European Union Security Governance: the External Dimension of Justice and Home Affairs in the context of Civilian Crisis Management missions, Proxima (Macedonia), EUBAM (Moldova) and EULEX (Kosovo)

A Thesis submitted to the University of Manchester for the degree of Doctor of Philosophy (PhD) in the Faculty of Humanities

2012

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<th>Description</th>
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<tbody>
<tr>
<td>AFSJ</td>
<td>Area of Freedom, Security and Justice</td>
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<tr>
<td>AWF</td>
<td>Analysis Work Files</td>
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<tr>
<td>BOMMOLUK</td>
<td>Border Controls at the Moldova-Ukraine Border</td>
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<tr>
<td>CARDS</td>
<td>Community Action for Reconstruction and Development</td>
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<tr>
<td>CBSAR</td>
<td>Cross Border Security Assessment Reports</td>
</tr>
<tr>
<td>CFSP</td>
<td>Common Foreign and Security Policy</td>
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<tr>
<td>CIVCOM</td>
<td>Committee for Civilian Aspects of Crisis Management</td>
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<tr>
<td>CivOpCdr</td>
<td>Civilian Operations Commander</td>
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<tr>
<td>CMC</td>
<td>Crisis Management Concept</td>
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<td>CMPD</td>
<td>Crisis Management and Planning Directorate</td>
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<tr>
<td>COEST</td>
<td>Working Party on Eastern Europe and Central Asia</td>
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<tr>
<td>CONOPS</td>
<td>Concept of Operations</td>
</tr>
<tr>
<td>COREPER</td>
<td>Committee of Permanent Representatives</td>
</tr>
<tr>
<td>COSI</td>
<td>Standing Committee on Operational Cooperation on Internal Security</td>
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<tr>
<td>COWEB</td>
<td>Working Party on the Western Balkan Region</td>
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<td>CPCC</td>
<td>Civilian Planning and Conduct Capability</td>
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<td>CSDP</td>
<td>Common Security and Defence Policy</td>
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<tr>
<td>DG</td>
<td>Directorate General</td>
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<tr>
<td>DG-E</td>
<td>Directorate General-E</td>
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<tr>
<td>DG RELEX</td>
<td>Directorate General for External Relations</td>
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<tr>
<td>DG VI</td>
<td>Directorate General-E Western Balkans and Eastern Europe Unit</td>
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<td>DG IX</td>
<td>Directorate General –E Civilian Crisis Management Unit</td>
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EEAS      European External Action Service
EAR       The European Agency for Reconstruction
EC        European Community
ECHO      EU Humanitarian
ECPRP     European Commission Police Reform Project
ECJHAT    European Commission Justice and Home Affairs Team
ECSC      European Coal and Steel Community
EDC       European Defence Community
EIS       European Information System
ENP       European Neighbourhood Policy
ENPI      European Neighbourhood Policy Instrument
EP        European Parliament
EPC       European Political Cooperation
ESDP      European Security and Defence Policy
EU        European Union
EUMC      EU Military Committee
EUMS      EU Military Staff
EUMM      European Union Monitoring Mission
EUPAT     European Union Police Advisory Team
EUPT      European Union Planning Team
EUROPOL   European Police Office
EUROJUST  European network of judicial authorities
EUSR      European Union Special Representatives
FAC       Foreign Affairs Council
FFM       Fact Find Mission
FRONTEX   European Agency for the Management of Operational Co-Operation at the External Borders
<table>
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<th>Acronym</th>
<th>Full Form</th>
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<tr>
<td>FYROM</td>
<td>Former Yugoslav Republic of Macedonia</td>
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<td>GAERC</td>
<td>General Affairs Council</td>
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<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
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<tr>
<td>HR-CFSP</td>
<td>High Representative for the CFSP</td>
</tr>
<tr>
<td>IBM</td>
<td>Integrated Border Management</td>
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<tr>
<td>ICR</td>
<td>International Civilian Representative</td>
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<tr>
<td>IfS</td>
<td>Instrument for Stability</td>
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<tr>
<td>IMF</td>
<td>International Monetary Fund</td>
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<td>IOM</td>
<td>International Organisation for Migration</td>
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<tr>
<td>IPA</td>
<td>Instrument for Pre Accession Assistance</td>
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<td>JAI</td>
<td>Working Party on Justice and Home Affairs</td>
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<td>JAIEX</td>
<td>Support Group on external JHA issues</td>
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<td>JHA</td>
<td>Justice and Home Affairs</td>
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<td>KLA</td>
<td>Kosovo Liberation Army</td>
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<tr>
<td>MASSR</td>
<td>Autonomous Soviet Socialist Republic</td>
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<tr>
<td>MMA</td>
<td>Mentoring, Monitoring and Advising</td>
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<tr>
<td>NATO</td>
<td>North Atlantic Treaty Organisation</td>
</tr>
<tr>
<td>NLA</td>
<td>National Liberation Army</td>
</tr>
<tr>
<td>OCTA</td>
<td>Organised Crime Threat Assessment</td>
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<tr>
<td>OPLAN</td>
<td>Operational Plan</td>
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<tr>
<td>OSCE</td>
<td>Organisation for Security Cooperation in Europe</td>
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<tr>
<td>PCA</td>
<td>Political Cooperation Agreement</td>
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<tr>
<td>PHARE</td>
<td>Poland and Hungary: Aid for Restructuring of the Economies</td>
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<tr>
<td>PMBLA</td>
<td>Presevo-Medvedja-Bujanovac Liberation Army</td>
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<tr>
<td>PoCo</td>
<td>Committee of Political Directors</td>
</tr>
<tr>
<td>PSC</td>
<td>Political and Security Committee</td>
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<tr>
<td>Acronym</td>
<td>Description</td>
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<tr>
<td>QMV</td>
<td>Qualified Majority Voting</td>
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<tr>
<td>RRM</td>
<td>Rapid Reaction Mechanism</td>
</tr>
<tr>
<td>SAA</td>
<td>Stabilisation and Association Agreements</td>
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<tr>
<td>SAP</td>
<td>Stabilisation and Association Agreements</td>
</tr>
<tr>
<td>SCIFA</td>
<td>Strategic Committee on Immigration, Frontiers and Asylum</td>
</tr>
<tr>
<td>SEA</td>
<td>Single European Act</td>
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<tr>
<td>SSR</td>
<td>Security Sector Reform</td>
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<tr>
<td>TACIS</td>
<td>Technical Assistance to the Commonwealth of Independent States</td>
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<tr>
<td>TAIEX</td>
<td>Technical Assistance Information Exchange Office</td>
</tr>
<tr>
<td>TAXUD</td>
<td>Tax and Customs Unit</td>
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<tr>
<td>TREVI</td>
<td>Terrorisme, Radicalisme, Extremisme et Violence Internationale</td>
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<tr>
<td>TEU</td>
<td>Treaty on European Union</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<tr>
<td>UNMIK</td>
<td>United Nations Interim Administration Mission in Kosovo</td>
</tr>
<tr>
<td>UNSCR</td>
<td>United Nations Security Council Resolution</td>
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Abstract

The University of Manchester

Simon John Orth

Doctor of Social Sciences (DSocSc)

European Union Security Governance: the External Dimension of Justice and Home Affairs in the context of Civilian Crisis Management missions, Proxima (Macedonia), EUBAM (Moldova) and EULEX (Kosovo)

29 May 2012

This thesis explores the Security Governance of the European Union (EU) by examining the relationship between the external dimension of Justice and Home Affairs (JHA) and civilian crisis management missions. More specifically it tests the capacity of EU level actors to project the external dimension of JHA’s goals, in a coordinated and coherent fashion, into the Union’s near abroad. The research ‘puzzle’ lies in the multi-dimensional character of the external dimension of JHA. The fact that the domains tools and competencies are spread within and across all three pillars of the EU make its coordination with civilian crisis management missions far from straightforward. The ambition to link the two policy domains has been expressed repeatedly by the EU in high profile strategic documents, such as the European Security Strategy of 2003, and the 2005 ‘A Strategy for the External Dimension of JHA: Global Freedom, Security and Justice’. This thesis endeavours to tests the EU’s performance in governing the external dimension of JHA and the need to links its goals with those of civilian crisis management missions. It does this by taking three civilian crisis management missions recently projected into the EU’s milieu, with mandates related to security sector reform and JHA. The missions selected for comparison are: Proxima launched in 2003 in Macedonia; EU Border Assistance Mission to Moldova and Ukraine launched in 2005; and finally, EULEX Kosovo launched in 2008. These missions are selected to serve as prime test cases for the interface between JHA and civilian crisis management missions, covering a time period that will allow for an examination of continuity and change in foreign and security policy at the EU level.
I declare that no portion of the work referred to in the thesis has been submitted in support of an application for another degree or qualification of this or any other university or other institute of learning.
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justice to the positive impact you have had on my life. More to the point, if I could muster
the right words I would be in trouble for embarrassing you. In this case I shall leave it to a
professional, John Donne:

\[
O \text{ my America! my new-found-land,}
\]
\[
My \text{ Kingdom, safeliest when with one man mann’d,}
\]
\[
My \text{ Mine of precious stones, My Empire,}
\]
\[
How blest am I in this discovering thee!
\]
\[
To enter these bonds, is to be free;
\]
\[
Then where by hand is set, my seal shall be
\]
INTRODUCTION

The security requirements of the EU are beyond the reach of any individual state, EU milieu security goals can only be attained by interventions outside Europe – establishing the conditions of an international civil society within Europe does not afford the luxury of splendid isolation but instead requires the externalisation of EU norms and rules (Kirchner & Sperling, 2007: 13).

This PhD thesis is concerned with the gap between the rhetoric of the European Union (EU) as an international actor and the reality of its performance. It questions the capacity of the EU to translate strategic objectives into operational goals, i.e. the capacity to act. In this sense the thesis assumes that the ‘capacity to act’ stems from the ability to formulate and implement decisions. The thesis covers the coterminous development of civilian crisis management (missions) and the external dimension of Justice and Home Affairs (JHA) policies at the EU level over the last decade. It focuses exclusively at the EU-level. Conceptual and methodological choices must be made, although these decisions are especially troublesome when studying the EU; an object of study notorious for having an encompassing framework of devilish complexity. The novelty of the EU structure, i.e. not a state and not an international organisation, fosters an inherent tension between the two sides, or faces, of the EU: the national and the EU level. This creates what Perry Anderson has described as a “peculiar analytical dilemma” that makes it difficult to hold both ‘sides’, ‘faces’ or ‘levels’ (national and EU) “steady within a single focus” (2009: foreword). This thesis does not challenge or transcend Anderson’s observation; rather, it confirms it by holding the EU level, and more specifically the performance of the EU institutions ‘steady within a single focus’. By largely eschewing the national level and other international
variables, I am not arguing that the institutional context is the only variable explaining the outcomes of policies, in and between, civilian crisis management and the external dimension of JHA. Moreover, this thesis does not deal with the domestic environment into which policies are projected. This is not an impact assessment of the interface between civilian crisis management and the external dimension of JHA in a third country. This would require an in-depth understanding of the legislative environment and the organisation of the law enforcement sector (Wolff et al, 2009: 19). Rather, the thesis analyses the governance of the external dimension of JHA from the EU’s point of view, working backwards from ‘impact’. In short, the thesis opens up the ‘black box’ of EU policymaking in the foreign and security realm in order to test the performance of governance in translating strategic objectives into operational goals.

The research puzzle lies in the plethora of official EU policy documentation from the year 2000 onwards. The policy rhetoric emanating from this strategic documentation is that the EU should be a more ambitious and integrated actor in the realm of foreign and security policy. The 2003 European Security Strategy encapsulates this and also shines a light on the two most dynamic policy areas in the EU’s external relations over the last decade: ESDP (in both civilian and military guises) and the external dimension of JHA. The European Security Strategy depicts an overlap between internal and external security and spells out policy solutions. This process starts by having the EU represented as a victim of crime:

Europe is a prime target for organised crime. The internal threats to our security has an important external dimension: cross-border trafficking in drugs, women, illegal immigrants and weapons accounts for a large part of the activities of criminal gangs (European Security Strategy, 2003: 3)

The issue of proximity is still important:
Even in an era of globalisation, geography is still important. It is in the European interest that countries on our borders are well governed. Neighbours who are engaged in violent conflict, weak states where organised crime flourish, dysfunctional societies or exploding population growth on its borders all pose problems for Europe (European Security Strategy, 2003: 4)

The policy implications of this demand that the EU becomes:

more active in pursuing our strategic objectives. This applies to the full spectrum of instruments for crisis management and conflict prevention at our disposal, including, diplomatic, military and civilian, trade and development activities (European Security Strategy, 2003:5)

The European Security Strategy also requires that the EU becomes more coherent, including in the specific area of, “Better coordination between external action if Justice and Home Affairs policies is crucial to fight against both terrorism and organised crime” (European Security Strategy, 2003: 6). The interface between civilian crisis management and the external dimension of JHA is made explicit in the 2005 ‘A Strategy for the External Dimension of JHA: Global Freedom, Security and Justice’ (Council of the European Union, 2005a) states:

Addressing weak governance and state failure in third countries are key to breaking the vicious cycle of conflict, poverty and instability. There is such an important relationship between JHA and the CFSP, ESDP and Development policies of the EU. For example, EU policies and judicial expertise is essential to be rebuilding and transformation of weak law enforcement institutions and court systems. It is important that European Crisis Management Operations, and in particular Civilian Crisis Management Operations, tackle issues such as organised criminality and corruption (Council of the European Union, 2005a: 4)

The puzzle lies in the fact that it is unclear how the EU could effectively govern the interface between civilian crisis management and the external dimension of JHA. The source of this ambiguity lies in the EU’s scattered foreign and security ‘toolbox’ spanning, as it did until the 2009 Treaty of Lisbon, three pillars with different rules and competencies. The two domains (civilian crisis management and the external dimension of JHA) expose
the complex characteristics of the EU’s decision-making process which involves multiple actors, and puts extremely high demands on the coordination process. This all problematises the effective governance of the interface (between the domains) and makes the translation between strategic objectives and operational goals an especially difficult challenge.

The existing studies on civilian crisis management and the external dimension of JHA have not as yet examined the interface to any sustained degree. There has been an abundance of academic interest in the development of ESDP, both in terms of the military dimension (Shepherd, 2003, Shepherd & Salmon, 2003; Howorth, 2007; Duke 2001; Merand, 2008) and the civilian (Merlingen & Ostrauskaite, 2006, 2008; Blockmans, 2008; Gross & Juncos, 2010; Nowak et al, 2006) as well as an growing collection of work focusing upon the institutional and administrative governance of ESDP (Duke, 2005; Duke & Vahoonacker, 2006; Juncos & Reynolds, 2007; Dijkstra, 2008, 2009; Vanhoonacker et al, 2010).

Literature linking ESDP and crisis management with other security policies such as JHA, whereby the subject is conceived as ‘European Security Policies’, as opposed to ESDP or JHA, are limited so far (with plenty of work in progress). The only notable exception is a 2009 edited volume providing introductory essays on the topic by setting out a new and exciting research agenda (Kurowska & Pawlak, 2009).

The academic literature on the JHA is substantive, covering the legal and institutional (Monar, 2001, 2004 & 2006; Kaunert, 2005 & 2010), as well as the ethical (freedom versus security debate) and ‘securitization’ angles (Balzacq & Carrera, 2006; Bigo, et al, 2010). Bigo (2000 & 2006) in particular offers an innovative insight into the blurring of internal and external security through the creation of what he calls a ‘security continuum’

The existing literature which focuses more specifically on the external dimension of JHA is still relatively limited, but growing quickly. Florian Trauner (2005, 2009 & 2011) has analysed the ‘mainstreaming’ of the JHA into contractual agreements with third countries, particularly as part of the enlargement process, linking the export of JHA to notions of conditionality. There have also been two collected editions, covering the broad contours and genealogy of the domain in its global setting, although in the main these contributions are introductory in scope and content (Wolff, et al 2009 & Balzacq, 2009). However, given the explicit linkages in the EU’s own policy documentation and the rich academic literature on both civilian crisis management and JHA, it is surprising that the literature on the interface between civilian crisis management and JHA has not been explored more. As mentioned earlier, those studies that makes the connection (see below) do so as a passing aside, or in one-off articles; none make a sustained analysis, as this thesis will endeavour to do. The scholarly literature that can be singled out for connecting the two policies, are perhaps united only in one general observation. This is, whether by strategic design or not, civilian crisis management missions pursue or contribute to achieving the EU’s internal security goals (Hansen, 2004; Lutterbeck, 2005; Rees, 2005; Berenskoetter, 2006; Mounier, 2007, 2009; Smith, 2008). This de facto fusion between internal and external security, was first highlighted by Hansen (2004), who pointed out the potential for crisis management missions, involving police resources, to act as a means for, “protecting Europe” (2004: 173) by increasing third countries capacities’ to counter internal instability. Rees (2005) reinforced this, seeing the “role of policing in post-conflict situations” (2005: 222) as connecting internal and external security. Lutterbeck (2005) referring to trends within
international peacekeeping and EU police missions, notes their growing proclivity to concern themselves with threats emerging from countries in states of debility, which could have a direct impact on EU security:

As places such as Bosnia, Kosovo or Albania are nowadays viewed as major breeding grounds for various illicit cross-border activities directly affecting the internal security for the EU countries, such as human smuggling or drug trafficking, the deployment of police forces to these places is often seen as a means not only to combat crime and maintain order ‘on the spot’ but also to prevent these illegal cross-border activities before they reach EU territory (Lutterbeck, 2005: 238)

Berenskoetter’s (2006) contribution to the literature deals more specifically with the role conceptually, or in his words the “phenomenon” (2005: 17) of ESDP as an actor in the fight against organised crime. He finds that, “there is no doubt that through such missions the EU is trying to expand its idea of AFSJ [Area Freedom Security Justice] beyond the EU’s border” (2005: 17). While Karen. E. Smith (2008) states that ESDP civilian missions can be considered as, “the most recent addition to the EU’s ‘toolbox’ in the fight against international crime” (2008: 226).

All of these contributions dealing with the role of ESDP civilian missions in connection with the JHA external dimension, with the exception of Hansen (2004), have been limited to scattered remarks or succinct observations. In fact, to date, the only scholarly study solely concerned with the interconnection between civilian crisis management missions and the external dimension of JHA have been undertaken by Gregory Mounier (2007, 2009a), although this is still restricted to two journal articles rather than a larger scale study. Mounier’s contribution to the literature picks up on the above linkages, and argues that
ESDP missions act as ‘normative conveyors’ of EU standards of internal security. Civilian ESDP missions and the external dimension of JHA have thus coalesced around the concept of security sector reform. This makes such missions an instrument by which the external objective of JHA can be achieved (Mounier, 2007, 2009a). Using Stetter’s (2007) conceptual framework, drawing from sociological institutionalism, which shows how ‘functional frames’ create ‘institutional overlaps’, Mounier argues that a three step process has occurred between the two policies that help explain their compatibility. Firstly, both policies respective ‘inceptions’ were created as a reaction to external threats; secondly, these external threats created an identical ‘functional frame’ which both policies share, which provided them with the same rationale, that in order, “to protect the EU’s internal security regime from external threats, the EU must project its norms and standards of security” (Mounier, 2009a: 52); thirdly, this all forges a ‘functional unity’ and overlapping competency at the supranational level which grows into increasing inter-pillar implementation between Council and the Commission, which is leading to a rapprochement between the two institutions (Mounier, 2009a: 54).

Bringing all this together:

The novelty resides in the emergence of the JHA external dimension as a tool of crisis management, which has increased the institutional overlaps and reinforced ‘functional dynamics’ between the two institutions. Efforts to coordinate actions across the three pillars have induced the development of some sort of ‘functional unity’ and a process of cross-pillarisation (Mounier, 2009a: 55).

This quote serves as the thesis’s point of departure; the thesis does not seek to repudiate this assertion, rather, it will test its veracity. The brevity of the extant literature on the
interface between civilian crisis management missions and the external dimension of JHA means that there is a large gap in the existing literature. This thesis starts the process of filling this gap by coming to terms with the interface by mounting a three case study comparative study (see below). The case studies selected will demonstrate that the external dimension of JHA’s is a protean policy domain, which has meant that it has been inserted into, or added onto, other external relations activities such as civilian crisis management missions and Association Agreements. In this sense, the puzzle of the external dimension of JHA is whether the broad and multidimensionality scope of it renders it incoherent, preventing strategic objectives translating into operational goals. Therefore, this thesis adopts a ‘helicopter perspective’ (or a ‘birds-eye-view’), rising above the cobweb of institutional decision-making to ascertain how coherently the EU governs the interface between the external dimension of JHA and civilian crisis management missions.

In order to facilitate this research, the thesis utilises the notions of security governance (Webber et al, 2004), and more specifically, the components of governance Steering, Management and Regulation, which will act as heuristic devices for opening up the ‘black box’ of EU policymaking at the interface between the external dimension of JHA and civilian crisis management. The three components will also be used to structure our case studies (Chapters Three, Four and Five). Having opened up the ‘black box’ of policymaking the thesis will make use of three categorisations of coherence, horizontal, internal and strategic, to measure the performance of the EU. This analytical frame is unpacked at length in Chapter One. Following this, Chapter Two provides a thorough account of the ‘policy development’ and ‘decision-making’ procedures in place for both the external dimension of JHA and civilian crisis management, before drawing attention to the potential ‘governance gap’ between the two policies.
The thesis’s analytical framework will be applied to each of the three case-studies. The case-studies selected are all instances whereby a civilian crisis management mission has a JHA related mandate and projected into the EU’s ‘near abroad’. These case studies are *Proxima* (Macedonia) launched in 2003 and the subject of Chapter Three, EU-Border Assistance Mission to Moldova-Ukraine (EUBAM) (Moldova) launched in 2005 is the subject of Chapter Four, and finally, EULEX (Kosovo) launched in 2008 which will be the subject of Chapter Five. A more in-depth rationale for the choice of case-studies is provided toward the end of Chapter One. The thesis ends with a substantial Conclusion which brings together the thesis findings and measures the governance of the interface between the external dimension of JHA and civilian crisis management missions.

The main research question that leads the thesis and starts to fill the gap in the literature is:

*To what extent has the multidimensionality of the external dimension of JHA affected the EU’s scope to act as an exporter of Europeanisation to its periphery?*

In order to answer this the thesis formulates three supporting questions with corresponding hypothesis (which will also be unpacked in detail at the end of Chapter One):

1. *What has been the impact of the external dimension of the JHA agenda on the design of civilian crisis management missions?*

2. *To what extent has the external dimension of JHA agenda affected the coordination and coherence of civilian crisis management missions?*

3. *To what extent has the governance of the three missions been improved by a learning process based on accumulated experience?*

The research method of the thesis rests on *comparative enquiry*. This means that the thesis addresses the research questions detailed above, by analysing the interface between the
external dimension of JHA and civilian crisis management across the three aforementioned case-studies, for similarities and differences (this comparative dimension will also be expanded on at the end of Chapter One with the case-study rationale).

In terms of data collection the study has utilised both primary and secondary sources, although the bulk of the research rests on primary sources produced by the EU institutions and other official bodies. Given that the thesis is interested in whether the EU itself could translate strategic objectives into operational goals the concentration on what the EU policy documentation reveals is of critical importance. The primary materials consisted of relevant documents such as Presidency Conclusions, Council Joint Actions, strategic policy papers (some for internal eyes only) and European Commission strategic documentation. The majority of this primary material was found through open sources through the relevant EU web-based register. The thesis also utilises internal documents (i.e. not for public eyes) which was sometimes shown in person during interviews but not handed over to the researcher; at other times it involved applying for documents to be de-classified, although often this de-classification was only partial, with elements still redacted. The secondary sources comprises of a comprehensive analysis of the existing scholarship as it pertained to the historical development and issues within each policy domain (Chapter Two) and where relevant within each case study chapter (Chapters Three, Four and Five).

