which it will be integrated in a broader peace and security vision within the EU institutions. That will require not only functioning mechanisms to share information, thematic expertise, context analysis and situational awareness across responsible EU services, but also joint strategies and action plans, under a unified political leadership.

The current proposal foresees a role for FPI in the financial management of the Facility, whereas the EEAS would be responsible for drafting proposals for action. As regards the management of assistance measures, this would represent a shift in responsibility from DG DEVCO - currently managing the APF - to the EEAS and FPI. This would make sense, as the FPI has experience with financially administering the CFSP budget line, including civilian CSDP missions, whereas the EEAS has in-house expertise on military affairs. Still, considering the higher ambitions of the EPF compared to current instruments (also in financial terms), this would require substantially strengthened capacities for both the EEAS and FPI.

⁵⁷ *Ibid*.

⁵⁸ Lord Bates (2018).

⁵⁹ Furness & Bergmann (2018).

⁶⁰ Interview with key stakeholder, 8 February 2019.

⁶¹ Furness & Bergmann (2018).

This should go beyond just increasing human resources numbers. Shifting responsibilities to new bodies is also a matter of bridging institutional mindsets. DEVCO staff tends to be socialised in developmental approaches, characterised by long-term programming, decentralised management by partner authorities, a fair degree of autonomous decision-making for the European Commission and a strong tradition of regular monitoring and evaluation of support programmes. In contrast, the EEAS and FPI have a different working culture, marked by more centralised, intergovernmental, and politically steered decision-making.62 Designing an EPF that aspires to be both an instrument for flexible security responses and longer-term capacity-building programmes therefore also requires reconciling different organisational cultures in a way that maximally builds on the experience and expertise built up over the years with the management of the APF. It should also ensure proper linkages to expertise on conflict analysis, conflict sensitivity, security sector governance and reform, gender and human rights, both within the structures of the EEAS and at the level of EU Delegations, who can play an essential role in monitoring and feeding local knowledge, provided the right capacities and expertise are put in place. In addition, foreseeing an obligation for regular evaluation of the EPF (individual measures as well as the Facility as a whole) would help building a more results-oriented orientation into the facility's design. The current proposal offers little insight on how such considerations would inform decision-making and strategic orientations of the EPF.

⁶² Interview with key stakeholder, 22 February 2019.

Concluding remarks

The EPF as proposed by the High Representative would be more than just a repackaging of existing instruments, but would lead EU peace and security policy in uncharted territory. By endowing the EU with a new tool to more flexibly deploy military operations and significantly step up options for military capacity-building assistance to partners, it may further shift away from the EU's traditional focus on non-military soft power tools. Given the shortcomings of current EU military training activities, and given the increasingly uncertain and volatile geopolitical environment in which the EU finds itself, the choice to create an EPF would make political, strategic and operational sense.

At the same time, it raises a number of important challenges and dilemmas that should be carefully considered when designing and operationalising the EPF if the Facility is to contribute to its stated objectives of peacebuilding and conflict prevention. This includes careful consideration on the potential risks of military capacity-building in terms of potential misuse. Negotiations on the EPF should therefore ensure the necessary safeguards and monitoring systems to avoid that military assistance would strengthen, rather than alleviate conflict dynamics. Likewise, the ultimate impact of the EPF as an EU instrument to sustainably address violent conflict and insecurity will depend on the extent to which it will be used in a coherent way with other EU activities in the domain of civilian crisis management, peacebuilding, development and resilience-building. Such questions are closely related to the governance design of the EPF, including decision-making procedures, institutional embedding, interaction with other instruments and EU services and how the balance will be drawn between responding to EU high-level political priorities and addressing local realities and conflict dynamics.

Little discussion has taken place on these issues so far. The negotiation process among member states is still in its very early stages and many member states do not have an official position on the proposal yet, as they need to coordinate between many different ministries within their capitals. The aim is to have a legal act adopted under the Finnish presidency of the Council of the EU (which takes over on 1 July 2019 for a period of six months), although this will likely require an intensification of the current process.⁶³

Debates are currently taking place with the Working Party of Foreign Relations Counsellors (RELEX Working Party) of the Council of the EU. While RELEX is responsible for all legal, financial and institutional of the CFSP, including e.g. EU Special representatives, sanctions or EU crisis management operations, the group's members are usually less familiar with the working methods of the APF. The eventual success of the EPF in addressing some of the burning dilemmas and issues discussed in this paper will therefore depend on the extent to which the debate draws on experiences, expertise, best practices and lessons learned from decision-makers and officials responsible for the APF and dialogue with experts in- and outside the EU institutions with knowledge on wider questions on conflict prevention, good governance, human rights and development.

⁶³ Interview with key stakeholders, 4 February 2019, 22 February 2019, 26 February 2019.

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