The primary and secondary sources were cross-referenced and triangulated with 59 semi-structured elite interviews for consistency. The interviews took place predominately in Brussels in official buildings of the EU (be they European Commission staff or Council staff), Member States permanent representations as well as the European Parliament, while 7 (of the 59) interviews were conducted by telephone: 3 interviews were conducted as
follow-up interviews. A full list of interviews can be found in Appendix 1. All 59 interviews were based on the verbal agreement between the researcher and the interviewee that the information would only be used this research project and therefore could be used or quoted in the text of the thesis. In nearly all case the interviews added value to the policy documentation, shedding light on what was not included in the documents, as well as providing insight into the content of redacted material. All interviewees were asked the same questions, as far as possible (a different case-study precludes the same question by default). The use of semi-structured interviews meant that the interviewer was able to cover the same set of questions for each interview without precluding the possibility of asking follow-on questions or allowing the interviewee to expand or divulge as they saw fit.

With regard to the overall structure the study precedes with five core chapters, finishing with a substantive Conclusion. Chapter One sketches out the analytical framework of the thesis, making the case for a governance approach aided by the notions of horizontal, internal and strategic coherence. Chapter Two makes a detailed analysis of the ‘policy development’ and ‘decision-making’ in both domains: the external dimension of JHA and civilian crisis management before drawing attention to potential governance gap and spectre of incoherence. Chapter Three addresses the first case-study of the thesis which is Proxima (Macedonia) launched in 2003. Chapter Four addresses the second case-study which is EUBAM (which looks at Moldova) launched in 2005. Chapter Five addresses the third case-study EULEX (Kosovo) launched in 2008. The Conclusion to the thesis addresses the findings of the case-studies in the context of the research questions and hypotheses in a comparative manner.
CHAPTER ONE

Governing EU Foreign Policy: Creating an Analytical Framework

1.1 Introduction

This chapter argues for a conception of EU foreign and security policy that goes beyond the narrow parameters of CFSP/ESDP to envelop the EU’s external projection, within and across, the pillars. In doing so, this chapter makes the case not for a general theory for EU foreign and security policy but, rather, a modulated and exacting analytical frame which will enable one to ‘zero-in’ on the mobilisation of goals in a specified domain. It does this by arguing that the notion ‘actor capability’ has been undervalued in the extant literature on EU ‘actorness’, and argues the case for the use of a ‘governance’ approach in order to capture the pathologies of actor capability. In turn this is linked to the projection of Europeanisation. Finally, the chapter advocates coherence as a metric through which the governance of the EU’s external projection can be measured and categorised.

The chapter will not be used to unveil or posit some grandiloquent theory of EU foreign and security policy or Europeanisation. What the chapter will do, however, is provide the thesis with the wherewithal to analyse and measure the governance of EU foreign and security policy in a conceptually pragmatic manner. This will then be used to capture the dynamics of the external dimension of JHA and its relationship with EU civilian crisis
management missions, which will explicated in Chapter Two. This will illuminate the key research questions which will be outlined at the end of this chapter along with a justification for my selection of case-studies.

1.2: European Foreign Policy: what is it and where can we find it?

We start, at the very start: what exactly is EU foreign policy? First of all, we need to acknowledge the breadth of the research area. EU foreign policy is a broad church which is comprised of a number of approaches. Following M.E. Smith’s lead we can break this down into three research fields. This thesis will be focusing on the last approach, outlined below.

Traditional Foreign Policy Analysis or Comparative Foreign Policy: this concentrates on processes within and between nation states;

Standards Theories of International Relations: which deal with national preference formation and their strategic interaction;

European Integration Studies: here more distinctly ‘European’ factors – history, culture and institutions - come into play than would otherwise be the case in the other two approaches (M.E. Smith, 2008: 177)

In the interests of clarity and given the variegated approaches to the study of EU foreign policy this thesis intends to take an unequivocal position on terminology. Some contributions to the literature have not been as clear as they could have been when invoking terms like European foreign policy (see Carlsnaes & Smith, 1994; Zielonka, 1998,
Hill and Smith, 2005). Therefore, for the remainder of this thesis ‘Europe’ will not be used as a synonym for the EU, because they are not the same thing.

The next section will explore the institutional make-up of EU foreign and security policy and some of its attendant complications.

1.2.1 The European Union: A Single Institutional Framework for External Relations?

The EU’s foreign and security policy has evolved over the last fifty years, from the European Defence Community; to the Fouchet Plans; the creation of the European Political Cooperation (EPC); the Treaty of the European Union (TEU) at Maastricht (1993); the Treaty of Amsterdam (1997); the Treaty of Nice (2000); and finally the Treaty of Lisbon (2009). 1 It was through the EPC that the European Community first coordinated increased levels of foreign policy cooperation between Member States. The EPC was a limited forum where Member States acted assiduously to keep foreign policy cooperation distinct from EC matters (Duke, 1999: 7), leaving the two domains akin to “hermetically sealed compartments” (Nuttall, 2001:2). The distinction between the Community and the EPC was relaxed during the 1980’s and officially curtailed with the Single European Act (SEA) in 1987. The SEA recognised the need to ensure that the internal market was balanced by a foreign policy dimension:

The external policies of the EC and the policies agreed in EPC must be consistent. The Presidency and the Commission, each within its own sphere of competence, shall have special responsibility for ensuring that such consistency is sought and maintained (SEA, Title, Article 30)

This was an initial step in the recognition that the artificial distinction between foreign policy and EC external activities was hindering the external projection of the European

1 See 1.6.2 in this chapter for the reasons why the Treaty of Lisbon will not be discussed until the Conclusion of the thesis, due to the time span of the case studies, except where clarification is required.
Community, for things to improve the various moving parts needed to become more consistent and coherence (Allen, 1998: 49; Duke, 1999: 7; Duke, 2006: 5).

The TEU was a further attempt to restructure the EU’s institutional form into a more coherent process (M, E. Smith, 2004: 740). Article 3 of the TEU spells this out:

The Union shall be served by a single institutional framework which shall ensure the consistency and the continuity in the activities carried out in order to attain its objectives while respecting and building upon the *acquis communautaire*.

The Union shall in particular ensure the consistency of its external activities as a whole in the context of its external relations, security, economic and development policies. The Council and the Commission shall be responsible for ensuring such consistency an shall co-operate to this end. They shall ensure the implementation of these policies, each in accordance with its respective powers.

Unfortunately this did not prove to be a decisive break with the past, rather, the new TEU retained aspects of the EPC era, such as the intergovernmental CFSP (in pillar II). In this sense the new TEU was born with an “inherent tension” (Duke, 2006: 1) in the area of external relations, between the communitarised pillar I and the intergovernmental pillars II and III (see figure 1.1). As we can see the CFSP was institutionally divorced from the Community, each with their own decision-making procedures. However, CFSP was at least now formally institutionalised as a policy sector, later becoming a complex mix of intergovernmentalism and supranationalism (M.E. Smith, 2003:180-181).
This demonstrates that while the TEU opined over the notion ‘single institutional framework’, in reality right from its inception, focus would be upon the instruments and tools of coordination between the Council and the Commission (Allen, 1998: 57-58; Duke, 2006: 1). In sum the Council and the Commission are charged with ensuring that the ‘Union speaks with one voice’. However, given the different decision-making practices in each pillar, the spectre of incoherence remained a salient issue (Nuttall, 2001). By the early 1990’s ‘consistency’, as outlined in the TEU, and the capacity to ‘speak with one voice’ was mainly focused upon the external relations of the Community and its burgeoning external role (Duke, 1999: 8). Explanations for this usually focus upon the collapse of Communism in east and central Europe which enabled the Commission to
carve out a role for itself through the economic and development programmes to support newly independent states like the ‘Poland/Hungary: Assistance for Reconstructing Economies’ (PHARE) and the Technical Assistance for the Commonwealth of Independent States (TACIS). The Commission’s role and performance at this time confirmed it as a *de facto* foreign policy player, a role which was extended through the EU accession process and use of economic instruments and incentives (through pillar I) to secure the Europeanisation of candidate countries (K.E. Smith, 2008). A point the ex External Relations Commissioner Chris Patten made cogently in a speech back in June 2000:

> The important point is that – however awkward they may be – the new structures, procedures and instruments of CFSP the need to harness the strengths of the European Commission in the service of European Foreign Policy. That it is why the Treaty ‘fully associates’ the European Commission with CFSP. We participate fully in the decision-making process in the Council, with a shared right of initiative which we shall exercise. Our role cannot be reduced to one of ‘painting by numbers’ – simply filling in the blanks on a canvas drawn by others. Nor should it be. It would be absurd to divorce European Foreign Policy on the initiatives which we have been given responsibility for most of the instruments for its accomplishment: for external trade questions, including sanctions; for European external assistance; for many of the aspects of Justice and Home Affairs (Patten, 2000)

Coterminous to the accession process, European policymakers also focused in detail on the nature of so called ‘soft security’ threats, such as organised crime, drug trafficking, terrorism and illegal immigration, that came to characterise the post-cold war era in Europe.² This move also impacted on the EU’s three pillar system: required to step beyond institutional rigidities to deal with cross-cutting security challenges, it soon became apparent that neither resources nor competency was ever held in the purview of a single pillar (Duke, 1999: 2; Rees, 2005). In order to counter this, so called ‘mixed agreements’

² See Chapter Two, section 2.2.1
were developed to overcome the fact that the EU did not have legal personality. This meant intergovernmental pillars - CFSP (pillar I) and JHA (pillar III) - could not conclude international agreements alone. Rather, they required the EC’s provision in order to sign international agreements. In this context ‘mixed agreements’ were used to forge coherence both ‘vertically’ between Member States and the EU, and ‘horizontally’ between pillars, and across policy sectors at the EU level (Cremona, 2006: 1) (See below in figure 1.2). This process entailed the formal and informal coordination of different actors, operating with differing institutional logics across the institutional spectrum of the EU, all of which raises the salience of coordination and potential for incoherence.
Figure 1.2: The TEU’s Organisation of External Relations in Terms of Legal Competency

<table>
<thead>
<tr>
<th>Dominant Focus of Policy Domain</th>
<th>EC / Supranational Competencies (Pillar I)</th>
<th>Mixed Competencies (Pillar II)</th>
<th>Intergovernmental Competencies (Pillar II)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Examples</td>
<td>Economic Issues</td>
<td>Political Issues</td>
<td>Security and Defence Issues</td>
</tr>
<tr>
<td>Agenda Setting and Implementation</td>
<td>Commission</td>
<td>Member States/Commission</td>
<td>Member States</td>
</tr>
<tr>
<td></td>
<td>Trade, Aid and Development</td>
<td>Dialogues, CFSP, certain aspects of JHA</td>
<td>CFSP/ESDP</td>
</tr>
</tbody>
</table>

Source: based on M.E. Smith (2003: 213)

The observations laid out above go some way to demonstrating the limitations in atomising the study EU foreign and security policy by dividing up the pillars. As Michael. E. Smith has pointed out, the matter how one describes the role of CFSP/ESDP it is undoubtedly “embedded in the EU’s broader external and constantly evolving institutional architecture for external affairs” (2003: 210). The study of pillars in isolation (or dis-embedded from the institutional architecture) is further called into question in instances where multiple tools have been directed at a single policy problem (2003: 210). For example, policies may reside in a specific pillar but the tools required to address the problem reside in another, creating a potential problem *vis-à-vis* complementary action (Rees, 2005: 215, 2008: 101).
All of which raises the issues of ‘cross pillar’ (or inter pillar) dynamics. Cross-pillar measures are a direct result of both the failure of the EU to collapse the pillar structure, and the changing nature and composition of policies required at the EU level. ‘Cross pillar’ is considered here to be a term which denotes the ‘fuzziness’ of the Union’s institutional make-up, and more specifically to the politics and actors that transcend artificial institutional boundaries (Christiansen, 2001; Stetter, 2007; Pawlak, 2009). The important point to carry forward here is that ‘cross-pillar’ dynamics, with their attendant concerns for coordination and coherence, can often have a malign impact on the EU’s external projection (Nuttal, 2005: 96-97).

This section has gone through the EU’s institutional make-up in the foreign and security realm in a preliminary form, and has argued that distinctions on the basis solely of the pillars is a delimiting move, given that many externally projected policies are required to draw on other pillars resources and competencies. This next section turns to the analytical debates about how best to capture EU foreign and security policies and how this can be incorporated into a workable conception of EU foreign policy for this thesis.

1.2.2 EU Foreign Policy and the Nature of the Beast Debate

Research on any element of EU foreign and security policy or external relations of the EU have, over the years, devoted much space to debating what the most appropriate way to conceptualise it is. This ‘nature of the beast’ debate (Risse-Kappen, 1996) remains unresolved, occasionally leaving one with the feeling that we are working in a “conceptual no man’s land” (Allen, 1998: 43). Central to this debate persists the indefatigable corollary of the EU to a nation-state. The propensity to judge the EU as a state has fuelled the delimiting approach (of studying pillars in isolation) referred to in the previous section. For example, under this logic one could study the predominately intergovernmental
‘CFSP/ESDP’ policy area in pillar II, independently from either pillar I or pillar III. Such approaches reflect ‘conventional’ or ‘modernist’ ways of thinking about foreign policy, where foreign policy becomes a bastion of state sovereignty: and primarily about military security and arenas of conflict, which in turn is entangled with assumptions of territoriality, central government control and the deployment of ‘hard’ policy instruments (Smith, 2003: 571; Keukeleire & MacNaughtan, 2008: 26). The position taken here that the need to be ready to question these conventional assumptions in a way that takes into account the changing nature of foreign policy in a globalised world (Webber & Smith, 2002).

In updating conceptions of foreign policy we need to take account of ‘post-modern’, as opposed to ‘modernist’ (in the preceding paragraph), or ‘structural’ notions of foreign policy. A structural approach would look at how foreign policy is conducted over the longer term, how it seeks to influence or shape political, legal, socio-economic and mental structures (Keukeleire & MacNaughtan, 2008: 26). A more suitable definition for this analytical framework is supplied by Keukeleire and MacNaughtan (2008: 19). This definition allows one to circumvent the state where appropriate. This sees foreign policy as:

area of politics which is directed at the external environment with the objective of influencing that environment and the behaviour of other actors within it, in order to pursue interests, values and goals. Foreign policy thus differs from external relations since the former is about influencing the environment and external actors while the latter is about maintaining relations with external actors (Keukeleire & MacNaughtan, 2008: 19)

The broadening out of what is allowed and who is allowed to dispose EU foreign policy represents an important development, as it allows one to take into account the full ambit of
EU external relations. This move enables us to see EU foreign policy in a more “holistic fashion” (Tonra, 2000:164); however, it still retains the notion of self-interest. Useful here is Karen. E. Smith’s use of Arnold Wolfers (1962) classic distinction between ‘milieu’ and ‘possession’ goals. ‘Possession goals’ further national interests, whilst ‘milieu goals’ shaped the environment in which the state (the EU for our purposes) operates. However, ‘milieu goals’ may only be a means of achieving ‘possession goals’ (Wolfers, 1962:7; see Smith, K.E, 2008).

The next section will examine the differing approaches scholars have adopted in trying to capture and operationalise broader definitions of EU foreign policy, it will discuss the limitations and which aspects shall be carried forward into this thesis analytical framework.

1.2.3 Sui Generis Conceptions of EU Foreign Policy: too big to make sense?

The so-called sui generis strand of the EU foreign and security literature holds that it belies any analogy bestowed upon it. As a result the EU system is depicted as being unique in the international system (Bretherton & Volger, 1999, 2006; Ginsberg, 1999, 2001; Elgstrom & Smith, 2007). Assumptions of uniqueness are derived from the EU’s variable position as a multi-level actor in the international system as an actor who vacillates between sub-national, national, transnational and international levels of action (Rosamond, 2000: 175-176; Ginsberg, 2001: 23; Hill & Smith, 2005: 8-9; Bretherton & Volger, 2006: 13).

Ginsberg has mounted an ambitious attempt to conceptualise, what he called European foreign policy. He attempts to take account of “the interplay between national and European politics and between European politics and the international system” (2001: 13). To facilitate this he constructs an elaborate ‘External Relations System’ in the form of an input-output model (see figure 1.3).
The position taken here is that the scope of this framework is unmanageable. While we do not go as far as Holland (1991: 5) who argues attempts to provide all encompassing theories for EU foreign policy as “inappropriate and foolhardy”, the thesis does welcome the failure to create a general theory. Therefore, the position taken here is that one needs to narrow down the study of EU foreign policy, and depending on an individual’s own particular research agenda, filter out those aspects of the multi-level, multi-locational and multi-pillar that are not central to your key research focus.
Another important contribution to the EU foreign and security literature is made by White (2001, 2004). By advocating a conceptual model which delineates between three sub-systems of foreign policy governance, White (2001) endeavours to argue past an EU as actor approach which he sees as awarding a misplaced sense of ‘singleness’ (of unitary status) on the Union. He depicts three systems of governance:

(1) **Community foreign policy**: refers to the foreign policy of the EC that emerged from the original European Communities in 1957. These powers established by the Treaty of Rome codified external consequences of the Common Commercial Policy, principally covering trade and development;

(2) **Union foreign policy**: denotes the progression of EPC, CFSP and ESDP;

(3) **National foreign policy**: refers to the separate foreign policies of EU Member States that exist within and without EU processes (White, 2001: 39-41).

However, White (2001) does not make enough ground on the connections (or inter-linkages) between them. As Michael. E Smith (2008: 183) has pointed out, there is a fourth ‘system of governance’:

(4) **‘Mixed’ or ‘Hybrid’ foreign policy**: involves complex interactions between systems (see the table 1.2). While there are policies which have a case to be treated as a “closed system” such as policies which are exclusive EC or national competence. M.E.Smith (2008: 183) points out that, “it is difficult if not impossible to isolate these various systems from each other, especially where multiple EFP
[European Foreign Policy] tools are used against a single target actor or problem (which is increasingly the case”).

Regarding this last ‘mixed’ or ‘hybrid foreign policy’, the key part of the exercise lies in how one puts back together (reconstructing) these ‘moving parts’ (systems) of EU foreign policy. This involves unlocking the linkages between systems of governance. In “focusing on the larger institutional framework in which these various elements are embedded, which may extend to the treatment” of EU foreign policy, “as a system of governance” (original emphasis) (Smith. M. E. 2008: 183) (see figure 1.4)
The two preceding sections have shown us that there is little or no traction in trying to assert a single rigid definition of EU foreign policy. This is because working assumptions are highly contingent on how a specific research question is framed (M. E. Smith, 2008): different approaches, raise different questions which shed light on different data sets at the EU level (Holland, 1991: 4). As such, this thesis conceives EU foreign policy as being both multi-pillar and multilevel: “the EU’s decision-making processes involve actors at different levels and in different arenas” (Knodt & Princen, 2003: 10). Clearly the pillar system has far-reaching consequences for the outputs of the EU foreign policy system. The concatenation between and across the pillars renders simplistic divisions un-enlightening.
Whilst Christopher Hill (1993: 18), in his take on the EU’s external relations system, includes national foreign policies in his conception, stating that European foreign policy is the “sum of what the EU and its member states do in international relations” (my emphasis). The inclusion of member states in his definition (and framework) of European foreign policy: is unsurprising. It is self-evident that member states play a crucial role in constructing EU foreign policy. In addition this role is clearly a two way relationship between national foreign policy and EC/EU policy that does need to be accounted for both in terms of the flow of influence from member states to the EU level (Manners & Whitman, 2000), as well as the impact on EC/EU processes on national foreign policies (Gross, 2009). However, the position taken here is that an examination of the role of member states in EU foreign policy, for the sake of it (when it is not the central focus of your research) would be a feckless exercise.

It is with these observations in mind that this thesis assumes a perspective on EU foreign policy that allows one to broaden the scope of foreign policy out (Smith, H, 2002) beyond the confines of CFSP, to include both the EC and JHA (Smith. K. E, 2003: 2: 2008: 3; Keukeleire & MacNaughtan, 2008). Thus, the EU foreign policy system is comprised of three pillars with an exclusive emphasis on the EU level. Member States are considered, to the extent that they significantly contribute or obstruct EU foreign policy making. Therefore, this thesis holds that the EU produces foreign policy within and across the pillars (Smith. K. E, 2008: 3; Keukeleire & MacNaughtan, 2008: 28-33). To be clear this thesis holds that there is more than enough activity at this level to warrant such concentration. Thus, the conception of EU foreign policy can be described as, the combined effort of what EU institutions do and produce in international relations; in other words, EU-level activity emanating from the range of EU institutions. As already this
clearly involves a role for the member states, however, we are testing the policy-making process – at the EU level – and the outputs from that process in order to ascertain the implications for the EU as a foreign policy actor (in terms of its capacity to project its policies). In this respect, it is the EU policy output which this thesis seeks to address; not the gestation or ‘uploading’ of policy from the domestic level onwards.

The next section will turn to notions of EU Actorness and issues of goal mobilisation in a specified domain.

1.2.4 Assessing EU ‘Actorness’

Research that has tried to escape seeing the EU as a simulacrum of the nation-state but still wanted to deal with the Union as a actor or collective entity have developed the notion of EU ‘actorness’. This builds on the contribution made by Allen and Smith (1990) on ‘presence’ which allows one to accept “the reality of a cohesive force”. This was much lauded at the time by Christopher Hill (1993: 309) who thinks that it “gets us off the hook of analysing EFP [European Foreign Policy] as sovereignty or supranationalism”. Allen and Smith concluded in their early work on ‘presence’ that the Union was a “variable and multidimensional presence which plays an active role in some areas of international interaction and a less active one in others” (1990: 20). However, ‘presence’ – of which the EU has much – does not easily translate into effective actorness. Broadly speaking there are two main reasons for this disconnection.

1. Member States need to be more absolute in agreeing to pursue their foreign policy objectives through the EU;
2. The complexity of the EU’s decision-making ‘machinery’ hinders goal mobilisation (K. E. Smith, 2003: 105)
In line with discussion about cross-pillar dynamics in the section (2.1.1) and our focus on EU level, this analytical framework will carry forward the latter source of underperformance highlighted by Karen. E. Smith. Namely how the decision-making machine hinder the projection of EU goals.

The next section seeks to unpack notions of actorness in order to ascertain its added value and imitations.

1.2.5 ‘Unpacking’ EU Actorness

In the late 1970’s Gunnar Sjöstedt’s (1977) made a seminal contribution to the ‘actorness’ literature, by focusing on the notion of actor capability. This permitted one to open up the ‘black box’ of external relations/foreign policy. The working definition of actorness offered by Sjöstedt is:

the capacity of being an actor is most appropriately conceived of as a variable property which the Community may possess to a greater or lesser extent (1977: 14)

Put differently, the value of the concept lies in the fact that, rather than a “static concept, actorness is a yardstick, by which the process of change in EU foreign policy can be monitored” (Toje, 2008: 204). Sjöstedt states that “in general ‘actor’ is used as a synonym for ‘nation’, and thereafter it has rarely been felt necessary to dissent from it and break it up into its basic components” (1977: 5). It is only when one breaks down the pathologies of ‘actor capability’ that we can start to build a framework with which to analyse the Union’s ‘capacity to act’. Several structural pre-requisites for ‘actor capability’ are articulated:
1. a community of interests
2. a decision-making system
3. a system of crisis management
4. a system for managing interdependence
5. a system of implementation
6. external communication channels and a mobilisation system
7. a community of resources and mobilisation system (Sjöstedt, 1977: 77)

Of particular importance here is the ‘community of interests’. ‘Interests’ are seen as being “relatively general” in nature (Sjöstedt, 1977: 77). Therefore, for analytical reasons, Sjöstedt distinguishes between interests and goals. Goals are considered to be specific and can be expected to be formulated in a much more precise way by actors, and should be possible to operationalise:

Whereas interests express general intentions, the goals define concrete objectives possible to obtain by means of purposeful action in a certain kind of action (my emphasis) (Sjöstedt, 1977: 77-78)

More recently Jupille and Caporaso (1998) have built upon Sjöstedt’s work on actor capability. They develop a four point criteria for assessing actor capability:

1. **Recognition**: which is an acceptance by other actors and entities in the international system;
2. **Authority**: which is the legal competence to act;
3. **Autonomy**: which is seen here as ‘institutional distinctiveness’ and an as interdependence from other actors in the international system;

4. **Cohesion**: which denotes “degree to which an entity is able to formulate and articulate consistent policy preferences” (Jupille & Caporaso, 1998: 214)

Elaborating on cohesion, Jupille and Caporaso (1998: 219-220) reveal four subjacent dimensions

4a. **Value Cohesion**: which refers to the compatibility of basic goals;

4b. **Tactical Cohesion**: which takes in the basic rules within which rules are made;

4c. **Procedural Cohesion**: which takes in the basic rules within policies are made;

4d. **Output Cohesion**: which sees cohesion as being dependent upon all that has gone before it: namely, values, procedures and tactical linkages.

As we have described both Sjöstedt (1977) and Jupille and Caporaso (1998) dissections of actor capability are focused on internal factors. Richard Whitman (1998: 13) has voiced concerns regarding the explicit marginalisation of the wider international environment into which actor capability is seeking to be projected. The denial of the ‘external’, he argues, impinges upon the development and measurement of EU actorness. Taking this on board Bretherton and Vogler (1999, 2006) have offered a view of the Union’s external role as being constructed from the “interaction of external expectations and internal capability” (1999: 13). While still squarely in the ‘EU as actor school’, they represent a social constructivist research agenda which posits a dialectical relationship between agent and structure, rather than privileging either (1999, 2006). Their approach is led by a concern with the internal and external factors that have “permitted, promoted or constrained” (2006:
16) degrees of ‘actorness’. In this sense, Bretherton and Volger consider an exclusive focus on either internal or external as inadequate (2006: 17). With regard to this last point, it is an axiom that appraisals of the EU’s global role – which is what Bretherton and Vogler are explicitly undertaking here would be severely truncated, in explanatory terms, if one was to only to represent the ‘internal’. However, the argument is made here that a focus solely located on the internal machinations of the EU’s foreign policy, is far less restrictive when ‘zeroing-in’ on a specific account of ‘goal mobilisation’; therefore, the ‘internal’ is considered a necessary, but not sufficient, precondition for actorness. This means that the Union’s internal, ‘mobilisation of capabilities’ is considered the elemental cog that the projection of EU goals depends upon.

Nevertheless, Bretherton and Vogler, conceive of the “EU as an actor ‘under construction envisages a complex set of interacting processes, based on notions of presence, opportunity and capability” (my emphasis) (2006: 24). Opportunity denotes the external environment of ideas and events that constrain or enable actorness. This structural dimension encompasses notions of globalisation and the fall out from the end of the Cold War, which in turn envelops the enlargement of the Central and Eastern European countries in 2004, and the Union’s engagement with the Western Balkans (Bretheron & Vogler, 2006: 24-25). Presence refers to the:

ability to exert influence externally: to shape the perceptions expectations and behaviour of others. Presence does not denote purposive external action, rather it is a consequence of being (2006: 27)
Capability outlines the ‘internal context’, those “aspects of the EU policy process which constrain or enable external action and hence govern the Union’s ability to capitalise on presence or respond to opportunity” (Bretherton & Volger, 2006: 29). Within ‘capability’ the source of interest is the capacity to formulate effective policies and the matching of appropriate policy instruments (Bretherton & Vogler, 2006: 29). Bretherton and Vogler try to capture this process by deploying concepts of coherence and consistency. They see consistency and the extent that bilateral external policies of Member State are commensurate with each other and complementary to the EU (Bretherton & Vogler, 2006: 31); coherence is used to illuminate the “internal policy processes of the Union” (Bretherton & Vogler, 2006: 32) and whether habits of cross-pillar cooperation have been developed.

However, the ‘actorness’ approach, as outlined by Bretherton and Vogler does have explicit shortcomings. This is because they are focused on outcomes, rather than processes. Therefore, they are concerned with the “the overall impact of the EC/EU on world politics” (Bretherton & Vogler, 1999: 2-3). Meaning, that they are less concerned with the policy process through which the external policy of the EU is refracted. As Brian White (2004: 18) has argued:

To the extent that ‘actorness’ or ‘presence’ characterises the EU in world politics, the assumptions are that it is related to what emerges from other elements of a policy system in action, such as the context in which policy is made, the nature of the policy process, the issue in question and so on.

White’s (2001, 2004) criticism of the EU-as-actor approach is that while it seeks to work backwards from impact, in order to identify why it is influential, it eschews a policy
analysis (Bretherton & Volger, 1999: 2-3; White, 2004: 16-17) As a solution White (2001: 23-25) offers a comparative framework for analysis that is constituted by the context within which policy is made; the actors involved; the processes that characterises policy-making; the instruments used to achieve policy objectives; and the outputs that emerge from the policy process.

Figure 1.5: Putting the Policy Process Back into Actorness

Source: Based on White (2001: 23-25)

These are fundamental to ‘actorness’, as there exists a, “critical link” (White, 2001: 43) between the existence or otherwise of capabilities and policy processes and outputs. How well, or close the EU comes to achieving declared goals and ensuring the requisite amount of coherence between goals, depends to a large extent upon actor capability. The working
assumption of this thesis is that ‘actor capability’ is problematised when policies require substantive cross-pillar linkages. However, as White (2001, 2004) has explained, eschewing a policy analysis comes at the expense of specificity. If one endeavours to really concentrate on goal mobilisation in a stated domain, then one needs to provide for the ‘critical linkages’ between capabilities, policy processes and outputs. It is in pursuit of these ‘critical linkages’ that we now turn to a ‘governance perspectives’ and their applicability for EU foreign and security policy.

1.3 Governance and the EU: In Search of Critical Linkages

The role EU institutions have played in mediating both economic and political relations between Member States has long been considered as a form of governance. As such this consideration necessitates a recalibration of the relationship between government and governance (Caparaso, 1996: 33). Therefore, the first point to make is that governance is not a synonym for government (Rhodes, 1996: 652). Government is understood as being:

suggestive of a centralised authority, with vertical and hierarchical forms of regulation, and an ability to impose preferences, buy coercion if necessary (Webber et al, 2004: 5)

In contrast governance is concerned with understanding how the regulation of societities has been supplemented by the roles of political actors other than government (Pierre, 2000: 3-4). James Rosenau has proffered a broad definition of governance as:

systems of rule, as the purposive activities of any collectivity that sustain mechanisms designed to insure its safety, prosperity,
coherence and stability, and continuance (my emphasis) (Rosenau, 1992: 171)

Furthermore:

governance is about the maintenance of collective order, the achievement of collective goals, and the collective processes or rule through which order and goals are sought (my emphasis) (Rosenau, 1992: 175)

James Caparaso has drawn attention to the actors inside governance, such as the “institutions and agents who occupy key institutional roles and positions who can act” (1996: 32). Beate Kohler-Koch (1999) puts an emphasis on governance as regulation which has indwelling patterns of activity that emerge from complex settings made up of multiple layers. Jon Pierre and Guy Peters (2001) identify four classic components of governance which will be of use here. These four components are to be thought of as ‘arenas of exchange’ that are in pursuit of collective interests.

1. **goal definition**: this process is one whereby a common set of priorities or goals is reached
2. **coherence**: articulated priorities or goals need to be consistent and coherent
3. **steering**: once a set of goals has been coherently articulated, ways of achieving these must be sought
4. **accountability**: refers to some mechanism whereby actors in the delivery of ‘governance’ can be held accountable (Peters & Pierre, 2001, 2-5)

By its very nature governance does not sit comfortably with coordination. Governance is understood as an absence of hierarchical forms of authority – akin to a *heterarchy* (Rhodes,
This is why the neutral term ‘steering’ is often deployed as a substitute for coordination. The working assumption is that existing actors and coordinating mechanisms do collectively add up to a form of governance (Kirchner, 2006: 952). Implicit within this assumption is that the absence of co-ordination between layers of governance undermines and reduces the efficacy of goal attainment (Hirst, 2000: 34).

In a vein and function cognate to actorness, governance is most appropriately thought of, not as a static concept, but rather as:

> a continuous process of evolution, a becoming that fluctuates between order and disorder as conditions change and emergent properties consolidate and solidify. To analyse governance by freezing it in time is to ensure failure in comprehending its nature and vagaries (Rosenau, 1992: 18)

All of this, however, should not allow one to elide theoretical drawbacks. Governance as a conceptual device has pitfalls, as any analytical frame does. While governance facilitates the presentation and deployment of knowledge, theoretically speaking the “contribution is not at the level of causal analysis. Nor does it offer a new normative theory. Its value is as an organising framework” (Stoker, 1998: 18). Phrased a little more pithily: “while it betokens no major epistemological breakthrough, it is certainly handy” (M, C. Smouts, 1998: 88). The absence of prior assumptions of causality render governance approaches neutral in explanations of system(s) creation and maintenance (Gamble, 2000: 110);

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3 Understood here as a formal structure usually represented by a diagram with connected nodes *without* any single uppermost node.
Kirchner, 2006: 950). Furthermore, there is a recognition of the potential tension between governance as phenomena and as an analytical framework (Peters and Pierre, 2000: 24). Despite this, governance approaches do ‘add value’ to the study of ‘what comes out’ of EU institutions, especially when deployed as a “heuristic device” (Kirchner, 2006: 948) which, in turn, has “validity” (Webber et al, 2004) through its capacity to understand and explain “distinct forms of political action” (Kirchner, 2006: 950).

The deployment of governance approaches in the study of EU politics have primarily concentrated on notions of multi-level governance (MLG), security governance and external governance. Each will be succinctly outlined in the section that follows. At each stage it will be made clear which elements shall be utilised in our analytical framework and why.

1.3.1: How Useful is Multi-Level Governance?

Guy Marks et al (1996) picks up on these themes highlighted above, advocating the suitability of a MLG approach. Such an approach can be seen as a reaction to intergovernmental scholarship, which holds that European integration does not challenge the autonomy of nation-states, rather state sovereignty is either preserved or strengthened via EU membership. This argument states that supranational institutions serve, and aid Member States by providing information that would otherwise be less available (Milward, 1992; Moravscik, 1993, 1998). Marks et al (1996) in contradistinction, make the case for a multi-level approach, depicting European integration as a “polity creating process in which authority and policy-making influence are shared across multiple levels of government-subnational and subnational” (1996: 343). Here the state is no longer the sole arbiter of EU integration. However:
The idea is not one of governance above the state (which would mean a reconstitution of the state with all its constituents on a higher institutional level), but rather of governance beyond the state. That is, ‘beyond’ in its ‘inclusive’ sense, as ‘more than/besides the state’ (rather that in its meaning of the ‘past’, which would connote the obsolescence of the state) (Aalbers, 2004: 28).

MLG has been seen as a potential antidote (Wallace, H, 2001: 1) as it serves to ‘usher out’, the often unrewarding questions that orbit the ‘supranational versus state’ dichotomy (Hix, 1998: 54). It opens up space (Wallace, H: 2001) in which a variegated list of research ‘puzzles’ can be addressed; governance’s analytical tools can be utilised to investigate the, “various parts rather than the whole of the EU” (original emphasis) (Jordan, 2001: 196). Dispensing with the dichotomy, between state or supranational control, it instead equips one to examine the, “myriad venues” (Jordan, 2001: 196) in which the two concatenate. Moreover, it does not take a ‘position’ (assumption) on the ‘endgame’ of political integration in Europe (Wallace, H, 2001: 1). This open-ended stance on the trajectory of the EU polity is a core strength of this approach (Warleigh, 2000: 188).

M. E. Smith, who has written voluminously on EU foreign policy as an emerging ‘system of governance’ - primarily through its institutionalisation (2001, 2003 & 2004), has also wrestled directly with the very specific issue of EU foreign and security policy as a process of MLG. The ‘value added’ dimension (M. E. Smith, 2004: 743) in deploying a MLG approach to analyse EU foreign policy:

is to explain how common general interests are defined, prioritised, and translated into more concrete policy actions through
institutionalised behaviours at the EU level and domestic levels
(2004: 743)

Therefore, Smith’s primary research focus is the extent that one can conceive of the CFSP domain as a MLG policy space (Smith. M. E, 2004: 741). While there is no doubt that there is a complex interplay between national and EU-level processes (EU-Domestic interactions) at various stages of the policy making process: this is not the focus of this thesis; rather, this thesis seeks to measure EU level processes and the coherence of goal mobilisation. Meaning, as highlighted in the emphasised quote above, we are interested in the definition, prioritisation and translation of interests into concrete policy actions at the EU level.

The next section turns to the notion of security governance.

1.3.2 Incorporating Security Governance

The concept of security communities devised by Deutsch et al (1957) and subsequently resuscitated by Adler and Barnett (1998) distinguishes between amalgamated and pluralistic security communities. Amalgamated security communities exist where there is a, “formal merger” of two single units into one larger unit with a common government (Deutsch, 1957: 5-6). Deutsch (1957: 6) offers the United States as an example of an amalgamated community. A pluralistic security community, in contrast, “retains the legal independence of separate governments (1957: 6). Security communities are to be understood as a stable peace, characterised by “the development of shared understandings transnational values and transactions flows to encourage community building” (Adler & Barnett, 1998: 4). Security becomes “a condition and quality of these communities; who is inside, and who is outside, matters most” (Adler & Barnett, 1998: 4). Security governance
can be understood, in many respects, as the “practical manifestation” or “system” (Webber et al, 2004: 62) of security communities. Security communities, as a concept, is more concerned with how communities “arise and develop”, and “less with identifying their practices and mechanism of reproduction after they (have come) into existence” (Alder & Barnett, 1999: 428). In sum: security governance is the practice of a security community (Webber, et al, 2004: 62).

Security governance has been employed in four different ways to date: as a general theory (Webber, 2000); as a theory of networks (Krahmann, 2003); as a system of international regimes (Young, 1999) and finally as a ‘heuristic device’ for understanding the steering, management and regulation of EU foreign and security policies (Webber et al, 2004; Webber, 2007; Kichner, 2006; Kirckner & Sperling, 2007). It is this last deployment of security governance that we will be seeking to utilise here. By analysing EU security and foreign policy through the prism of security governance, we give ourselves the wherewithal to cover many of the central issues of European security. This is because it links the challenge of governing Europe’s security to the changing nature of the state, and the expansion of the security agenda (Kirchner, 2006; Kirchner & Sperling, 2007; Webber, 2007). Moving forward we use the definition of security governance as:

the coordinated management and regulation of issues by multiple and separate authorities, the institutions of both public and private actors (depending on the issue), formal and informal arrangements, in turn structured by discourse and norms and purposefully directed towards particular policy outcomes (Webber, et al 2004: 4)
Thus, I will be using the lens of security governance to zero-in on EU level processes, rather than deploying its potential for a broader application such as the transformation of NATO, the wider Europeanisation of security or the consequences of inclusion/exclusion dynamics (Webber, et al, 2004: 3). Moving forward, this thesis sees security governance as a way to shed light on how purposive action (goal mobilisation) is determined by the interaction of structure and process. Structure and process are to be considered critical components of security governance. Structure is conceived as institutionalised forms of behaviour occurring between relevant actors in the coordination and management of security tasks (Kirchner, 2006: 948). Institutions entrench, prescribe and constrain forms of behaviour (Webber, et al, 2004: 8). Process is the interaction of stated actors, who define and pursue tasks: in this sense, process is concerned with producing policy outcomes (Kirchner, 2006: 948; Webber, et al, 2004: 8).

Security governance will be utilised as an organising framework to examine how the EU has developed its ‘actor capability’. Emil Kirchner (2006) and later with James Sperling (Kirchner & Sperling, 2007), advocate the use of governance components: Steering, Management and Regulation to examine the EU as a security actor. Each component will be fleshed out below:

**Steering**: an exploration of which actors within the EU do most of the coordinating in a chosen domain. Whether there are lead actors in given areas and across them. This mostly restricts itself to an examination of how actors interact and who drives and sets the agenda in policymaking;

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4 Kirchner (2006) refers to co-ordination and steering inter-changeably. The dominant usage in the governance literature is steering which is why it is chosen here (Peters and Pierre, 2000: 2-5).
**Management**: tasks related to how policies are carried out, administered and how control mechanisms are fostered. This is useful because often at the EU level a different set of actors because involved in the management tasks from those who had been the co-ordinators at the steering phase. Management also serves to introduce the multiple array of actors and complex patterns of interaction in EU policymaking (see Chapter Two for an overview of this in the external dimension of JHA and civilian crisis management respectively);

**Regulation**: is concerned with policy outcomes. As such it can consider issues such as the motive behind the policy (whether for example motives are normative or material); the degree of institutionalisation achieved (such as the style of decision-making, or the affect of policy output through collective engagement); and finally on the impact of policy on desired objectives or targets. Crucially here, assessment of whether EU policies had the desired effect can depend mostly on the self assessment of EU institutions and evidence from the secondary literature. Regulation is not intended to denote a rigorous impact assessment ‘on the ground’ (Kirchner, 2006: 953).

Kirchner and Sperling (2007) hold that *Steering, Management and Regulation* should feed into four security functions: *assurance*, *protection*, *compellance* and *protection*,

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5. Assurance: takes account of the identification of efforts aimed at post conflict reconstruction and attending confidence building measures (Kirchner & Sperling, 2007: 15)

6. Prevention: captures efforts to prevent conflict by building or sustaining domestic regional or international institutions that contribute to the mitigation of anarchy and the creation of order (Kirchner & Sperling, 2007: 15)
however these will not be utilised in this analytical framework. Rather, this framework will take components of governance (*Steering, Management* and *Regulation*) and use them to fill the ‘critical linkages’ missing from the actorness literature, thereby forming a more systematic formulation for actor capability. Such a formulation will allow one to track, in a more cogent manner, the mechanisms at play in a specified policy domain. Chapter Two will detail how *Steering, Management* and *Regulation* will be used and adapted to structure the case-study chapters. In order to operationalise the case-study chapters this thesis will harness these components of governance so that *Steering* covers the construction of policy; *Management* covers the administration and implementation of stated policy; and finally, *Regulation* which will be used to cover how the EU reviewed outcomes and success.

With this in mind the next section will examine the notion of governance and the external projection of the EU.

### 1.3.3 External Governance and Europeanisation: Projecting Goals

The relevant literature on external governance deals with countries with (Schimmelfennig & Sedelmeier, 2004) and without enlargement perspectives (Lavenex, 2004; 2005). The clear argument made in this section is that external governance amounts to the projection of Europeanisation. More specifically, Europeanisation is to be considered a foreign policy goal to be mobilised; in this sense the position taken here is that external governance and the projection of Europeanisation can be subsumed within the actor capability framework that has been outlined during this chapter.

7 Compellance: captures tasks of conflict resolution in states outside the EU via military intervention especially peace making and enforcement (Kirchner & Sperling, 2007: 15)

8 Protection: describes those efforts to fulfil the traditional function of protecting society from external threats (Kirchner & Sperling, 2007: 15)
A useful starting point for establishing what constitutes external governance is supplied by Hofer as “the ability of an actor to influence the rules that govern societal entities beyond its borders” (2007: 119). Specific to the context of the EU, “external governance takes place when parts of the *acquis communautaire*⁹ are extended to non-member states” (Lavenex, 2004: 683). This allows the Union to “tackle interdependencies though the external projection of internal solutions (Lavenex, 2004: 695). In doing so the EU can bind third countries, whether they be candidate countries or just associated countries, into pursuing internal EU policy objectives (Lavenex, 2005: 129). This comprehension of external governance have been built on initial observations made by Mike Smith (1996) on the politics of inclusion/exclusion, highlighting the ‘fuzzy’ relationship between the EU/EC as an entity and with the wider European environment. Mike Smith highlighted the often co-dependent relationship between internal and external policymaking processes (1996: 12). Friis and Murphy (1999) used this observation to explore the ways in which the EU has maintained its own system of governance while simultaneously seeking to stabilise the wider European environment, both in terms of east and central Europe, and the western Balkan region during the mid to late 1990’s (Friis & Murphy, 1999: 212). Therefore, the argument made here is that external governance reflects an explicit foreign policy agenda.

The most salient case of external action based on the projection of the EU *acquis* is through enlargement led Europeanisation, which has been declared by the European Commission itself, as the EU’s most successful foreign policy to date (European Commission, 2003: 5). Notions of external governance and Europeanisation are both concerned with rule transfer to non-member states (Schimmelfennig & Sedelmeier, 2004: 661) whether this be as apart

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⁹ The EU acquis refers to the evolving ‘obligations of membership’ which amounts to more than 80,000 words and is defined by the Commission as, “all the real and potential rights and obligations of the EU system and its institutional framework” (Grabbe, 2006: 33).
of the EU accession process, which constitutes the largest transfer of rules through the full
transposition of the *aquis*, or through rule extension where there is no immediate prospect
of accession (Lavenex, 2004, 2005). One policy area that bridges this ‘full accession –
selective rule’ transfer, as a policy goal, is the domain of JHA. The JHA domain, in fact –
alongside environmental and energy policy - is particularly amenable to export, as a so
called ‘soft security’ field (Lavenex, 2004: 681). The export of the JHA sector is
unambiguously a foreign and security policy domain when externally projected (Lavenex
Wolff, *et al*, 2009) and yet retains its original purpose and identity as an internal market
policy at the same time. 10 As Lavenex elaborates (2005: 93):

>This foreign policy agenda is an attempt to bind countries to EU
policy goals in the internal security field, and is particularly
important when dealing with states that are countries or origin or
transit of problems such as irregular migrants or organised crime

From this thesis perspective, the use of the term external governance, rather than foreign
policy, in the existing literature merely reflects those scholars narrow reading of foreign
policy. A reading, as discussed earlier in the chapter which rests on ‘conventional’ or
‘modernist’ conceptions of foreign policy rather than broad based definitions (as outlined
in section 1.2.2) (Keukeleire & MacNaughtan, 2008). Equipped with this narrow logic
Schimmelfennig and Wagner (2004: 658) maintain that research should use external
governance, rather than foreign policy, only if external relations and their outcomes are:

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10 This will be unpacked further in Chapter Two, section 2.1.1
• Shaped by multi-level organisations and the rules of the EU;

• May vary with the institutional context of policy-making;

• Generate transformative effects on the institutions of the EU;

• Europeanise member states foreign policies, non-member states and other international organisations

Consistent with the arguments made earlier (section 1.2.2) on what is and what is not foreign policy, the argument in this section is that there is no reason why any of these stated outcomes (a described by Schimmelfennig & Wagner) cannot be accommodated within a conception of foreign policy.

In the next section we turn our focus to notions of Europeanisation and the specific ways in which it is exported and how this links into this thesis analytical framework.

1.4 Projecting Europeanisation

Imbued with our understanding of the overlap between external governance and Europeanisation, we will now breakdown Europeanisation as a goal to be projected. Simply asked: what do we mean by Europeanisation?

1.4.1 What is Europeanisation?

Europeanisation has been applied historically in three ways: as a historical process, as matters of cultural diffusion, and finally as process of institutional adaptation of policy (Featherstone, 2003: 5-6). A currently popular umbrella definition that is intended to cover
the latter two of these applications (of Europeanisation) is supplied by Claudio Radaelli (2000: 4) as a:

Process of a) construction, b) diffusion c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, ways of doing things, and shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures, and public policies.

It is not difficult to see why with such a broad definition, Europeanisation has acquired a status as a “nebulous notion” (Hughes et al, 2004: 27) that risks being conceptually stretched too far (Radaelli, 2000: 4). Whilst there are those who theorise Europeanisation through elaborate frameworks based around ‘incentives’ (Schimmelfennig & Sedelmeier, 2004) we will not be mimicking those here. We should keep in mind that Europeanisation, is at most, an analytical framework, not a theoretical one (Gross, 2009: 4). We therefore pick up on Oslen’s (2002) five ways in which Europeanisation could be practically applied. As:

(1) Changes in the external boundaries such as enlargement;

(2) The development of institutions at the European level

(3) The central penetration of national systems of governance
(4) The export of forms of political organisations that are distinctly European with non European countries and institutions

(5) As a political unification project

Rather than theorise any of these, we seize Oslen’s (2002: 943) description of Europeansiation as “an attention-directing device and a starting point for further exploration”. This enables us to restrict the notion of Europeanisation to its projection or export beyond current member states. A workable short-hand for Europeansiation that this thesis will carry forward into the key research questions and case study chapters will simply be as the “influence of the EU” or “domestic impact of the EU” (Sedelmeier, 2006: 4) in third countries. Thereby carving out a conceptual space for Europeanisation and the scope of its export.

The question then becomes: where can one find the objectives and goals of Europeanisation? For this thesis the export of JHA is the goal of Europeanisation. Therefore what will follow (in the next section) will be a very short explication of JHA as a goal of Europeanisation and some contextual factors for the sake of clarity. This will also help in understanding the formulation of the thesis’s key and subjacent research questions to follow, and the choice of case studies selected to answer them.

1.4.2 Vehicles of Europeanisation and JHA

The external dimension of JHA has been codified within overarching frameworks of the Accession Agreements, the Stabilisation and Association Process (SAP) and the European Neighbourhood Policy (ENP). All of these contractual relationships act as ‘vehicles of Europeanisation’ and are instances of external governance. At this stage we must be clear
about the bias in this analytical framework for the agency of the EU. We are arguing that the EU improves its effectiveness by being more coherent.\textsuperscript{11} Clearly, we accept that the success (effectiveness) or otherwise of ‘Europeanisation’ will be determined by the nature of the relationship; meaning, what is on offer within the contractual relationship, such as a membership perspective, or lack there of (Rees, 2008: 103). However, this dimension of Europeanisation needs to take account of the recipient country as opposed to this thesis explicit focus on actor capability. A focus on the nature of incentives within frameworks needs to be aligned with an in depth knowledge of a countries domestic political system; and in the sphere of JHA, “an-in depth understanding of the legislative environment and the organisation of the law enforcement sector” (Wolff \textit{et al}, 2009: 19) in each country selected for analysis. This will not be our focus of this thesis.

Enlargement led Europeanisation (via the framework of the Accession Agreements, witnessed the transposition of the entire JHA \textit{acquis}. Chapter 24 (the JHA chapter) required all candidate countries to adapt JHA rules. In doing so, the EU became the “force driving change” (Henderson, 2005: 7) in the field of JHA. The SAP, created in 1999 during the Kosovo crisis, offered all Western Balkan countries\textsuperscript{12} an “ambitious vision for the region’s rapprochement with the EU” (Pippan, 2004: 219). Within the SAP a more specific contractual relationship with the EU was on offer: the Stabilisation and Association Agreements (SAA) which are more closely aligned with the enlargement process. JHA matters play a prominent role in SAA’s, covering police, public order and organised crime, integrated border management and judicial reform. The ENP was initiated in 2003, in the long shadow of the enlargement process, and enveloped a large selection of countries, from

\textsuperscript{11} For a clear explication of coherence in this Chapter, see section 1.5.2

\textsuperscript{12} The Western Balkans in EU parlance denotes the countries Croatia, Serbia, Macedonia, Kosovo, Bosnia-Herzegovina, Montenegro and Albania.
Eastern Europe to the Middle East. The methodology of the ENP is striking similar to that of the Accession Agreements and the SAA’s, minus the membership perspective. JHA matters, play a prominent role, and cover migration, integrated border management, organised crime, drug trafficking, money laundering and judicial and police cooperation.

The unifying theme of all three frameworks is the central role of the European Commission. The Commission developed a strong external role through the accession process (Cremona & Hillion, 2006: 10). This role has been considered elsewhere as an ‘entrepreneurial role’ (Papadimitriou & Gateva, 2009: 6) becoming the institutional focus of the enlargement process and subsequently the ENP. The Commission has played a defining role through all stages of the process: country reports, action plans, applications for membership, specific opinions/monitoring of countries (Grabbe, 2006: 28). So while we should keep in mind that the Member States are the ‘ultimate gatekeeper’ in the enlargement process (Papadimitriou & Gateva, 2009: 6) and changes in the ENP; the Commission has assured a role as a “co-negotiator” (Diedrichls & Wessels, 2006: 231). In short the argument made here is that the Commission has developed a pivotal role in the enlargement process and identity in EU foreign and security policy (Duke, 2005) which it has consolidated through the SAP (SAA’s) process and extended through the ENP.

This section will now shift the debate onto ways through which we can operationalise notions of coherence at the EU level and what institutional dynamics it can help is capture.

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33 The ENP participants Moldova, Ukraine, Azerbaijan, Armenia, Georgia, Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia, as well as the Palestinian Authority.

34 This was alluded to in section 1.1.1
1.5 Coherence as a Critical Linkage

As the last section has shown us components of governance *Steering, Management* and *Regulation* can be used as a useful organising framework that allows us to take account of the ‘critical linkages’ missing from the actoriness literature. However, there is still something missing, as it currently stands. Our articulation of actor capability cannot measure what we find; therefore, we need an analytical mechanism that will glue our framework together. It is in the search of that ‘glue’ that we now turn to the notion of coherence. We know from the earlier sections in this chapter that coherence plays a key role in both notions of actoriness and as a component of governance. Therefore, the assumption in this section is that incoherence will have a deleterious effect on the EU’s external projection. Following this logic, coherence should be desired by EU actors. As a result this section argues that coherence can be deployed as a metric through which we can evaluate actor capability. To expand on the assumptions in made here we turn to the EU’s own proposals in the form of a document from June 2006 entitled, ‘Europe in the World - Some Practical Proposals for Greater Coherence, Effectiveness and Visibility’. This document prescribes three main factors required:

1. Member States need to provide the political will to match rhetoric;
2. It requires the coordination between all the EU’s various actors, on the basis of what works rather than tradition or institutional dogma;
3. Finally the legal environment delineating institutional responsibilities needs to be reconciled (Commission, 2006:6)

This is nicely surmised by Missirol (2001: 4): the assumption is…that, by acting unitarily and with a common purpose, the EU …becomes also, *ipso facto*, more efficient and
As we are positing that coherence begets effectiveness, we need to be unequivocal in establishing coherence as a viable criterion from which to measure governance. It is self-evident that this requires us to be as specific as possible regarding categorisations of coherence. As a result the next section will outline an approach to coherence that endeavours to uncover a more nuanced approach to coherence than the presence of contradictions.

1.5.1 Degrees of Coherence: Measuring Synergy

A point that needs urgent classification is the relative fidelity of the concepts of coherence and consistency. While some have argued the two are synonymous and that attempts to distinguish between the two merely results in, “linguistic pedantry” (Nuttall, 2005: 83) others have argued that while clearly linked, they do offer up differences in meaning (Missirolı, 2001; Tietje, 1997). Tietje (1997: 212) has shown that, “Consistency in law is the absence of contradictions; coherence on the other hand refers to positive connections”. From this perspective, coherence is more synergetic and is therefore imbued with positive interactions between policies and institutions. Moreover, differences between the two are a matter of translation - with the English translation favouring the term ‘consistency’, whilst most continental languages opt for ‘coherence’ (1997: 211-12; see also Hoffmeister, 2008: 161; Gebhard, 2011: 105). As Duke (1999: 3) has argued, while a legal inspection may reveal substantial talking points, from a political perspective both are concerned with the desire to ‘speak with one voice’. In a similar vein, Missirolı has observed:

Consistency, as a minimal requirement, and coherence, as a desirable plus, can both (or either) be criteria to assess the ways in which the EU as an international actor projects itself externally (Missirolı, 2001: 183)
From this vantage point, coherence would be gradated into degrees. For example, while one can be consistent or not consistent, where as one can be ‘more or less coherent’ (Duke, 1999: 3; Tietje, 1997: 212). Moreover, consistency can be seen as a necessary but not sufficient condition for coherence (Tietje, 1997: 213). Hillion (2008: 17) defines coherence, as, “beyond the assurance that the different policies do not legally contradict each other, (as) a quest for synergy and added value in the different components of EU policies”. In this sense the “notion of coherence relates more to creative positive synergies” (Hoffmeister, 2008: 161). Moving forward Juncos (2007: 23) gives us a manageable template for conceptualisations of coherence:

The lack of contradictions between policies/institutions/instruments, plus a variable degree of synergy as a result of policies/institutions/instruments working together in order to achieve a common objective (Juncos, 2007:23)

We now shift the debate onto ways to operationalised notions of coherence in a way they add genuine conceptual value to this thesis research focus.

1.5.2 Capturing the Institutional and Strategic Dynamics of Coherence

The outputs of coherence have traditionally been divided up along ‘horizontal’ and ‘vertical’ lines (Tietje, 1997: 211). Building on previous work by Nuttall (2005), Gebhard (2011) adapts Nuttall’s three categorisations of coherence related to the EU institutions: ‘vertical’, ‘horizontal' and ‘internal’.15 Vertical coherence refers to the coherence between

15 Gebhard makes changes to the precise configuration of coherence put forward by Nuttall. Institutional and horizontal are adapted in order to make them clearer. For Nuttall’s definitions see (2005: 91-112).
the EU and national politics and the question of general compliance with political commitments laid down in the treaties (Nuttall, 2005: 106; Gebhard, 2011: 107), and therefore will not be considered in this thesis conceptual framework, given the thesis concentration of the institutions. We now turn to consider horizontal and internal aspects of coherence.

**Horizontal coherence** in EU foreign policy is concerned with the coordination between the supranational and the intergovernmental dimension of external relations. In other words it is interested in the main institutional entities governing them, the European Commission and the Council of the EU (with accompanying bureaucracies). Therefore, horizontal coherence is concerned with cross-pillar (or inter-pillar) relations. This covers the compatibility of goals and broad objectives as well as the problems caused by the distinct approaches to decision-making and implementation usually present in each realm (Gebhard, 2011: 107). ‘Cross-pillar’ incorporates relationship between all the pillars, I, II and III.

**Internal coherence** is concerned with the intra-pillar functioning of actors (i.e. within the pillar I or within pillar II). Internal coherence examines the issues involved in integrating a compound bureaucratic machinery into a specific policy, and decision making system, for the purpose of established policy objectives (Gebhard, 2011: 107-108)

Missing here is a perspective on coherence which allows one to think about strategy and, as a result, misses and important aspect of the relationship between design and implementation. In a separate piece Juncos (2007) argues for a form of coherence (which incidentally she calls ‘Internal’ also) that is “concerned with the ‘chain of command’ and the potential discrepancy between actors in Brussels (at the decision-making level) and ‘on
the ground’ (implementation level)” (2007: 24). However, this is a broad categorisation and lacks specificity. Therefore this section proposes to offer up a third categorisation of coherence to complement the previous two (horizontal and internal) and refers to strategy in a much more explicit fashion. In this sense it allows us to mediate between design and implementation.

**Strategic Coherence**
this is concerned with design and implementation. Its added value lies in considering how compound bureaucracies integrate themselves within the EU machinery. It covers how established policy goals in a specific domain are designed and then mobilised through the decision-making system. However, it does this by allowing one to talk about the tactics of goal mobilisation and the notions of synergy and synchronisation.

The crucial factor here which not emphasized enough elsewhere is the inherent inter-linkages and mutually reinforcing nature of these categorisations. In this sense we emphasise the fluidity of this process. This means the analysis of a case study will always involve a consideration of all three categorisations of coherence. Therefore we should not be too precious about these categorisations.
These three will be used to capture coherence in this thesis; they will work in synchronicity with the *Steering, Management* and *Regulation* components of security governance covered earlier in the chapter (see section 1.3.2).

The next section will lay out the thesis research design including a summary of the rationale for the research focus, a justification of the case-studies selected for comparison, and the thesis key and subjacent research questions.

**Source:** authors own
1.6 Research Design

The section restates the research puzzle, specifies the rationale for how the case studies were selected and how the following chapters will use some of the analytical concepts outlined in this chapter so far. In particular, it formulates a number of research questions and corresponding hypotheses.

1.6.1 The Research Puzzle

This study aims to contribute to the existing literature on EU security governance; it does this by looking at the governance of the external dimension of JHA. As was laid out in the introduction to the thesis, and will be explicated at length in Chapter Two, the EU has developed and institutionalised a series of foreign security policies over the last decade. Such capacity building was an unabashed attempt on behalf of the EU to become a more ambitious, integrated and operationally capable international actor. The European Security Strategy of 2003 encapsulates the spirit and intention of this ambition well, as detailed in the Introduction to the thesis.

Two policy domains that have emerged in a dynamic and coterminous fashion from this ambition have been the external dimension of JHA and civilian crisis management. The position taken here is that the relationship between these two domains remained underexplored and, as such, represents a significant lacuna in the existing academic literature. Both CFSP/ESDP and the external dimension of JHA are explicitly designed to help manage and shape the EU’s immediate (and not so immediate) milieu: in this sense their purpose is to project influence. This thesis takes the position that the influence which the EU seeks to project can be conceived of as the export of Europeanisation. Following
this logic, the projection (or export) of Europeanisation is a *de facto* foreign policy goal to be mobilised.

The research ‘puzzle’ is to uncover how the EU could successfully mobilise the relationship between CFSP/ESDP and the external dimension of JHA given the current institutional set-up of the Union. This lack of clarity stems from the complex and often disconnected *structure* (conceived of as institutionalised forms of behaviour) and *process* (conceived as the interactions of stated actors who define and pursue tasks) of policy-making in EU foreign and security policy. This is laid out in detail in separate ‘policy history’ and ‘policy decision-making’ sections for both civilian CFSP/ESDP and JHA realms in Chapter Two (section 2.2 & 2.3). This reveals a complex decision-making process with multiple actors, which places a considerable burden on the coordination process, rendering the cultivation of coherence more difficult. Furthermore, the examination of the external dimension of JHA that takes place in Chapter Two establishes the domains multidimensional agenda. For instance, in Chapter Two we deduce an external dimension of JHA ‘agenda’, which states that:16

1. The external dimension of JHA should add to the internal security of the EU (i.e. be internally relevant);

2. The external dimension of JHA should not be a foreign policy in and of itself;

3. The external dimension of JHA is a cross-pillar domain and needs to be managed as such;

---

16 The process by which these are deduced is covered in detail in Chapter Two, sections 2.2.1, 2.2.2 and 2.4
(4) The external dimension of JHA should be governed by country’s existing contractual framework (where one exists) such as a SAP (and accompanying SAA) or ENP (and corresponding Action Plan).

The position taken here is that the multidimensionality of the external dimension of JHA ‘agenda’ risks fragmentation and policy incoherence. Given the complex and disconnected institutional structure in foreign and security policy there remains a distinct lack of clarity about how successfully the EU could manage the interface between civilian ESDP and the external dimension of JHA. This thesis seeks to test the performance of the EU and ascertain whether there is a ‘governance gap’ at the interface between the external dimension of JHA and civilian crisis management.

1.6.2 Case Study Selection and Rationale

In order to test the EU’s performance of the governance of the external dimension of JHA, and more specifically the interface between civilian crisis management and the external dimension of JHA, three case-studies have been selected. These case-studies are Macedonia and the civilian police mission Proxima launched in 2003 (Chapter Three); Moldova and the EU Border Assistance on the Moldova-Ukraine border, known as EUBAM launched in 2005 (Chapter Four)\(^\text{17}\); and Kosovo and EULEX Rule of Law Mission launched in 2008 (Chapter Five). These case-studies have been chosen as they are prime examples of instances where many of the tools and issues of coordination come into play. In this sense they can be considered test cases for the governance of the external

\(^\text{17}\) The EU Border Assistance Mission takes place in both Moldova and Ukraine, as they share the border with Transnistria. However, for the case-study in this thesis only the Moldovan dimension is analysed. Clearly, where it is pertinent or necessary to the analysis to mention Ukraine, this will be done. The fact that Moldova has its own EC Delegation, EUSR and ENP Action Plan means that the types of coordination (and coherence) that this thesis is interested in renders a focus on Moldova alone, rather than in conjunction with Ukraine, enough to justify this decision.
dimension of JHA (all of the significant factors as they appear on paper are distilled in the table below). In terms of the time span of the case-studies a decision needed to be made about the impact of the Treaty of Lisbon which was passed in on 1 December 2009 and has significant ramifications for JHA and the EU’s external relations. The case-studies do not analyse the impact of post-Lisbon arrangements on the case-studies. This is because the institutional arrangements were still being discussed as late as the summer of 2010 and therefore would only be relevant for a very short period of time and do not impact on the substance of the case-study chapters. However, the detail and potential impact of the Treaty of Lisbon will be explicated in the thesis’s Conclusion.

Figure 1.7: Case Study Rationale Compared

<table>
<thead>
<tr>
<th>Launch of Mission</th>
<th>Civilian Crisis Management Mission with a JHA Focus</th>
<th>EUSR</th>
<th>European Commission</th>
<th>Threats</th>
</tr>
</thead>
</table>

Source: authors own

Each of the three case-studies have important commonalities and interesting differences. First of all, and perhaps most importantly, each case study revolves around a civilian crisis management mission that has a mandate focused on a preventative engagement with
organised criminality, within the recipient country. In other words, there is an explicit JHA dimension to these missions. This links directly with the external dimension of JHA agenda and the need to maintain an internal relevance for the security of the Union. In addition, as we can see from the below figure (see 1.8), each civilian crisis management is different in terms of size and scope and precise function (police, border, and the broader rule of law – see figure 1.7) which itself allows for an interesting, differentiated, study.

Second, each case-study is in the EU’s immediate milieu (see figure 1.8); Macedonia and Kosovo reside in the Western Balkan region (i.e. in the EU’s backyard) while Moldova is further East, it shares a direct border with Romania (now an EU Member State and at advanced stage of accession negotiations in 2005 at the launch of EUBAM).
This proximity aligns our case-studies with the European Security Strategy of 2003 call for the threats from the neighbourhood to be addressed:

Even in an era of globalisation, geography is still important. It is in the European interest that countries on our borders are well governed. Neighbours who are engaged in violent conflict, weak states where organised crime flourishes, dysfunctional societies or exploding population growth on its borders all pose problems for Europe (European Security Strategy, 2003: 4)\textsuperscript{18}

\textsuperscript{18} This quote was referred to in the Introduction to the thesis also, see p19.
This proximity also links our choice of case-studies to the external dimension of JHA agenda and the need for external activities to contribute to the internal security of the EU.

Third, each of the case-studies are examples of where the full array of the EU foreign and security toolbox are actively engaged (see figure 1.7), often with overlapping goals: be it a civilian crisis management mission, the presence of a EUSR, a Commission presence in the form of a delegation office and the existence of an overarching contractual agreement.

Fourth, each case-study chosen is party to a contractual agreement managed by the European Commission (see figure 1.7); be it the SAP (and SAA) or the ENP. This especially important in light of the JHA external dimension agenda, which privileges the role of the existing contractual framework as propitious vehicles for JHA goals.

Fifth, there is an important difference in the time span of these missions. By choosing a selection of missions with varying start dates in 2003 (with Proxima), 2005 (with EUBAM) and 2008 (EULEX Kosovo) respectively, we add a comparative dimension that can account for degree of continuity and change.

1.6.3 Research Questions and Hypothesis

As we have outlined in section (1.6), the multidimensionality of the external dimension of JHA raises issues of governance about the EU’s external projection; and consequently mediates the EU’s scope to act as an exporter of Europeanisation in its periphery.

Therefore, this thesis asks the question:

To what extent has the multidimensionality of the external dimension of JHA affected the EU’s scope to act as an exporter of Europeanisation to its periphery?
In order to answer this question we will be asking three subjacent questions and corresponding hypothesis. These questions will be posed to each case study.

(1) What has been the impact of the external dimension of the JHA agenda on the design of civilian crisis management missions?

This question shed lights on the planning and construction of civilian crisis management missions and therefore will be addressed in the Steering section of each of the respective case-studies (see sections 3.4, 4.4 and 5.3). The question links extremely well with the Steering component of governance, as Steering explores the interaction of relevant actors and tracks who drives and sets the agenda in policy-making. It endeavours to find out how a multidimensional agenda could be incorporated into the start me up of a civilian crisis management mission.

**Hypothesis A**

The narrower the scope of the civilian crisis management mission mandate the easier it was to design and construct a mission that accommodated the JHA agenda in a coordinated and coherent fashion.

This hypothesis is briefly addressed in the conclusion of each case-study (Chapters 3, 4 and 5) and is then unpacked at length in the conclusion to the thesis (see section 6.1).

(2) To what extent has the external dimension of JHA agenda affected the coordination and coherence of civilian crisis management missions?

This question is designed to shed light on how the EU coordinated its various moving parts – in light of the multidimensionality of the JHA agenda - while the civilian crisis management missions were actually being implemented. The Management sections of each
case-study chapter will provide a space that allows us to explore this question (see sections 3.5, 4.5, 5.4). This is because the Management component of governance is concerned with how policies are carried out, administered and controlled. Management also allows us to examine the array of actors and complex patterns of interaction at work. The Regulation section of each case-study (see sections 3.6, 4.6 and 5.5) will also illuminate this question. This is because Regulation is conceived with policy outcomes, institutionalisation, goal attainment and forms of self-assessment.

**Hypothesis B:**

The clearer the institutional leadership behind a civilian crisis management mission, the better the prospects of that mission having and maintaining the high levels of coordination with other EU actors.

Both of these hypotheses are addressed directly in the conclusion to each of the case-studies (see Chapters, 3, 4 and 5) and are returned to at length in the conclusion to the thesis (see section 6.1).

3. *To what extent has the governance of the three missions been improved by a learning process based on accumulated experience?*

This question allows us to measure the governance of the external dimension of JHA. It does this by applying the categorisations of coherence depicted earlier in this Chapter (1.5). This covers horizontal coherence (covering ‘cross-pillar’ relations, i.e. between the Council of the EU and European Commission), internal coherence (covering ‘intra-pillar’ relations, i.e. within the services of the Council and Commission respectively) and strategic coherence (covering design and implementation and the tactics of goal mobilisation). This question builds on the previous two, hence:
**Hypothesis C:**

The governance of the missions have been shaped by a ‘learning by doing process’ rather than individual acts of institutional and policy entrepreneurship?

This hypothesis is tested in the conclusions to each case-study (Chapters, 3, 4 and 5) and are returned to at length in the Conclusion to the thesis (see 6.1).

**1.7 Conclusion**

This chapter has covered a lot of ground. It has made the case for a conception of EU foreign and security policy that goes beyond the state and focuses on the EU level, where foreign policy is made within and across the ‘pillars’ (I, II and III). It has exposed the limitation of the actorness literature in relation to the notion of ‘actor capability’ and has offered up components of governance, *Steering, Management* and *Regulation* as ways by which we can start to fill in some of the ‘critical linkages’ currently under explored in the academic literature, and as a mechanism by which we can structure (and operationalise) the case-study chapters.

Finally, in lieu of the fact that ‘actor capability’, as posited in this chapter, is still lacking the conceptual ‘glue’ required to measure governance, we proffered three dimensions of coherence to be used as a *metric* for EU foreign and security policy. These three categorisations of coherence - *horizontal, internal* and *strategic* – furnish the framework with the tools to capture the relevant institutionalised forms of behaviour (*structure*) and interaction of actors in policy-making (*process*) dynamics. To sum up, we equip ourselves with the means to structure the thesis case-studies (through the governance components of *steering, management* and *regulation*) and measure (through *horizontal, internal* and *strategic* categories of coherence) the EU’s capacity to project its goals (actor capability).
The analytical framework outlined in this chapter will be utilised to examine the external dimension of JHA ‘agenda’ and its relationship with civilian crisis management missions. This chapter has discussed the rationale for choosing the case-studies Macedonia (Proxima), Moldova (EUBAM) and Kosovo (EULEX); in each case the civilian crisis management mission concerned has a strong connection to the external dimension of JHA; as well as being covered by an overarching framework managed by the European Commission. Finally, the Chapter laid out the key research question and hypothesis, detailing where and when they will be tested.

The next chapter will examine in close detail the policy history and decision-making structures (for JHA and CFSP/ESDP) that are central to our research puzzle and subsequent research questions and hypothesis. This chapter will also return to the precise manner in which the case-studies chapters will be operationalised.
CHAPTER TWO

Civilian Crisis Management and the External Dimension of JHA: A Prospective

Governance Gap

2.1 Introduction

This chapter will trace the coterminous development of the external dimension of JHA and civilian crisis management. It seeks to clarify the opaque and puzzling systems of policymaking within EU foreign and security policy. This will be done by breaking down ‘Policy Development’ and ‘Decision-Making’ in each domain. This approach is in line with our analytical assumptions, from Chapter One, namely that policy outputs are generated by the combination of structure (institutionalised forms of behaviour) and process (the interaction of relevant actors).

The chapter will argue that it is unclear how the institutional framework of the EU can provide the capacity to act (or project itself) in the external dimension of JHA. It will do this by first demonstrating the multidimensional nature of the external dimension of JHA and its ‘agenda’; and second, by revealing the contested nature of civilian crisis management. A third section entitled ‘Between Coherence and Fragmentation’ brings the two sections together to explore the prospective gaps in the governance of this interface. All of which elucidates the complex character of the decision-making process and the multiple actors which serves to put extremely high demands on the coordination process and problematises the cultivation of coherence.
The chapter will conclude with a brief section reprising how the case-studies will be structured and operationalised. This will be linked to the thesis key research questions and hypothesis from section 1.6 in Chapter One.

### 2.2 JHA at the EU Level: Learning to Create Internal and External Security Nexus

JHA cooperation, or the Europeanisation of internal security, has been steadily evolving since the 1970’s. Although it was not until 1993 and the TEU that it was officially welcomed into the institutional family of the Union. Since the creation of the AFSJ in 1997, JHA has arguably become the most dynamic policy area at the EU level (Monar, 2006). As an actor in internal security, the EU has two linked objectives (Webber & Rees, 2002: 90-91). First, the creation of a ‘hard’ external border for the Union (built around the Schengen provisions), and second, cooperation among Member States in combating crime which occurs in the EU’s territorial space. As a consequence of these objectives the EU began to perceive that a safe internal EU space (for its citizens) necessitated the externalisation of EU norms and rules, in what can be considered acts of preventative engagement with is milieu (Kirchner & Sperling, 2007: 13).

The next two sections will outline the ‘Policy Development’ and ‘Decision-Making’ structures in the JHA area.

#### 2.2.1 Policy Development of JHA

Described by Heather Grabbe as something of a “portmanteau phrase” (Grabbe, 2000: 525) the portfolio of JHA was heterogeneous. The provision for the formal establishment of JHA cooperation in the TEU is found in Article K.1 of the TEU, where nine items are to be regarded as matters of ‘common interest’ between the Member States:
(f)or the purposes of achieving the objectives of the Union, in particular for the free movement of persons, and without prejudice to the powers of the ‘European Community’: asylum policy; rules on crossing of external borders; immigration policy; combating drug addiction; combating international fraud; criminal judicial cooperation: customs cooperation, and police cooperation (Peers, 2006: 11)

The move to a ‘formal intergovernmental’ status for JHA in 1993 was in many ways the logical consequence of the preceding informal cooperation going right back to the 1970’s. This cooperation took place in the framework of EPC, as well as on the margins of the Council, with the so-called ‘TREVI’ Group being formally established in June 1976. The Group, conducted largely through ministers for home affairs discussed issues such as terrorism and police co-operation, drugs and border controls (Peers, 2006: 6; Piris, 2010: 167).

In 1997, the Treaty of Amsterdam fleshed out JHA as a rhetorical objective by revamping the domain as an AFSJ. The EU would now seek an enceinte, inside which EU citizens would be ensured a high level of safety. As a consequence JHA was upgraded from being an objective of ‘close cooperation’ to a domain that strove:

> to maintain and develop the Union as an area of freedom, security and justice, in which the free movement of peoples is assured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the preventing and combating of crime (Art.6 (1))

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19 For a more detailed account of the scope of JHA provision in the third pillar see (Geddes, 2008: 97-101)

20 TREVI is said to either refer to the Trevi Fountain in Rome or to be a French acronym for Terrorisme, Radicalisme, Extremisme, Violence Internationale’. Gradually, this group came to meet in different configurations: TREVI I on counter-terrorism, TREVI II on police training and exchange of information, TREVI III on the fight against organised crime, and TREVI 92 on the abolition of controls for persons at internal borders (Piris, 2010: 167)
The AFSJ was listed as a fundamental treaty objective (Art.2 TEU); unifying all other JHA related provisions in EC/EU treaties under the common rationale of creating and maintaining the AFSJ. The creation of an ‘area’ with a ‘conceptual dimension’ (Monar, 2006: 497) meant that the AFSJ assumed the same level (in terms of its establishment) as the European Monetary Union and CFSP, thereby relieving JHA of its purely technical appearance (Milislegas et al, 2003: 36). The shift from JHA to an AFSJ signified both, the re-calibration of the domain as a major EU integration project (Monar, 2001: 758 & 2006: 496) and the growing recognition and elevation of the Union as a legitimate “internal security actor” (Milislegas et al, 2003: 36).

It is possible to delineate three factors driving the elevation and institutionalisation of the EU internal security provision (Monar, 2001& 2006; Pastore, 2001; Anderson & Apap, 2002; Rees, 2005): the establishment of TREVI; the overlap between the Schengen Agreement and the SEA; and post-cold war security dynamics (Rees, 2008: 99). First, as already alluded to in this section, the creation of TREVI in 1976 to help coordinate anti-terrorism policies between Member States. While this was an intergovernmental undertaking, outside the formal institutions of the EC (Occhipinti, 2004: 44) TREVI expanded in 1985 to deal with cross-border public order and serious crime such as drug trafficking (Lavenex & Wallace, 2005: 459). Although limited (and often fragmented) this cooperation did provide a base from which to launch fresh initiatives (Milislegas et al, 2003: 23). Crucially, at this point TREVI was not aligned with the SEA, as the EPC had been (see section 1.2.1) (Lewis & Spence, 2006: 295). So, although the detail of the policy area overlapped with other areas (often involving complex legal issues such as crime and
immigration) considerations of internal security developed on a completely alternative track from EU foreign policy/external relations (M.E. Smith, 2003: 142).

Second, the policy overlap between the Schengen Agreement (1985) and the SEA (1986) is said to have “pushed forward” the EU into a “unified space” (Pastore, 2001: 1). The argument here is that this freshly unified space de facto created a “common internal security zone” (Monar, 2001: 753). The SEA inserted a new Article 8a in the EC treaty which stated that ‘the internal market shall comprise an area without internal frontiers, in which the free movement of goods, persons, services and capital is ensured’ (Piris, 2010: 168). Meanwhile the Schengen Agreement witnessed five Member States (France, Germany, Belgium, Netherlands and Luxembourg) agree to abolish controls of persons at internal borders. The ‘Schengen area’ entered into force on 26 March 1995 for the five original members, with Italy joining in October 1997, and Austria in December 1997 (Lewis & Spence, 2006: 294). The Schengen acquis was integrated into the framework of the Union under the Treaty of Amsterdam. 21 In January 2000 Greece joined the Schengen area, and in March 2001 so did the five Nordic States (Denmark, Finland, Sweden, Iceland and Norway) (Piris, 2010: 169). 22 The logical overlap of the two policies was that abolishing obstacles to cross-border economic activities provided knock-on opportunities for organised crime to flourish (Lavenex, 2010: 459; Webber & Rees, 2002: 84; Milislegas et al, 2003:23; Occhipinti, 2003: 33). This functional dynamic, as Andrew Geddes has so felicitously described it, represents an instance where “the ‘low politics’ of economic

21 Only the UK and Ireland whom under the Treaty of Amsterdam, obtained the right to opt out, continued to apply controls on persons at their borders with other Member States (Piris, 2010: 173).

22 In December 2007, the Schengen area was extended to the three Baltic States, the Czech Republic, Slovakia, Hungary, Slovenia and Malta, at the time of writing the Schengen area covered twenty-two out of twenty-seven Member States (the exceptions being Ireland, the UK, Cyprus, Bulgaria and Romania) (Piris, 2010: 173).
interdependence seemed to have spilled over into the ‘high politics’ of border control and security” (Geddes, 2000: 3).

Third, the blurring of internal (criminal activities within the confines of the state) and external security (dependent on behaviour from other states of military blocs such as NATO or the Warsaw Pact during the Cold War) (Pastore, 2001: 1). The end of the Cold War signified a structural change in the way that policymakers viewed the ‘international system’; namely the appearance of a security vacuum in Europe (Bigo, 2006: 387; Lutterbeck, 2005). From the EU’s perspective the end of the Cold War served to usher out the Communist bloc and usher in myriad ‘soft security problems’ (i.e. organised crime and illegal immigration), as well as a fratricidal conflict in the former Yugoslavia. This dissolving of the ‘two spheres of threat’, internal and external, created and subsequently fuelled a new sense of vulnerability in the EU. Elsewhere this has been described as the ‘globalisation of insecurity’ (Bigo, 2006: 389). Many of these themes are brought together by Rees:

The environment of post-Cold War Europe also served to amplify the risks arising from these new threats. The collapse of former socialist states; the economic turbulence and corresponding social dislocations surrounding the transition to market economies in the east; the opening up of borders and the emergence of inter-ethnic conflicts all served to increase the sense of vulnerability in western Europe (Rees, 2005: 208)

All of the themes discussed so far in this section: the Europeanisation of JHA, the implications of the newly declared AFSJ, and the merging of internal and external comprehensions of security, are all readily identifiable in the so-called Tampere Milestones of 1999. These milestones were formulated at the end of the EU summit, in October 15-16, 1999. The milestones were explicitly designed to contribute to the creation and
sustainability of the AFSJ, and represent the first official introduction of the external
dimension of JHA. These were:

1. The development of a Common EU Asylum and Migration Policy;
2. The creation of a Genuine Area of Justice;
3. The fight against Organised Crime and Transnational Crime;
4. The development of Stronger External Dimension to JHA (European Council, 1999)

In specific relation to the external dimension of JHA, the Tampere conclusions stated:

The European Council underlines that all competences and instruments at the
disposal of the Union, and in particular, in external affairs must be used in an
integrated and consistent way to build the area of freedom, security and justice
(Council of the European Union, 2000: 5)

The logic underpinning the move at Tampere is explained well by Rees (2005: 216) (below
which is Figure 2.1 mapping the gradual evolution of JHA links to external relations):

To provide free movement as well as a secure and just internal space meant
that EU citizens had to be protected from external threats such as international
crime and terrorism. This reinforced the linkage that had been made before, the
EU was drawing a sharp distinction between a safe and secure internal space
and a threatening and dangerous area outside

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23 See Balzacq (2008: 15-20) for an alternative account, which covers the discursive genealogy of the
‘formation of ED-JHA [external dimension of JHA]’, tracing the development of the domain back to the
Edinburgh European Council in 1992
In order to fulfil the ‘Tampere Remit’, a report on the ‘European Union’s priorities and policy objectives for external relations in the field of justice and home affairs’ was commissioned. Produced for the Feira European Council in 6 June 2000, this report laid out priority action areas as the fight against transnational organised crime and immigration and asylum matters (Council of the European Union, 2000: 2). The pursuit of which should be commensurate with the creation of the AFSJ. Meaning that the “existence of internal policies or measures is the key parameter justifying the need for external action” (2000: 6). Just as significantly, the report placed a “number of constraints” on the external dimension of JHA. First:

The JHA external dimension is not an objective in itself. Its primary purpose is to contribute to the establishment of an area of freedom, security and justice, the aim is certainly not to develop a ‘foreign policy’ specific to JHA. Quite the contrary (Council of the European Union, 2000: 5)

Second:
The JHA dimension should form part of the Union’s overall strategy. It should be incorporated into the Union’s external policy on the basis of a ‘cross pillar’ approach and ‘cross-pillar’ measures (my emphasis) (Council of the European Union, 2000: 5)

Although not detailed in the treaties, the European Council assumed an importance in the development of the AFSJ where it has taken a leading role through the introduction of Multi Annual Strategic Programming (e.g. the Tampere Conclusions) which set out longer-term objectives and fixed deadlines for their adoption. In this context the

The EU introduced its second five year plan for the AFSJ, in December 2004. Called the Hague Programme this represented a new ambitious strategic programme for internal security (Council of the European Union, 2004a). Significantly, the Hague Programme commissioned an overarching strategy for the external dimension of internal security, that was completed in November 2005, entitled ‘A Strategy for the External Dimension of JHA: Global, Freedom, Security and Justice’ (Council of the European Union, 2005a). This strategy document, which details the scope and institutional arrangements for the burgeoning policy area, represents an important reference point for this thesis’s understanding of the external dimension of JHA ‘agenda’. The strategy upgraded JHA to a “central priority in its external relations” (Council of the European Union, 2005a: 2). In many respects the 2005 strategy represents an accentuated version of the 2000 report. As such, it listed the EU’s key thematic priorities to safeguard the AFSJ as to: combat terrorism, organised crime and illegal immigration (2005a: 2). It also restated the cross-pillar foundations of the 2000 report. However, some elaboration can be evinced through the strategies call for the
Priorities for future engagement should be informed by both the EU’s internal and external policy objectives. The broad range of instruments at the EU’s disposal should be coordinated across the pillar (Community, CFSP/ESDP, JHA) to deliver a tailored and coherent response (my emphasis) (2005a: 5).

It continues:

Addressing weak governance and state failure in third countries are the key to breaking the vicious cycle of conflict, poverty and instability. There is such an important relationship between JHA and the CFSP, ESDP and Development policies of the EU. For example, EU policies and judicial expertise is essential to the rebuilding and transformation of weak law enforcement institutions and court systems. It is important that European Crisis Management Operations, and in particular Civilian Crisis Management Operations, tackle issues such as organised criminality and corruption (my emphasis) (Council of the European Union, 2005a: 4)\(^{24}\)

The 2005 strategy also goes further than the report in 2000 in establishing more explicit links to foreign policy. It advocates developing:

further the EU’s external dimension to take into account the objectives of the area of freedom, security and justice is coherent with and contributes to the goals of the European Security Strategy (Council if the European Union, 2005: 4)

This does not abandon the Report of 2000’s explicit rejection of JHA having a foreign policy rationale of its own, independent of other external actions. Rather, the emphasis is on the inherently protean character of the domain and the degree to which its goals can better mobilised by being inserted or ‘added-on’ to existing policies. Therefore, the JHA external dimension is actually prescribed by identifying the relevant aspects of EU foreign policy which can effectively ‘double-up’ as vehicles for JHA goals. Both documents recognise that the “delivery mechanism and tools” to pursue JHA goals should be “governed by the nature of the relationship of the EU to the country or region in question”

\(^{24}\) This quote was used in the Introduction to the thesis also, see p20.
(Council if the European Union, 2005a: 6). In this context, overarching policy frameworks for both EU candidate countries and participants in the ENP are depicted as propitious settings (or vehicles) for mobilising and as a result projecting JHA goals (Council of the European Union, 2005: 6). This means that external policy frameworks and policies, such as CFSP, ESDP, enlargement and the ENP, have supplied the “institutional and policy context” (Cremona, 2008a: 4) within which to develop and project the goals of the JHA external dimension. Furthermore, so-called ‘JHA Agencies’ (see section 2.2.2 for outline of JHA Agencies) “such as Europol, Eurojust, and Frontex, as well as Member States liaison officer networks, should be tasked to enhance appropriate operational co-operation with priority countries” (Council of the European Union, 2005a: 7).

Collating the Strategie’s guidelines, Cremona (2008a) has argued that the JHA external dimension role is effectively a ‘Janus faced’ one, as it:

1. It is part of the AFSJ itself, and therefore has a function of helping to fulfil internal objectives;

2. It is an ‘add-on’ to other external policies, helping to fulfil their goals – including policies representing the political dimension of foreign policy such as the European Security Strategy (Cremona, 2008a: 2)

The flexibility required to do this stems from that the lack a ‘single’ external dimension of JHA (or AFSJ) competence. This means a number of express competences, such as CFSP, association, trade and development can be used to further AFSJ objectives. For example, Title VI TEU (pillar III) contains a provision for granting treaty making competence to the Union, whilst in the first pillar Title IV of the EC has no such provision – therefore competence is implied (Cremona, 2008a: 5; Monar, 2004).25 Furthermore, the external

25 For more legal detail regarding competence see Cremona (2008: 5-8)
dimension of JHA can derive from existing legal bases and instruments from both EU and EC treaties; in as far as the external dimension of JHA has its objectives coincide with the furtherance of other external polices (Cremona, 2008a: 6). Therefore, the external dimension of JHA can formulate part of the CFSP/ESDP, development cooperation policy, association relationships (SAP, ENP) and trade policy because each has their own legal base. The substantive point is that the JHA external dimension is not required to service an overall JHA objective; rather, it extends the possibility of using specific powers to pursue specific objectives (Cremona, 2008a: 7). However, these factors do give rise to the acute “danger of fragmentation” and risk incoherence, as the external dimension of JHA is “refracted through a range of external policies” (Cremona, 2008a: 7).

Trying to crystallise the external dimension of JHA from the strategic policy documents, from 2000 and 2005, is not an easy task. The variegated nature of the domain resists being categorised as a singular doctrine. However, it is possible to deduce an agenda that will help to bring some clarity and structure to an examination of the external dimension of JHA:

a. the external dimension of JHA has to be internally relevant (i.e. it has to contribute to the internal security of the EU thereby helping to develop the AFSJ) (see Council of the European Union, 2000: 6; 2005: 5)
b. the external dimension of JHA is not a foreign policy on to itself, rather it contributes to the wider foreign policy objectives (i.e. those within the European Security Strategy) (see Council of the European Union, 2000: 5; 2005: 4);
c. the external dimension of JHA is a cross-pillar policy domain and needs to managed as such (see Council of the European Union, 2000: 5; 2005: 5);
d. the external dimension of JHA should be governed by a country’s existing contractual framework (where one exists) such as the SAP (and accompanying SAA) or ENP (and corresponding Action Plan) (see Council of the European Union, 2000:7; 2005: 6)

The argument made here is that this ‘agenda’ is fuzzy and multidimensional, and as such risks becoming fragmented and becoming incoherent. The position taken here is that this agenda serves to demarcate basic guidelines that we can later harness in order to test the EU’s performance in governing the external dimension of JHA (see section 1.6 of Chapter One for more).

The next section turns to decision-making in the JHA realm and helps reveals the prospective gaps in the governance of the external dimension of JHA agenda.

2.2.2 Decision Making in JHA (and the external dimension thereof)

As alluded to earlier (see 2.2.1) the TEU incorporated asylum policy, rules and controls on external border crossings, immigration policy and police and judicial cooperation as ‘matters of common interest’ (see Figure 2.2). Member states retained strict intergovernmental control over this remit (Rees, 2005: 215). The Commission held very weak rights of initiative, and only non binding legal instruments (‘Common Positions’, ‘Conventions’ and ‘Joint Actions’) were available at the EU level. In addition, the Schengen system was not included in the formation of TEU, mitigating against any common approach to EU internal security (Milislegas; et al, 2003: 33). As a result, the performance of JHA cooperation in this formation has been widely castigated as being “poor” (Milislegas, et al, 2003: 33).
Consequently, in 1997 at Treaty of Amsterdam, key aspects of JHA cooperation were ‘communitaried’ in what amounted to substantive change of the TEU (JHA) portfolio (see Figure 2.3 and 2.3), whilst the Schengen Conventions and acquis were now incorporated into the Treaty scheme. Asylum, immigration of external border controls were transferred from pillar III\textsuperscript{26} (Title VI TEU) to pillar I (under the new Title IV). Two new committees, the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA), and the Committee on Civil Law Matters were established to facilitate this. As a result pillar III

\textsuperscript{26} For full account of QMV and co-decision for asylum, immigration and external border controls, see (Piris, 2010: 178-179)
was streamlined, only retaining police and judicial cooperation in criminal matters (PJCCM). PJCCM was placed within the new Article 36 Committee, which itself had replaced the now defunct K.4 Committee.

Figure 2.3: Cooperation Structures in JHA after the Amsterdam Reforms

Source: based on Monar (2000: 129)

As a result the capacity to make policy has been conducted separately within Council and Commission contexts: meaning that “decision-making on often closely interrelated issues follows rather different institutional trajectories” (Monar, 2006: 499). The Council of Ministers (meeting as the JHA Council) sits at the apex, COREPER acting as the main co-ordinating and decision-making body. This leaves the policy process with a number layers
(see figure 2.3). The JHA Council Agenda is prepared by COREPER which holds weekly meetings. Between COREPER and the working groups the JHA structure has an mediating layer composed of special coordinating committees which bring together in Brussels the senior officials from the national ministries, usually meeting once a month. The lowest level is composed of the working groups of specialists from national ministries and operational bodies (Lavenex, 2010: 464; Monar, 2006: 499).

Since the new powers invested in the Commission since the ToA, the Commission has gradually expanded its organisational basis in JHA. The Prodi Commission (1999-2004) transformed what was a small task force into a new DG JHA (later renamed DG JLS) (Lewis & Spence, 2006: 307). 27 In 1998 the task force had only 46 members of staff, but since been re-envisaged as a DG, the number increased to 283 (in 2002) and 440 (in 2008) a size compatible to DG Trade. Its budget increased accordingly, from €219.4 million in 2000, to €461.7 million in 2006 (Lavenex, 2010: 463). In 2008 DG JLS created an International Affairs Unit (Interview, 35).

27 In June 2010 the unit was restructured again. This it was split into DG Home and DG Justice.
Figure 2.4: The Policy Process in JHA

Source: authors own

Another actor worth considering is the unit in the Council Secretariat DG H. This is composed of permanent representation of member states in Brussels, legal advisors and officials that are seconded from interior ministers. These help support the work of the Council committees such as the Article 36 Committee. DG H is composed of three Directorates covering ‘Coordination’, ‘Asylum, Visas, Immigration, Borders and Schengen’, and ‘Judicial Cooperation in Civil and Criminal Matters and Police Customs’, with respective sub-sections. Although until 2008 there was no unit dealing with external affairs with the Council. This changed in 2008 when the French Presidency the Council established a special ad hoc Support Group on external JHA issues (JAIEX). The working
The Group’s aim would be to:

facilitate the exchange of information and contribute towards more strategic and horizontal reflections in that area, with a view to supporting the work of the relevant JHA committees and working parties by helping to ensure their consistency, but without prejudice to mandates (Council of the European Union, 2008: 2)

This working group was envisaged as a unit to support the CFSP (or RELEX) Counsellors (see section 2.5.2 for explanation of CFSP Counsellors).

The European Parliament gained a strengthened role in JHA when visa, border controls, irregular migration, asylum policy and judicial cooperation in civil law were transferred to the first pillar and therefore falling under the co-decision procedure. Although it was not until 2005 (when the transitional period of the Treaty of Amsterdam expired) that the EP could block or amend legislation by the Council (Lavenex, 2010: 466).

The emergence of a number of JHA Agencies and their potential contribution to the external dimension of JHA is also highlighted in the Strategy (of 2005), with EUROPOL, FRONTEX and EUROJUST being named as fruitful options (Council of the European Union, 2005: 7). We will quickly illustrate the function and scope of each agency.

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28 See the concluding chapter to the thesis for a discussion of the role of JAIEX after the Treaty of Lisbon (see section 6.2)

29 Co-decision procedure is a legislative procedure in which the Council and EP adopt legislation by common agreement see (Wallace, 2010: 83).

30 See the concluding chapter of the thesis for a discussion on the extension of co-decision for JHA matters contained in the Treaty of Lisbon (see section 6.2)
EUROPOL is an EU law enforcement agency which the member states agreed to create in the Maastricht Treaty of 1992; however the office was not actually established until 1995. This entered into force in 1998, with the EUROPOL beginning its activities with its Head Quarters in The Hague (Occhipinti, 2003: 39). EUROPOL’s scope extends to a EUROPOL National Unit in each member state national police system, and acts as the contact point for EUROPOL issues. Member states usually send a National Unit to The Hague also (Mounier, 2009b: 585). The JHA Council is responsible for the control of EUROPOL. EUROPOL’s mandate as defined by Article 2 of the EUROPOL Convention is to improve the “effectiveness and cooperation of the competent authorities in the member states in preventing and combating serious international crime” (Mounier, 2009b: 584). EUROPOL fulfils this mandate by facilitating the exchange of information and intelligence between the members of the EU and to give them strategic analysis and operational support – “it does not have coercive powers and cannot arrest individuals or search premises” (Mounier, 2009b: 584). This information and intelligence is offered through the European Information System (EIS) and analysis work files (AWF’s). The first is a central archive for serious organised crime through which member states can swap data and reference. The second, which represents the “genuine added value of EUROPOL” (Mounier, 2009b: 585) serves to:

- collate and analyse information and intelligence supplied by member states or gathered from open sources and third parties. The organisation regularly generates situation and strategic reports as well as crime analysis and threat assessments (Mounier, 2009b: 585)

Moreover, the AWF’s are restricted, in terms of access to ensure their quality, to the investigators of the participating member states (Mounier, 2009b: 585). EUROPOL are permitted to sign external agreements with third countries and bodies not linked with the EU. Two types of agreements exist, strategic and operational. Strategic agreements do not
permit the exchange of personal data; while operational agreements do (Mounier, 2009b: 587). The EU has been extremely eager to have EUROPOL develop its external relations. First mentioned back in the year 2000 in the first external dimension of JHA report (see section 2.2.1) where it was linked with ‘non-military aspects of crisis management’, the Council went on inserting EUROPOL into strategic documents on external relations. This included a 2004 strengthening document for civilian ESDP (Council of the European Union, 2004) (section 2.3.1) and the strategy papers outlining the scope of the ENP (European Commission, 2004a: 17).

FRONTEX was established in October 2004 as a European Community agency under Council Regulation EC 2007/2004 and became operational in 2005. Article 2 of the Regulation establishes FRONTEX and lays out its main tasks:

- to coordinate operational cooperation between member states regarding the management of external borders;
- to assist member states in the training of national border guards, including the establishment common training standards;
- conducting risk analysis;
- following up on development in research relevant for the control and surveillance of external borders;
- assisting member states when increased technical and operational assistance at external borders is required and;
- assisting member states in organising joint operations (Council Regulation, 2004: Art 2)
FRONTEX’s budget was €2 million in 2005 (with a staff of 43) which increased to €70 million in 2008 (with a staff of 164) (Pollak & Slominski, 2009: 910). The JHA Council of 4-5 December 2006 directed the agency toward cooperation with neighbouring and third countries (Council of the European Union, 2006a: 27). FRONTEX is covered by European Public Law meaning that it has legal personality (Lenoard, 2009: 373) and its management board consists of two Commission official plus the head of the member states border guard services (Carrera, 2007: 13; Neal, 2009: 343).

EUROJUST was created as part of the Tampere Milestones in 1999 as part of the fight against serious international crime. After some delays EUROJUST was established in 2002. EUROJUST was envisaged as a unit composed of twenty-five senior prosecutors and judges called ‘National Members’ and is based in The Hague. EUROJUST facilitates the exchange of judicial information and personnel data. It is tasked with improving the coordination of investigations and prosecutions between member states by facilitating the execution of international mutual legal assistance and the implementation of extradition requests. EUROJUST often plays an important coordinating role behind the scenes and in this context it assists EUROPOL with expertise and logistical support (Monar, 2006: 504).

These agencies were also encouraged to coordinate amongst themselves. EUROPOL coordinate with EUROJUST and FRONTEX, signing operational agreements in 2004 (permitting the exchange of personal data) and 2008 (FRONTEX are not allowed to handle personal data31) respectively. From 2006 onwards the three agencies came together to construct the European Organised Crime Threat Assessments (OCTA), with EUROPOL in the lead (Interview, 53).

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31 This position changed in June 2011 where FRONTEX will be allowed to deal with personal data.
In terms of linking actors and decision-making in the JHA area (outlined above) to the operationalisation the external dimension of JHA, both the 2000 Report and the 2005 Strategies (on the JHA external dimension) privilege the role to be played by COREPER. It is worth quoting at length from these policy documents as they reveal the prospective governance gap clearly:

Under the current working structure in the field of JHA, with the exception of the High Level Working Group on Asylum and Migration, no one group has responsibility for external relations enabling it to ensure a cross-pillar approach and the overall consistency of the European Union’s external policy.

Furthermore, the high-level coordination groups (Article 36 Committee, Strategic Committee on Immigration, Frontiers and Asylum on Civil Matters) do not have an overview of JHA matters as they only have partial powers in this area (Council of the European Union, 2000: 11).

COREPER’s responsibility is central in this respect, in that it alone is capable of evaluating the overall objectives of the Union’s policy (my emphasis) (Council of the European Union, 2000: 12).

Moreover, in order to:

- ensure coherence, COREPER, where appropriate on the basis of information provided by the Commission and the relevant working groups or Committees, including the senior level groups in the respective area (CATS [Article 36 Committee], SCIFA, Civil Law Committee), will on a regular basis assess and give guidance on the development of the external dimension of the Union’s work in the JHA field (Council of the European Union, 2000: 12).

In addition to the assistance of JHA/Relex Counsellors to COREPER, the:

- Mandate of geographical and thematic merged Working Parties of the Council extends, where appropriate, to the JHA dimension, receiving for that purpose substantive input from the existing structures, in particular the existing formal JHA working groups (Council of the European Union, 2000: 12).

By 2005, these provisions were reinforced:

- COREPER will remain the body with cross-pillar responsibility for ensuring coherence across Council work in this area. The geographical and functional
working groups and committees which over JHA and external issues will be consulted in a timely way on issues relevant to them, will-coordinate between themselves, if appropriate meeting jointly on an ad hoc basis to cover important issues such as work on specific priorities identified (Council of the European Union, 2005a: 9)

Finally, the 2005 Strategy put in place structures and processes for the review of progress stated that the Commission and Council Secretariat will systematically monitor the progress of JHA external activity and report to the JHA Council and GAERC every 18 months. In addition to this the Council will agree a number of action oriented papers covering specific priority countries, regions or themes (Council of the European Union, 2005a: 8).

As has already been stated, this thesis’s research puzzle revolves around the idea that it is unclear how the governance of the external dimension of JHA will actually work, in terms of structure and process (as outlined in Chapter One). As the external dimension of JHA strategies (from 2000 and 2005) confirms, no one group has responsibility for the domain and therefore ad hoc, cross-pillar arrangements are the envisaged solution. COREPER is the institutional unit expected to ensure this process runs effectively, a heavy policy burden to carry. However, COREPER can not provide the detailed oversight required for CFSP/ESDP or European Commission led policies and frameworks, such as Enlargement and the ENP (this will be unpacked further in sections 2.3 & 2.4). The fact that the external dimension of JHA is fluid in institutional and policy terms makes its effective governance problematic.

This section has detailed how the JHA area brings together a wide and possibly fragmented set of issues and procedures and attempts to unify them in one encompassing framework (Mitsilegas, 2007: 458). Karen. E. Smith has argued convincingly that this fragmented JHA domain is better thought of as a ‘policy universe’, due to the fact that it (JHA) is dealt
with under a variety of institutional set-ups at the EU-level (K. E. Smith, 2009: 3). In line with the analytical framework outlined in Chapter One, the position taken here is that the external dimension of JHA is made within and across pillars I, II and III (see figure 2.5 below) bringing issues of coordination and coherence to the fore. These become more acute when we consider the different institutional trajectories of internal and external actors, as well as the different institutional positions of Commission led contractual agreements (see figure 2.5 below) and CFSP/ESDP, respectively.

Figure 2.5: JHA within and across the pillars

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Source: authors own
On a practical basis the JHA domain has become reflective of both an internal dimension, i.e. coordination and policymaking within EU borders, as well as an external dimension which seeks to insert JHA goals into relationships with third countries (K.E. Smith, 2009: 3; Wolff, et al. 2009). This links to the point that the multidimensional nature of the domain means there is no readily identifiable single external dimension of JHA ‘goal’ to aim for (Cremona, 2008a: 4; Walker, 2004: 5). All of which problematises the EU’s efforts to cultivate coherence and presents this thesis with a methodological problem regarding what aspects of the external dimension of JHA to focus upon. This is because the agenda requires coherence to be managed through the:

1. compatibility between internal and external EU policies, and;
2. harmonious mobilisation of cross-pillar institutions and policy processes

The first challenge denotes to what extent external policies (undertaken in the name of JHA) are congruent with internal (AFSJ) goals, with what is, after all a “internally driven external policy” (Cremona, 2008a: 4). While academics are unconvinced on this linkage, arguing that “the internal-external distinction can be blurry at times” (K. E. Smith, 2009: 3) characterised by a distinct lack of clarity (Cremona, 2008a:2), the EU sees things in a more positive light. In the 2006 Progress Report on the JHA external dimension argued that the “area of Justice, Freedom and Security is a striking illustration of the positive cross-fertilisation between internal and external policies” (Council of the European Union, 2006b: 3). The second challenge, between external (EC) and the Council CFSP/ESDP policies bring to the surface, in a much more obvious way, categorisations of horizontal, internal and strategic coherence as outlined earlier in Chapter One (see section 1.5.2). In analysing this second challenge of the external dimension of JHA we give ourselves the wherewithal to unlock the institutional and policy contexts within which the domain is inserted into or
added on to existing policies. At the same time, this angle creates space for an evaluation of the domains refraction through the Union’s institutional and policy matrix.

As already stated in the key research questions in section (Chapter One, 1.6), a choice, for reasons of space and analytical clarity has to be made about the explicit focus of the thesis. Therefore, it will be the second challenge of managing the harmonious mobilisation of cross pillar institutions and policy processes (externally projected) that will be the primary focus of the case-studies to follow (see section 1.6 for recap).

The next section will proceed to unpack civilian crisis management at the EU level unveiling its contested nature before proceeding to a section on the interface between the two domains.

### 2.3 CFSP/ESDP and Civilian Crisis Management: Too Many Shades of Grey?

The Europeanisation of EU security over the last fifty years, from the EDC to ESDP, and has been hailed as one of the “greatest political revolution of the late twentieth and early twenty-first centuries” (Webber, 2004 et al.: 19). ESDP’s enabling ferment came at St Malo in 1998, and by 2003 the first missions has been deployed. The alacrity with which this was done was “nothing short of remarkable by EU standards” (Duke & Ojanen, 2006: 478). The unlikely midwives of ESDP were the British Prime Minister Tony Blair and French President Jacques Chirac, who jointly announced that “the Union must have the capacity for autonomous action backed up by credible military forces” operating “within the institutional framework of the European Union” (Wallace, 2005: 445). The rhetoric was matched by a new retinue of actors and supporting bureaucracy through which ESDP could be effectively operationalised (Grevi, 2009). This military capability was soon joined by a civilian dimension as the EU sought to further augment its capacity to act. However, this
civilian turn has proved to be problematic, especially in matters of inter-institutional
t的关系。其中，欧洲委员会对ESDP的民事扩展被视为‘机构侵犯’的行为（Dijkstra, 2009: 442; Kurowska, 2008）。这导致委员会捍卫其职能并避免使用第二支柱工具来实现第一支柱目标（Schroeder, 2007）。

下两节将详细阐述民事危机管理政策的发展（2.3.1）和决策（2.3.2）。

### 2.3.1 CFSP/ESDP Policy Development


![Figure 2.6: ESDP Missions (military and civilian) to date](image)

<table>
<thead>
<tr>
<th>EU/ESDP Missions (Since 2003)</th>
<th>Typology of Mission</th>
<th>Date</th>
<th>Size (personnel)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bosnia-Herzegovina (BiH)</td>
<td>Civilian: EU Police Mission (EUPM)</td>
<td>2003</td>
<td>182</td>
</tr>
<tr>
<td>Country/Civilian/Military/Operation/Peacekeeping Force</td>
<td>Description</td>
<td>Dates</td>
<td></td>
</tr>
<tr>
<td>-------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>Democratic Republic of Congo (DRC) Military: Operation to stabilise the Bunia Region, prior to UN presence (Atremis)</td>
<td>June-September 2003 1800</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Macedonia Military: Operation to support peace efforts</td>
<td>March-December 2003 400</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BiH Military: Operation replaced NATO peacekeeping force (EUFOR/Operation Althea)</td>
<td>December 2004 7000 (reduced To 2500 In 2007)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DRC Civilian: Police Mission to Kinshasa (EUPOL Kinshasa)</td>
<td>December 2004-June 2007 49</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iraq Civilian: Rule of Law Mission (EUJUST)</td>
<td>February 2005 17</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Darfur, Sudan Civilian &amp; Military: EU assistance to African Union mission</td>
<td>July-2005 51</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Country</td>
<td>Mission and Mission Duration</td>
<td>Start Date</td>
<td>Duration</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>------------------------------------------------------------------------------------------------</td>
<td>------------</td>
<td>----------</td>
</tr>
<tr>
<td>DRC</td>
<td><em>Civilian:</em> mission to assist security sector reform (EUSEC)</td>
<td>May 2005</td>
<td>36</td>
</tr>
<tr>
<td>Palestinian Territories</td>
<td><em>Civilian:</em> Police Mission (EUPOL COPPS)</td>
<td>November 2005-</td>
<td>10</td>
</tr>
<tr>
<td>Palestinian Territories</td>
<td><em>Civilian:</em> mission on border between Gaza Strip and Egypt (EUBAM Rafah)</td>
<td>November 2005-</td>
<td>71</td>
</tr>
<tr>
<td>Macedonia</td>
<td><em>Civilian:</em> EU police advisory mission (EUPAT)</td>
<td>December 2005- June 2006</td>
<td>50</td>
</tr>
<tr>
<td>DRC</td>
<td><em>Military:</em> operation assisting the UN supervise elections (EUFOR)</td>
<td>April-December 2006</td>
<td>2300</td>
</tr>
<tr>
<td>Afghanistan</td>
<td><em>Civilian:</em> police sector reform (EUPOL Afghanistan)</td>
<td>June 2007-</td>
<td>160</td>
</tr>
<tr>
<td>Chad Central African Republic</td>
<td><em>Civilian &amp; Military:</em> mission to protect Darfur refugees</td>
<td>January-2008</td>
<td>3700</td>
</tr>
<tr>
<td>Kosovo</td>
<td><em>Civilian:</em> EU Rule of Law (EULEX)</td>
<td>February 2008-</td>
<td>1800</td>
</tr>
<tr>
<td>Guinea-Bissau</td>
<td><em>Civilian &amp; Military:</em> mission to support security sector reform</td>
<td>March 2008-2010</td>
<td>15</td>
</tr>
<tr>
<td>Country</td>
<td>Description</td>
<td>Duration</td>
<td>Budget</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>------------</td>
<td>--------</td>
</tr>
<tr>
<td>Somalia</td>
<td><em>Military</em>: maritime mission to support the prevention of piracy off the coast off the Somalia coast (EUNAUFOR Atalanta)</td>
<td>May 2008 –</td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td><em>Civilian</em>: monitoring mission (EUMM)</td>
<td>September 2008 - 394</td>
<td></td>
</tr>
<tr>
<td>Somalia</td>
<td><em>Civilian</em>: security sector reform, especially training for protection of Somalia coast</td>
<td>January 2010 - 130</td>
<td></td>
</tr>
</tbody>
</table>

Source: authors own

This prolific projection of ESDP missions witnessed a concomitant shift in its budget from €50 million in 2003 to €243 in 2009 (with a projection for 2013 of €400 million), as outlined below

**Figure 2.7: CFSP/ESDP Budget from 2003-2013**

Source: Council of the European Union (2010: 4)
This impetus behind the initiative at St Malo was to create an effective intervention capacity that could erase the long shadow of the Balkan wars. The events in Kosovo damaged the Union’s credibility as an actor and exposed its “lack of capacity” (Bailes, 2008: 115) to deal with crises in its ‘own backyard’ (Bono, 2002: 30). In this context of recent political importance, operational incapability and public obloquy, the will was forged to cross the military rubicon.

In 1997 at the Treaty of Amsterdam, a process first stated early 1990’s re-activated. The evolution of EPC into the CFSP at Maastricht was accompanied in June 1992 by the incorporation of the so-called Petersberg Tasks of the West European Union (WEU). The tasks redefined the EU’s operational role by committing Foreign Ministers of Western Europe committed their countries to humanitarian and rescue tasks, peacemaking tasks and tasks of combat forces in crisis management (Giegerich & Wallace, 2010: 436). The changes at the ToA which revived TEU’s provisions on CFSP and incorporated the ‘tasks’ as Article 17 (2) (Giegerich & Wallace, 2010: 436) created a platform from which the very idea of military force could develop (Keane, 2005: 91). However, as suggested earlier in this section, it was not until at the European Council in Helsinki in 1999 that the determination to develop an autonomous capacity in military action could be mobilised. Consequently, the EU provided a bureaucratic infrastructure to support this expansion of Unions ambition and capabilities.

In its initial vein ESDP was almost exclusively concerned with developing a military capacity. This process omitted any attempt to “think through crisis management responses and capabilities for the Union as a whole” (Duke & Ojanen, 2006: 483). Illustrative of which were the conclusions from the 1999 European Council in Helsinki, December 10-11, in which the EU committed themselves to a set of ‘Headlines Goals’. To be achieved by
2003, these goals would enable the Union to deploy (in a rapid fashion) and sustain forces capable of the full range of St Petersberg tasks. These tasks included the capacity to deploy 15 brigades or 50-60,000 persons within 60 days (Rutten, 2001: 85). In order to achieve, sustain and manage these ambitions the Council created the Political and Security Committee (PSC), the European Union Military Committee (EUMC) and European Union Military Staff (EUMS). The creation of predominately military provision, institutionally speaking, can be seen as evidence of the early “negative framing” of the civilian dimension (Howorth, 2007: 124). It was not until the summer of 1999 that any attention was given to the development of ESDP’s civilian turn (Howorth, 2007: 124; Bailes, 2008: 115).

The development of the civilian dimension within ESDP can be traced back to the Cologne European Council in June 1999, where a Security Working Group were tasked with drawing upon on an inventory list for the ‘non-military aspects of crisis management’ (Nowak, 2006: 17). This took the form of two separate documents. The first dealt with Member States resources and potential contributions (Council of the European Union, 1999a); whilst the second ruminates upon the Union’s resources under both EC and Council competence. In dealing with the EU level resources, the second inventory list immediately tapped into the exacting demands of civilian crisis management: horizontal coherence between the Council and Commission. Even at this rather preliminary stage the list makes it abundantly clear that any “rigid distinctions between the two ‘pillars’ was misleading” (Council of the European Union, 1999b: 2). Therefore ensuring cross-pillar coherence, as well as Member States national coordination and the EU’s contribution to other international organisation (UN or OSCE), were to be considered of paramount importance when establishing a civilian dimension (Rutten, 2001: 90). At the Lisbon

32 For more exposition on the institutional provision for the military dimension of CFSP/ESDP see (Vahoonacker et al, 2010; Howorth, 2007; Merand, 2008; Cross, 2010).
Council in March 23-24 in the year 2000, institutional provision was provided for civilian ESDP in the shape of the Committee for Civilian Crisis Management (CIVCOM) which was unveiled and was to be ‘up and running’ by the Feira Council in 19-20 June 2000 (see Decision-Making section 2.3.2).

The Feira European Council also fleshed out the EU’s conceptual approach to civilian crisis management. Four priority areas for capacity building were outlined.\footnote{For more on these priority areas see Nowak (2006: 19-23) regarding all four areas.}

- **Police**: concrete targets on police capabilities to be reached by 2003, including the need to be able to provide 5,000 police officers across the range of crisis prevention and crisis management operations;

- **Strengthening the Rule of Law**: the area the EU is most specifically concerned with is assistance for the re-establishment of a judicial and penal system;

- **Strengthening Civilian Administration**: this involves the societies in transition, such as sending experts in the re-establishment of a collapsed administration system;

- **Civil Protection**: including the search and rescue in disaster relief operation (Rutten, 2001: 133-39)

Later, in 2003 under the Greek presidency, an ESDP report called for the addition of a fifth area: namely monitoring missions, which was endorsed by the PSC in May 2003 (Nowak, 2006: 28):

- **Monitoring Missions**: a flexible ‘tool’ that can be deployed at different phases, whether this be in conflict prevention/resolution and crisis/or management and/or peace building. A generic concept it can encompass, border monitoring, ceasefire...
agreements, disarmament and demobilisation and broader rule of law missions

(Council of the European Union, 2003: 4-5)

At this point we should also take time to mention the development of European Union Special Representatives (EUSR). Although EUSR’s can be traced back to 1996, they were only formally consolidated at the Treaty of Amsterdam where they were tied to the development of the HR-CFSP role. EUSR’s have become increasingly linked over the last ten years to the development of ESDP missions, often fulfilling an important bridge building function between ESDP and relevant community led programmes (Grevi, 2007: 11). In this sense they will play an important role in our examination of horizontal coherence and internal coherence (as outlined in Chapter One 1.5.2):

**European Union Special Representatives (EUSR)**: were designed to be “the visible expression of the EU’s growing engagement in some of the world’s most troubled countries and regions” (Solana, 2005). They are earmarked for three major tasks: they represent, inform and coordinate EU activities on the ground. They have political oversight of crisis management operations (Grevi, 2007: 42).

In June 2004, under the auspices of the Irish Presidency, the Council produced an ‘Action Plan for the Civilian Aspects of ESDP’. This paper builds directly on the European Security Strategies demands for a “greater capacity to bring all civilian resources to bare in crisis and post-crisis situations” (Council of the European Union, 2004: 2). Propagating an ambitious ‘horizontal and integrated approach’ which draws on the full range of potential responses – be it Community, CFSP/ESDP or Member States – the Action Plan emphasises

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34 The first appointed EUSR, Aldo Ajello, (referred to as envoy at the time) was appointed in March 1996 to the African Great Lakes Region (Grevi, 2007: 11).

35 For a detailed examination of EUSR’s see Hansen (2006: 36-38) and/or Grevi (2007)
synergies and notions of complementarity. It stated, coherence and complementarity are fundamental to “efficient and effective operations” (European Council, 2004: 5). Moreover:

The Council and the Commission will ensure maximum coherence and effectiveness of the EU effort in any crisis area. This will be achieved through close coordination and a clear and functional division of labour between Community efforts and ESDP activities. Close cooperation with Community activities in the planning and implementation phases of ESDP civilian mission will be an important element to ensure coherence (European Council, 2004: 4)

Under the sub heading of “Synergies”, the Action Plan revisits the relationship between CFSP/ESDP and JHA, as referred to in the European Security Strategy (2003: 6) (and this thesis’s Introduction). It sets out that “links between civilian crisis management activities and the Justice and Home Affairs pillar should be further explored and strengthened” by building “on contacts between the Article 36 Committee and the Committee for Civilian Aspects of Crisis Management”; while an “important area for further work is ensuring coherence between ESDP and the fight against organised crime” (Council of the European Union, 2004: 6). This Action Plan initiated the Civilian Headline Goal 2008 (CHG 2008) which sought to build on the four priority areas outlined at Feira, the objectives of the European Security Strategy and the goals of the Action Plan itself. A CHG project team was placed in the Council Secretariat and was overseen by the PSC and CIVCOM. The Commission was also to be fully involved (Interview, 29).

The recognition that the division of labour between the Council and the Commission required attention stems from two interconnecting points. First, civilian crisis managements missions launched from pillar II actually draw on resources from all three pillars (see Figure 2.8 below). Second, there persists a ‘grey area’ over policy competencies in crisis management missions between the Council and the Commission.
Figure 2.8: The Three Pillar Contribution to Civilian Crisis Management

<table>
<thead>
<tr>
<th>Pillar I</th>
<th>Pillar II</th>
<th>Pillar III</th>
</tr>
</thead>
<tbody>
<tr>
<td>European Community: supranational community institutions</td>
<td>Intergovernmental: CFSP and ESDP</td>
<td>Intergovernmental: police and judicial co-operation in criminal matters</td>
</tr>
<tr>
<td>Long term or structural conflict prevention: development assistance, post-conflict peace building, and humanitarian assistance</td>
<td>Short-term crisis management: establishment and management of the rapid reaction forces and all the new ESDP institutions</td>
<td>May be involved in crisis management operations tasked to combat organised crime and smuggling as has been the case in the Balkans</td>
</tr>
<tr>
<td>Short-term crisis management: civil protection, training and some financing of the ESDP</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Jakobsen (2006: 305)

The ‘grey area’ that exists has been created by the expansion of ESDP to incorporate civilian tasks. This move created a situation where there is “no clear distinction” between the policy roles of the Council or the Commission in civilian crisis management, whether this be “on the basis of a division of labour or the length of the operation” (Duke & Ojanen, 2006: 485). Moreover, Kurowska (2008: 35) has argued that this ESDP expansionism in the civilian realm was regarded by the Commission as a “deep intrusion” creating “institutional resentment”. This is because the Commission has long seen civilian crisis management issues as its exclusive policy domain (Kurowska, 2008: 35). ‘Grey areas’ are understood here as policy areas/domains where both the Commission and Council can
conceivably claim competence (Duke & Ojanen, 2006: 483). The problems with such grey areas, is that they foster bureaucratic rivalries and can result in competing policies (Duke & Ojanen, 2006: 483). All of which serve to create policy fragmentation rather than effective levels of coordination and coherence. ‘Grey areas’ in crisis management are a product of the Commission’s pedigree in civilian crisis management (Gourlay, 2006: 49; Spence, 2006: 374). This pedigree has been cultivated through the Commission’s design and management of a range of thematic and geographic instruments (European Commission, 2003).

This pedigree in civilian crisis management is meticulously written into the Commission’s ‘Civilian instruments for EU crisis management’ (European Commission, 2003), as written by their own Conflict Prevention and Crisis Management Unit. 36 This document outlines the Commission accumulation of resources in pre, active and post-crisis context (See below). 37

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36 The Conflict Prevention and Crisis Management Unit was founded in 2001 within DG RELEX (see section 2.3.2)

37 For more on the Commissions crisis response tools see Gourlay (2006: 50-62). It is important to note that the European Commission makes no claim over military matters, as it has no tradition or expertise to claim upon (Vanhoonacker et al, 2010: 19)
Within this document the Commission stakes out its own territory by establishing the crucial role it has to play in crisis management (Duke & Ojanen, 2006: 485). It does this by making the explicit linkage between crisis management instruments and political dialogue. In doing so the Commission is resisting any diminution of its role in civilian crisis management. It states:

Source: European Commission Conflict Prevention Unit (2003)
For EU crisis management to be effective it will need to marry the full range of political and legal instruments at the disposal of the Union. This will include the forms of political co-ordination and financial assistance established under Common Foreign and Security Policy and the European Security and Defence Policy and the assistance delivered by the Community (European Commission, 2003:5)

Moreover,

EC co-operation assistance is most effective in a crisis when it is loosely linked to a political framework. There is a symbiotic relationship between the political initiatives taken by the EU under the Common Foreign Security and Defence Policy and the assistance delivered by the Community (European Commission, 2003:11)

Clearly, the Commission is at pains to emphasise the sustainability of Commission assistance, relative to ESDP resources. In this context overarching, contractual frameworks such as association agreements (SAA’s) are described as “long-term geographic instruments” (European Commission, 2003: 9). It is these agreements that underpin political dialogue, and crucially come with ‘in-built’ financial instruments such as TACIS and CARDS. By juxtaposing ‘Feira-type interventions’, which according to the Commission are likely to “be exceptional and transitional measures that, in financial terms, are likely to constitute a relatively small amount of the overall package of EC assistance to third countries” (European Commission, 2003: 9), the Commission embraces the broader, more holistic context of civilian crisis management which start with the first pillar (Dijkstra, 2009: 442).

The discrepancy over civilian crisis management (i.e. the fact that the dividing line between institution building under the Commission and security sector based reform within civilian ESDP is blurred) and the institutional tension that emerged from this saw the Union attempt to forge a unified concept of security sector reform (Nowak, 2006: 32; Hansen, 2006: 38; Grevi, 2009: 49-50). The initial idea, outlined in a July 2005 concept
paper, was for the Commission and Council to come together and unify under an umbrella concept of security sector reform that would clear up the “the political control and direction of SSR [security sector reform] activities including the coordination of initiatives originating from different pillars” (Council of the European Union, 2005b: 5). Security sector reform is generally thought to encompass.  

Core security actors: armed forces, police, paramilitary forces, intelligence and security services (both military and civilians), coast and border guards, customs authorities;

Security management and oversight bodies: the executive, national security advisory bodies, ministries of defence, internal and foreign affairs, customary and financial bodies, civil society organisations;

Justice and law enforcement institutions: judiciary and justice ministries; prisons and prosecutions services, human rights commissioners, traditional justice systems;

Non-statutory security forces: liberation armies, private bodyguard units, private security companies (Council of the European Union 2005 b: paragraph 14)

The Council and Commission ended up presenting separate papers, with the Council presenting theirs in October 2005 entitled ‘EU Concept for ESDP support for Security Sector Reform’; while the Commission presented a ‘Concept for European Community Support for SSR’ in May 2006 (European Commission, 2006b). The main point I want to make here is that the Commission’s concept is notable for the defensive position it takes regarding its existing capabilities, in terms of scope and experience. For instance, the concept paper states that what is now being referred to as security sector reform, “is not a

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38 See the edited collection on European Union Security Sector Reform, Spence & Fluri (2008)
new area of engagement” (European Commission, 2006: 2) for them. On the contrary, the
Commission argues that it has a reservoir of experience in all these areas. The Commission,
it continues, has been conducting activities now labelled as security sector reform within
overarching EC policy frameworks, first through the accession process and more recently
through the SAP and ENP; through Development policies; through Conflict Prevention and
Crisis Management; through Democracy and Human Rights activities; and finally through
the external dimension of JHA, which weaves its way through all of the above points, but
primarily through contractual relationships (accession partnerships, the SAP and the ENP).
All of this combines to shed light on the contested nature on foreign and security policy on
paper (European Commission, 2006b: Annex paragraph 2).

The next section turns to decision-making in civilian crisis management in order to flesh
out the practical consequences of this policy contestation.

2.3.2 Decision-Making in CFSP/ESDP and Foreign and Security Policy

The institutionalisation of CFSP/ESDP (over the last decade) is a subset of the wider EU
foreign policy machinery, and therefore needs to be considered in this context. This is
especially the case when one stops to consider the emphasis on governance and
coordination in this thesis, as laid out in Chapter One. To be clear, CFSP/ESDP is a
formally intergovernmental policy domain where unanimous voting is the rule. As a result,
Member States take the final decisions. However, these decisions are achieved by
following a complex process of decision-making using Brussels based actors. In fact, in the
civilian realm, the planning and conduct of civilian crisis management is carried out almost
entirely at the EU level. In principle, ‘Brussels’ equates to a Head-Quarters for civilian
missions. In this sense, the formally intergovernmental character of ESDP, in no way,
precludes informal and formal subsets of decision-making rules that are the really decisive elements of the policy process (Vanhoonacker et al, 2010: 3).

It is to institutional foreign and security and CFSP/ESDP, actors which we now turn. This is in order to ascertain how policy is determined and what ‘arenas of exchange’ dictate policy output, this needs explanation, for as one can see, from the figure below, the machinery is complex.

Figure 2.10: Decision-Making in Foreign and Security Matters in the Council

What has been referred to, rather prosaically, as the ‘administrative governance’ (Duke & Vahoonacker, 2006) of CFSP/ESDP actually plays a crucial role in the CFSP/ESDP process. This means that the decisions announced from the top of the ‘EU foreign policy machinery’ figure represents, merely the “tip of the ice berg” (Duke & Vanhoonacker, 2006: 179). Moreover, this top level (i.e. mainly political actors) fails to capture important dynamics and mechanisms (Vanhoonacker et al., 2010: 3). This goes beyond just oiling the machinery; it encompasses agenda shaping, decision-making and implementation (Duke & Vanhoonacker, 2006: 179-180). In this sense much of the day-to-day policymaking is conducted through the ‘administrative governance’ (Vahoonacker et al., 2010: 3). The role of Brussels based actors, elsewhere described as the Brusselisation of foreign and security policy is far from a neutral process (Allen, 1998). For example, new permanent Brussels based actors – PSC and CIVCOM – have been placed in close proximity to the Council in order to ensure that the centre of gravity stays in civilian crisis management (and foreign and security and ESDP more widely) with Member States. In addition, Member States have entrusted the executive management of ESDP to the Council Secretariat because it is a body whose function is to support the Presidency and Council in their daily work, and therefore should be easier to control than the Commission otherwise would be.

We will now briefly summarise the function and scope of the policy domain of each relevant actor pertaining to civilian crisis management.

**European Council and the General Affairs and External Relations Council (GAERC)**

The European Council is the highest political authority of the EU, and is therefore responsible for defining principles and general guidelines in CFSP. It does not, however, get involved in day to day ESDP policymaking. Rather, they define the framework and priorities for development. GAERC is the overarching decision-making body in foreign
policy and sits just below the European Council (see figure 2.10). Until 2003 this was known as the General Affairs Council (GAC). The GAC was streamlined into internal and external policy sessions to deal with what had become an overloaded policy agenda. Internal sessions were left to COREPER, while external policy that dealt with foreign and security matters was to be conducted by PSC (Nugent, 2006: 196; Howorth, 2007: 70). Once a policy has reached GAERC there is no explicit discrimination between the pillars. However, policies that reach this stage will have been exposed to cross-pillar dynamics (and possibly malign) by virtue of the way policy was constructed (Keukeleire & MacNaughtan, 2008: 73). 39

Committee of Permanent Representatives (COREPER)

COREPER has a pivotal role in EU decision-making. It consists of Member States permanent representatives and Ambassadorial level, and is responsible for assisting the Council with its agenda. COREPER covers the full spectrum of EU dossiers. COREPER has two manifestations. COREPER I prepares policy configurations that need not concern us here40, while COREPER II is the more senior partner, preparing GAERC and the JHA Council. More recently COREPER II has been vulnerable to actors such as the PSC which has resulted in a “marginal decline” (Nugent, 2006: 2000) of its influence. This is because COREPER II is primarily made up of “policy generalists” (Hayes-Renshaw & Wallace, 2006: 71). As a result COREPER II has increasingly been seen as a filtering agency for the PSC and GAERC (Nugent, 2006: 426). In turn this has put strain on the relationship between COREPER and the PSC as CFSP issues are often finalised by the PSC (Spence,

39 See Grevi (2009: 23-27) for more background on GAERC.

40 Such as economic matters, agriculture issues, health and education which feed the senior Council bodies ECOFIN and the Agriculture Council. These two Councils are level in seniority with JHA Council and GAERC.
2006: 374; Juncos & Reynolds, 2007: 174-175; Duke, 2005). In this sense the PSC is by default the highest administrative body in the ESDP (Spence, 2006: 374; Vanhoonacker et al, 2010: 9).

**Figure 2.11: Levels of Council Policy Making**

Source: authors own

**The Political and Security Committee (PSC)**

Known to its friends, and the French, by its other acronym COPS, the PSC has been in place since 2001. In a previous carnation this body was known as the Political Committee.
(PoCo) which sat at the heart of the EPC, and later the CFSP (See Duke, 2002; 2005). The PSC is considered by the EU officials and scholars alike as the ‘lynchpin’ of crisis management, in that it is both the gatekeeper to ESDP matters and the motor than runs it (Duke, 2005; Howorth, 2007; Hayes-Renshaw & Wallace, 2006: 83; Juncos & Reynolds, 2007). This makes the PSC the key strategic actor leading the formulation and implementation of an ESDP operation (Juncos & Reynolds, 2007: 136). The PSC consists of Member States representatives whom are appointed at senior ambassadorial level, a Commission official and officials from the Council Secretariat. The PSC depends on the quality policy information and recommendations offered to it, in the civilian sphere, primarily by CIVCOM (Interview, 11, 30, 31 & 34).

Committee for Civilian Crisis Management (CIVCOM)

Established in May of 2000, CIVCOM was mandated with providing information, formulation recommendations and giving advice on civilian aspects of crisis management to the PSC. CIVCOM is composed of national representatives plus national officials from the Commission and the Council Secretariat (Nowak, 2006: 23). Promoting cross-pillar coherence were important aspects of CIVCOM original mandate (Vahoonacker et al, 2010: 10; Cross, 2010). CIVCOM’s role has evolved over time, and since the deployment of the first mission in 2003, it has become overburdened with planning and monitoring of civilian missions (Grevi, 2009: 33). Against this background CIVCOM has had to face quantitative challenges, with over 17 civilian missions being planned, launched and conducted since 2003; and qualitative challenges through the need to define and mobilise civilian management concepts in line with the Feira priorities (2000), the European Security Strategy (2003) and the CHG (2004) (Grevi, 2009: 33). CIVCOM is actively involved in drafting planning documents for ESDP missions (Vahoonacker et al, 2010: 10). CIVCOM
relied on expertise from the Council Secretariat’s in the civilian crisis management directorate (DGE IX) which itself, was suffering from a lack of resources. Until the establishment of the Civilian Planning and Conduct Capability (CPCC), which was set up in 2007 (see below) no structure for the planning, guidance and support for civilian ESDP operations existed. Elsewhere, CIVCOM has been criticised for lacking expertise commensurate with its responsibilities. Some have argued that CIVCOM members consist of junior level diplomats with little or no expertise in crisis and conflict resolution or specific mission planning and management (Gebhard, 2009:9-10; Grevi, 2009: 33; Cross, 2010).

**Working Party of Foreign Relations Counsellors (CFSP Counsellors)**

This working party is composed of diplomats from Member States permanent representatives in Brussels, as well a personnel from the Council Secretariat and the Commission. It provides technical expertise on legal, financial and institutional aspects of the final ‘Joint Actions’ in CFSP (Grevi, 2009: 34). Formally reporting to COREPER, the group is supposed to provide the bridge to Community matters (Vanhonacker *et al*, 2010:9). In this limited, legal sense, CFSP Counsellors are charged with ensuring coherence among horizontal issues and trying to reconcile information the respective Working Groups give to them (Interview, 3, 35; see also Juncos & Reynolds, 2007: 138; Christiansen & Vahoonacker, 2008: 760; Keukeleire & MacNaughtan, 2008: 76 ).

**The General Secretariat of the Council**

The General Secretariat of the Council supports and informs the proceedings of Brussels based committees and of the GAERC in ESDP decision-making. From this perspective, various sets of actors can be pointed out in the Council Secretariat. These are the SG/HR,
the Policy Unit, the DG E for External Relations and Political Military Affairs (DG E) and
the distinctive ‘operational’ bodies serving ESDP, later the CPCC. Simply put, the Council
Secretariat has become an integral part of the ambition to make ESDP more operational
essentially becoming the institutional basis for ESDP (Dijkstra, 2009: 441; Dijkstra, 2008:
164; Vahoonacker et al, 2010: 8).

In 1997, the Treaty of Amsterdam envisaged (although it was not formalised until 1999)
that a new foreign policy post, that of the Secretary General High Representative (HR-
CFSP) be created– or as it was later to informally known: ‘Mr CFSP’. The tasks of the HR-
CFSP was to assist the Presidency and Council in CFSP matters through contributing to the
formulation, preparation and implementation of policy decisions, and to conduct political
dialogue with third parties on behest of the Council and Presidency (Dijkstra, 2008: 159;
Grevi, 2009: 35). The launch of the HR-CFSP paralleled the advent of ESDP and therefore
offered a platform from which the HR-CFSP could generate policy action. Moreover, the
appointment of Javier Solana, a senior politician with experience of NATO, enabled the
role to be taken seriously. Solana is widely credited with maximising the capacity of the
role with an entrepreneurial spirit, creating something akin to a ‘Solana milieu’ (Kurowska,
2008: 28). 41 The HR-CFSP is “the central institutional hub” (Grevi, 2009: 36) of
CFSP/ESDP, however, he is greatly assisted by the institutional structures of the Council
Secretariat. This includes the Policy Planning and Early Warning Unit (Policy Unit) and
DG E. Established in 1999, the Policy Unit is a dedicated service to fuel decision-making
upstream with policy option papers, as well as the formulation and development of ESDP
(Grevi, 2009: 36). With a seconded diplomat from each Member State (as well as a

41 For more on this so-called ‘Solana Milieu’ see Kurowska (2008: 27-30; 2009) and Bretherton & Vogler
(2006: 10).
representative from the Commission and officials from other departments of the Council Secretariat) it is also well “plugged-in” to national capitals (Grevi, 2009: 36).

The DG E of the Council Secretariat plays a pivotal role in the conception and development of ESDP. It contributes to the formulation of policy priorities, supports coordination, develop concepts and capabilities and provides input at the strategic level (Grevi, 2009: 37; Dijkstra, 2008). The history of the DG E lies with the SEA, in which a small scale independent EPC secretariat was created in Brussels, with the formal role of assisting the Presidency. After Maastricht and the TEU, the Council Secretariat became known as the CFSP Unit. Its role to alleviate the administrative burden of the rotating Presidency and the Member States, and to provide continuity to policy output at the Brussels level. In this sense the Council Secretariat was doing the tasks that Member States were unwilling to devolve to the Commission (Dijkstra, 2008: 151 & 154; Vahoonacker, 2008: 147). These were, until 2008, nine DG E Directorates.

Figure 2.12: Council Secretariat DG E Directorates

<table>
<thead>
<tr>
<th>DG E Directorates (prior to 2008)</th>
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<tbody>
<tr>
<td>1. Enlargement</td>
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<tr>
<td>2. Development</td>
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<tr>
<td>3. Economic Affairs</td>
</tr>
<tr>
<td>4. Transatlantic Relations, UN and Human rights</td>
</tr>
<tr>
<td>5. Mediterranean Affairs, Middle East, Africa and Asia</td>
</tr>
<tr>
<td>6. Western Balkans, Eastern Europe and Central Asia</td>
</tr>
<tr>
<td>7. ESDP</td>
</tr>
<tr>
<td>8. Defence</td>
</tr>
<tr>
<td>9. Civilian Crisis Management and Coordination</td>
</tr>
</tbody>
</table>

In civilian matters Directorate IX (DG E IX) is the key body, although after the creation of the CPCC this body has been re-structured. They take the lead at the political-strategic level with a view to drafting the crisis management concepts. DG E IX also created their own Police Unit to improve the planning and oversight of ESDP police missions, although it must be stated that this consisted of a maximum of eight officers (Gebhard, 2009:9). Prior to the development of the CPCC, DG E IX was required to be the strategic and operational headquarters for all the civilian missions, while also being in charge of working with the Commission (Interview, 4 & 29). As the number of missions intensified between, 2003-2005, it became increasingly clear that a gap was opening up between the “ambition to act, and the capacity to act” (Interview, 29; see also Grevi, 2009:38; Gebhard, 2009:13). It was in this context that the CPCC was borne out.

Civilian Planning and Conduct Capability (CPCC)

In the context of this aforementioned ‘governance gap’ EU leaders, at a informal meeting during the UK Presidency at Hampton Court in October 2005, agreed to take forward proposals to strengthen EU crisis management structures. The post-Hampton Court plans were to strengthen the crisis management structures within the Council Secretariat, with a particular focus on the civilian dimension (Grevi, 2009: 38). Two key developments have been made. First, a new measure has been taken to create the position of the Civilian Operations Commander (CivOpCdr) to be responsible for the conduct of each civilian operation. Second, the creation of the new Civilian Planning and Conduct Capability (CPCC) was announced in August 2007 (although it was not fully operational until May 2008). The CPCC was tasked with bridging the ‘structural gap’ in civilian crisis management, by assuming responsibility for the operational planning, command and control of civilian missions (Gebhard, 2009: 12-13; Dijkstra, 2008: 162). Personnel for the
new body were drawn from DG E IX and its Police Unit, the latter being fully absorbed into CPCC. This left the composition of CPCC as a 50/50 split between Council personnel with extensive ESDP experience, and 50% seconded national experts in police and rule of law sectors (Interview, 9 & 10). In December 2008 the European Council decided to merge DG E VIII and IX and integrate civilian and military planning to create the Crisis Management and Planning Directorate (CMPD) (Vahoonacker et al, 2010: 10). The Council Secretariat regional units, such as DG V (Mediterranean Affairs, Middle East, Africa and Asia) and VI (Western Balkans, Eastern Europe and Central Asia) are contact points for EUSR’s for example (Interview, 18). This raises issues pertaining to internal coherence (Spence, 2006; 370).

The European Commission

First of all it is worth reiterating a few points made in Chapter One. Namely, that the Commission is ‘fully associated’ with the work carried out in the field of CFSP (Art 21 TEU) and therefore plays an important role in the context of ESDP, in two ways (Spence, 2006: 363). First it administers the budget, and second, it works with the Council at different stages of the decision-making process to promote horizontal coherence between ESDP initiatives and Community instruments and assistance that run alongside ESDP missions.

We will now run through the Commissions external relations system. The Commission had multiple DG’s with specified DG’s leading on specific policies. This, in and of itself, necessitates coordination between sectoral (or so called line DG’s) including DG JHA (later JLS) and DG Enlargement, all of which brings to the fore intra-institutional relations, and therefore the categorisation on internal coherence (see Chapter One, section 1.5.2). The European Commission implements its external relations responsibilities through four
DG’s: trade, development and humanitarian aid, enlargement and RELEX (sometimes referred to as DGE, but can easily be confused with sections of the Council Secretariat) (see Figure 2.14 below) (Spence, 2006: 370).

Source: authors own

DG RELEX is the section of the Commission that deals with external relations/foreign policy. It contains units dealing with CFSP matters (and units that do not need detain us here, such as Multilateral Relations and North America, East Asia, and New Zealand,) (see DGA 1) and relations with ENP, relations with Eastern Europe, South Caucasus and
Central Asia, the Middle East and the Southern Mediterranean countries (see DGA 2) (as well as a Unit dealing with Asia and Latin America (DGA 3)). The Conflict Prevention and Crisis Management Unit (referred to earlier), launched in 2001, resides within Directorate A.

The Commission has a sizeable contribution to make at many levels of CFSP/ESDP; be that at the Brussels level, or on the ground. Ideally, at the Brussels level the Commission will contribute to the discussions on the EU’s approach to a crisis and on the potential ESDP actions through the participation of Commission officials in all relevant ESDP arenas, such as the PSC and CIVCOM (see section 2.4 ‘Between Coherence and Fragmentation’). More specifically, the Commission is responsible for administering the CFSP budget which covers the operational expenditure of civilian ESDP (see table below). The Commission authorises this expenditure based on the legal acts adopted by the Council (so called Joint Actions). Then the Heads of ESDP civilian operations enter a contractual relationship with the Commission, as the officials responsible for the management of the respective budgets (Hansen, 2006: 31; Grevi & Keohane, 2009: 94).

This gives the Commission leverage, as Kurowska states:

In practical terms, the involvement of the Commission become politically tangible in the course of negotiating the formats of particular mission as well as their budgets and adherence to procurement policy rules (Kurowska, 2008: 35; for the same thought see Dijkstra, 2008: 164 & Hansen, 2006: 31)

This has, at times, fuelled inter-institutional tensions (between the Council and Commission) with the Council Secretariat wishing that they could use the CFSP budget in a more flexible and speedy fashion or have control of what they perceive to be their budget (Hansen, 2006: 30-31). In addition the running costs of civilian ESDP operations, the EUSR’s are paid from the CFSP budget (Hansen,
To put the CFSP budget in context, the European Neighbourhood and Partnership Instrument was worth €1.65 billion in 2007, while the Instrument for Accession (IPA) was funded to the tune of €1.25 billion compared to €160 million for the CFSP (Grevi & Keohane, 2009: 90). As the following section (2.4) explains, this has meant ESDP missions have needed to lean-on EC resources as a matter of necessity (Gourlay, 2006).

Figure 2.14: CFSP Budget in relation to Civilian CFSP/ESDP

<table>
<thead>
<tr>
<th></th>
<th>2003</th>
<th>2004</th>
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<th>2008</th>
<th>2009</th>
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<tbody>
<tr>
<td>CFSP € millions</td>
<td>46,3</td>
<td>62,6</td>
<td>62,6</td>
<td>102,6</td>
<td>159,2</td>
<td>285</td>
<td>243</td>
</tr>
<tr>
<td>Civilian ESDP</td>
<td>44,2</td>
<td>58,6</td>
<td>79,7</td>
<td>135,6</td>
<td>250,5</td>
<td>210</td>
<td></td>
</tr>
</tbody>
</table>

Source: Grevi & Keohane (2009: 93)

From an organisational perspective, it is clear that the Commission, since the advent of ESDP, have sought to shadow the Council structures (Interview, 18). Following the appointment of Javier Solana in 1999, the CFSP Directorate was set-up within DG RELEX (as highlighted above). Directorate A has expanded considerably and was, by 2009, approximately 70 strong (Interview, 18; see also Grevi, 2009: 47). This Directorate is headed by the Commission official in the PSC, and thus responsible for coordinating the Commission’s input to the CFSP. The four sections of the unit (highlighted in the figure above) are the ‘European Correspondents’ (Directorate A 1) (Grevi, 2009: 48). This unit directly supports the Commission’s representative in the PSC by helping with the overall procedural coordination of the Commission’s activities in external relations and CFSP (Spence, 2006: 373-376). Directorate A 2 ‘Crisis Response and Peace Building’ performs a
wider set of tasks connected crisis and disaster response by the Commission. In addition, the unit disposes the Instrument for Stability (see below for financing of missions) and takes the lead in crises through their ‘crisis room’ (an open source tool to collect and distribute information and intelligence) (Grevi, 2009: 47-48).

The ‘CFSP Operations’ unit, Directorate A 3, includes the Commission’s representative to CIVCOM and the Relex Counsellors Group (otherwise known as the CFSP Counsellors). This is the unit that manages the CFSP budget and deals with the ongoing requirements of ESDP civilian operations, in terms of finance and procurement. This means that it is responsible for ensuring that ESDP missions and their scope are within the confines of Community competence (Interviews, 11 & 18). Lastly, Directorate A 4, the ‘Security Policy’ unit provides the Commission’s input into Council meeting on issues such as counter-terrorism, non-proliferation of weapons of mass destruction, conventional disarmament and other transnational threats (Grevi, 2009: 48).

As referred to earlier, the funding mechanisms ensures the Commissions complicity in ESDP activities. Between 2001-2007, Directorate A (Crisis platform – Crisis Coordination) in DG RELEX ran the Rapid Reaction Mechanism (RRM) which allowed for the rapid disbursement of funds to support political stability in crisis scenarios (Gourlay, 2006: 53). RRM was endowed for €30 million a year and could only be sustained for six months at a time (Gourlay, 2006: 52-53). In 2006 the Instrument for Stability replaced RRM. The Instrument for Stability can support assistance for up to 18 months. The instrument is managed by the Directorate A2 (crisis response and peace building) who looks after short – term measures, and Directorate A4 (the security unit) which is the unit that is responsible for longer term assistance (Grevi & Keohane, 2009: 96-97).
The next section serves to link up the two domains and the interface between the external dimension of JHA and civilian crisis management in order to shed light on the potential ‘governance gap’.

### 2.4 Between Coherence and Fragmentation: a Prospective Governance Gap?

So far this chapter has laid out ‘policy development’ and ‘decision-making’ in the realms of the external dimension of JHA and civilian crisis management. This section seeks to revert in a blatant manner, to the interface between the two respective policy domains (i.e. the thesis central research puzzle) and the prospective governance gap it engenders. This includes an examination of some of the secondary literature on the administration of civilian crisis management which reveals a potential disconnection between EU actors and institutions which could amount to a prospective governance gap. This potential disconnection emanates from the fact that the external dimension of JHA spans all three pillars, and as a result, is governed by distinct decision-making processes, implemented by different institutional actors. It is followed by a section reintroducing the external dimension of JHA agenda in order to bring the chapter full circle and re-register the thesis’s point of departure. It concludes by returning to Chapter One and recapping how each case-study will be operationalised.

#### 2.4.1 Where is the Gap and how is it Governed?

This section will bring together some of the insights from each section to accentuate the thesis’s research puzzle. The existing literature on the administration of the civilian crisis management confirms that the development of civilian crisis management structures in the Council have created parallel and disjointed working methods (Gourlay, 2006: 112; Schroeder, 2007: 38). Such compartmentalisation has resulted in a deterioration of their
relationship, rather than better coordination (Schroeder, 2007: 34-38). This institutional and policy disjuncture has precluded the development of any sort of ‘unity of command’ between the first and second pillars (Gourlay, 2006: 112 & 119): “neither the Council nor the Commission have strategic oversight of all EU instruments” (Gourlay, 2006: 112). Consequently, coherence is something that has been assumed rather than explored. As Duke and Ojanen have explained:

Not surprisingly, these uncertainties and tensions give rise to fierce bureaucratic rivalries. The Commission is keen to preserve and promote its competences, while the Council and EU governments sometimes work to keep the Commission at arm’s length from ESDP activities (Duke & Ojanen, 2006: 485; see also Spence, 2006: 380).

The Council’s expansion into the civilian realm with the advent of CIVCOM, the behind the scenes role of the Council Secretariat and latterly the CPCC, does run the risk of reducing the European Commission’s role to a ‘painting by number’ approach. Thus rendering the Commission a role as financier, rather than a policy formulator or entrepreneur (ICG, 2005: 13 & 20; Hansen, 2006: 40). A prospect such as this is a dangerous one for notions of coordination and coherence (both in horizontal and strategic terms). This is because at the same time as being marginalised from the formulation of policy, it is also required to play a substantial supporting role. For instance, by virtue of necessity, civilian ESDP missions have had to ‘lean-on’ EC resources (via the Communities geographic and specialised financial instruments i.e. SAA, ENP or RRM) to fund much of the development and capacity building work vital to the success of ESDP goals (Gourlay, 2006: 109; Hansen, 2006: 30). For example, the CFSP budget is limited relative to the Community resources, in line with the short-term focus of ESDP missions (Gourlay, 2006: 109). In this sense a critical quote from much earlier in the decade still resonates:
the ‘political’ foreign policy of the EU, based in the Council of Ministers secretariat, has links to the policies on trade, aid, humanitarian assistance, technical co-operation and borders that are carried out under the leadership of the Commission. As a result, the EU is pursuing a bifurcated foreign policy: politics is dealt with in the inter-governmental second pillar as a declaratory and penniless exercise; substantive and funded external policies belong to the first pillar and are implemented by the Commission (Andreani et al, 2001: 43)

This links to the popular perception of the Union’s division of labour, i.e. Council led ESDP for the short term; with Commission led assistance aimed at the long term (Schroeder, 2007: 19). The problem is, that this division of labour is now blurred (Jacobsen, 2006: 306), engendering an overlapping and mutually dependent relationship between short-term crisis management and long-term development (Hansen, 2006: 38).

Furthermore,

The Commission’s strong point has always been and will continue to be, access to the sizeable Community budget for external relations which is the weak point of the CFSP structures for most things other than administrative expenditure (Duke & Ojanen, 2006: 484)

In other words civilian ESDP often needs the support of the Commission; as others have clearly stated, there is little doubt that Commission participation in EU crisis management is “not only desirable but essential” (Christansen, 2001: 764). In this context the institutional resentment felt within the Commission over the Council’s encroachment (Schroeder, 2007; Kurowska, 2008: 30) that is said to have cemented “increasingly diverging principles” and meaning they “hold disparate standpoints in best practices in crisis management” (Kurowska, 2008: 30) is a particularly worrying development. It raises the prospect of incoherence which could have a deleterious impact on the effectiveness of civilian crisis management missions.
We now turn to the external dimension of JHA. The prospective governance gap at the heart of the external dimension of JHA, reveals itself in earnest when we re-introduce the multidimensional agenda of the external dimension of JHA. To recap, the external dimension of JHA is part of the AFSJ, and as such contributes to the internal security of the EU. At the same time the external dimension of JHA contributes to external policies such as CFSP/ESDP and Association Agreements, such as SAA’s and the ENP. The external dimension of JHA’s inherent fluidity, in policy and institutional terms, stems from having no single competence to fulfil. This pulls the domain in a number of directions at the same time rendering the domain multidimensional. Critically, for this thesis focus, it leaves the external dimension of JHA lacking institutional leadership and control. The fluidity of the domain means that it has to coordinate with policies that have had differing institutional and policy trajectories. The position taken here is that this risks fragmentation and policy incoherence as the external dimension of JHA is refracted through a range of external policies (such as civilian crisis management and frameworks such as SAA’s and ENP). COREPER is given nominal responsibility for the coordination of the domain. However, COREPER is an actor near the top of the decision-making tree and therefore not in a position to make linkages at the earliest possible opportunity, moreover, it is an actor in marginal decline to more specialist bodies such as the PSC. COREPER cannot provide the detailed oversight and control to CFSP/ESDP and Commission administered Association frameworks such as the SAA and ENP required. This leaves the compound bureaucratic machinery (be it thematic or geographic) to coordinate on an ad hoc basis. In short, for all of the reasons outlined above it is unclear how the EU could coherently govern the mobilisation of the external dimension of JHA, and more specifically, the interface between CFSP/ESDP civilian missions and JHA. Linking this section to Chapter
One more explicitly, this lack of clarity over the domains governance emanates from the complex (see figure 2.15 below), and at times disconnected, process (conceived as the interaction of stated actors who define and pursue tasks) and structure (conceived of as institutionalised forms of behaviour) of policy-making at the EU level.

Figure 2.15: The Multiplicity of Actors Inputting into the External Dimension of JHA

Source: authors own

The logic behind this research puzzle is nicely encapsulated by Duke and Ojanen (2006: 483)
The ESDP has developed on a fairly independent track, one separated from existing policies of the Community pillar as well as from the growing number of capacities geared toward internal security. This division is deeply rooted in institutional structures that separate Community capacities (in the first pillar) from ESDP capacities (in the second pillar) and Justice and Home Affairs (in the third). Within each pillar, separate policy procedures and political actor formations guide-decision-making. These institutional divisions – and the profound tensions between Commission, Council and member states that they give rise to – militate against any convergence in the EU’s security thinking and activities.

In line with this extract, the position taken here is that as a consequence of this, the EU’s capacity to govern the projection of the two domains in a coherent manner is open to question. Put differently, given the very real potential for fragmentation and incoherence in the respective domains of civilian crisis management and the external dimension of JHA, how and with what degree of coherence has the EU governed its external projection when these policies are brought together? It is in this context that this thesis will test the performance of the EU in governing that very projection.

2.4.2 Recapping the Research Question and Hypothesis

The previous chapter discussed how the case studies selected (the rationale for choosing these case-studies was explained in Chapter One, section 1.6.2) will illuminate how the research puzzle will be operationalised, for that reason this will not be reprised here. However, we will remind ourselves how the case-studies to follow will be operationalised and where our research questions and hypothesis will be tested.

In line with the analytical framework outline in Chapter One we will be structuring the case-studies via the three components of security governance: Steering, Management and Regulation. Steering explores the interaction of relevant actors and tracks who drives and sets the agenda in policy-making, and will be harnessed to cover the planning of civilian
crisis management missions and how the external dimension of JHA agenda impacts upon the construction of the missions. This is line with research question one (What has been the impact of the external dimension of the JHA agenda on the design of civilian crisis management missions?) and will be where Hypothesis A\(^{42}\) is tested. The Management component of governance is concerned with how policies are carried out, administered and controlled and therefore will be harnessed to analyse the implementation of the missions. This will shed light on research questions two (To what extent has the external dimension of JHA agenda affected the coordination and coherence of civilian crisis management missions?). This section is where Hypothesis B\(^{43}\) and C\(^{44}\) will best tested. Finally, the governance component of Regulation is concerned with the notion of policy outcomes and links into issues pertaining to motive, institutionalisation and goal attainment. This component is used to shed light on research question two and three (see above) as well as testing Hypothesis B and C.

2.5 Conclusion

This chapter has examined the policy development and decision-making structure and process for both JHA and its external dimension and CFSP/ESDP civilian crisis management. In relation to JHA, the policy development section laid out the multidimensional character of domain and establishes an agenda that can be utilised to test the domain. The decision-making section revealed limitations in the institutional provision

\(^{42}\) Hypothesis A: The narrower the scope of the civilian crisis management mission mandate the easier it was to design and construct a mission that accommodated the JHA agenda in a coordinated and coherent fashion

\(^{43}\) Hypothesis B: The clearer the institutional leadership behind a civilian crisis management mission, the better the prospects of that mission having and maintaining the highest levels of coordination with other EU actors

\(^{44}\) Hypothesis C: The governance of the mission have been shaped by a ‘learning by doing process’ rather than individual acts of institutional and policy entrepreneurship
and oversight for the external dimension of JHA. It established that differing institutional and policy trajectories meant that the risk of policy fragmentation and incoherence were greatly increased. For the CFSP/ESDP civilian crisis management sections revealed that the domain is a contested area, in institutional and policy terms which had given rise to bureaucratic tensions and so called ‘grey areas’ of competency - all of which served to risk the EU’s capacity to project itself in a coherent fashion.

The third and final section of the chapter, built on preceding sections of this chapter, by bringing the two domains together and revealing more clearly the complexity of the external dimension of JHA and civilian crisis management interface. In this sense it served to reintroduce the thesis central research puzzle outlined at the end of Chapter One (section 1.6). Namely, that the complex character of the decision-making process and the multiple actors involved also put high demands on the coordination process and the cultivation of coherence. In light of this, the final section of the chapter reprised how exactly the key research questions (and hypothesis tested) will be operationalised and how each of the three case-study chapters will be structured.

The next Chapter will introduce the first of the thesis case-studies which will examine the civilian ESDP mission *Proxima* and the external dimension of JHA in Macedonia which was launched in 2003.
CHAPTER THREE

EUPOL Proxima and the External Dimension of Justice and Home Affairs

3.1 Introduction

As the first of three case-studies analysing the role of the external dimension of JHA in relation to EU civilian crisis management missions, this chapter explores the EU’s involvement in Macedonia. It tracks the EU’s governance of Proxima and the external dimension of JHA through three sections: the ‘Planning of Proxima’ (section 3.5), ‘Managing the EU Presence’ (section 3.6) and ‘Reviewing Success in Macedonia’ (section 3.7). These three sections link back to the thesis conceptual framework, and more specifically, the three components of security governance: Steering, Management and Regulation. This structure covers the policy-making cycle to the fullest degree possible. The chapter concludes with a brief analysis linked to the thesis key research questions, outlined in Chapter One. The conclusion highlights some ‘key themes’ to be carried forward to the concluding chapter of the thesis. Prior to this, the chapter will open with two contextual sections. The first will detail the ‘Context of EU Macedonia Relations: 1991-

45 As detailed in Chapter One (section 1.6.2) the other two case-studies are the EU-Border Assistance Mission to Moldova and Ukraine (EUBAM) launched in 2005 and EULEX Kosovo which is a Rule of Law mission, launched in 2008.

46 Steerin denotes the component of governance that helps explore the interaction of relevant actors and tracks who drives and set the agenda in policymakers. See Chapter One (1.3.2)

47 Management denotes the component of governance explores how policies are carried out, administered and controlled. See Chapter One (1.3.2)

48 Regulation denotes the component of governance explores the notion of policy outcomes, and links this into issues of motive, institutionalisation and goal attainment. Chapter One (1.3.2)
2001’ (3.2) whilst the second covers the ‘Outbreak of Conflict in Macedonia: 2001-2003’ (3.3).

3.2 The Context of EU-Macedonia Relations (1991-2001)

Having declared independence from the Yugoslav federation in January 1991, Macedonia has had to overcome a number of internal and external disruptions. These disruptions, while minor in comparison to the inter-ethnic violence that plagued the other former Yugoslav federation countries⁴⁹, were significant enough to necessitate assistance from the international community. Assistance provided to Macedonia cannot be extricated from international and specifically EU efforts to the Western Balkans region as a whole. The structure of the section will proceed as follows. First of all the issue of independence and deep seated ethnic tensions will be outlined, after which, the nature and form of EU assistance will be unpacked.

3.2.1 Macedonian Independence

The Macedonia Parliament (Sobranje) adopted its Declaration of Independence on 17 January 1991; nine months later a referendum rubber stamped Macedonia’s secession from Yugoslavia (Phillips, 2004: 48). In breaking away from the Yugoslav federation, Macedonia managed to avoid the internecine warfare that followed the secession of Croatia, Bosnia-Herzegovina, and to a lesser degree Slovenia. In comparison Macedonian’s transition was largely peaceful, despite its ethnically heterogeneous make-up (Phillips, 2004: 49: Vankovska, 2002). The Macedonian referendum on independence of 8 September 1991, was supported by 71% of the population: although it was boycotted by the parties representing ethnic Albanian and Serb populations. In 1991, a great many ethnic

⁴⁹ For a more on the complex reasons for the break-up of the former Yugoslavia see Glenny (1996 & 2001) and Little & Silber (1996)
Albanians refused to take part in the national census which made it difficult to ascertain exactly what proportion of the population was Albanian. A census from 1981 held that the Albanians composed 19.7% of the population, while the Macedonians were said to hold 66%; by 2002 it was widely thought that the Albanian population was closer to 25% (Schneckener, 2002: 28-29; Phillips, 2004: 64-65; Trauner, 2011: 110). Tensions between the ethnic Albanian and Macedonian Slavs grew throughout the 1990’s, which in itself reflected a growing Macedonian nationalism and the explicit tensions between ethnic Albanians and Serbs in Kosovo (Schneckener, 2002: 28-29; Phillips, 2004: 64).

The ethnic Albanian’s discontent was threefold. First, the Macedonian constitution did not actually recognise Albanians as equal before the law. Second, Albanians wanted their language to be officially recognised, and for a state-funded (Albanian language) University to be formed. Third, Albanians faced an administration which was disproportionately Macedonian, for example, ethnic Albanians made up only 3.1% of the police force and the military until 2001 (Schneckener, 2002: 28-29; Phillips, 2004: 65). The upshot being that ethnic Albanians became increasingly politicised, coming to see themselves as victims of state exclusion. This was fuelled further by the war in Kosovo during 1999. Hundreds of thousands of ethnic Albanians fled to Macedonia in 1999 in order to escape Serb attacks. For instance, on 2 April, 45,000 Albanians flooded into Macedonia alone (Phillips, 2004: 72) with up to 400,000 over the period of the conflict (Balalovska et al, 2002: 16).

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50 The remaining percentage of the population is made up of Turks and Roma
51 For detailed analysis on the constitutional debate see (Schneckener, 2002: 27)
52 For a through discussion of the Kosovo conflict see Judah (2002)
Macedonia’s statehood was circumscribed by external pressures. For example, Greece sustained an embargo against Macedonia in the early 1990’s over Macedonia’s alleged illegitimate use of its constitutional name (Trauner, 2011: 111). Such matters served to increase the sensitivity of the ethnic Macedonians over issues pertaining to sovereignty and self determination, and may have affected their later reaction to Albanian demands for recognition (Mace, 2004: 475; Schneckener, 2002: 25).

3.2.2 EU-Macedonia Relations (1991-2001)

The EU has provided the bulk of financial assistance to Macedonia, although there have been other international efforts. The EU mainly gave this assistance for the period 1992 - 2001, through the framework of the ‘Poland and Hungary: Aid for Restructuring of the Economies’ (PHARE) Programme (1996) and the Trade and Cooperation Agreement, signed with Macedonia in 1998. During this period the EU provided the country with €452.3 million for the implementation of projects on small and medium enterprises, and the development of the financial sector (Schneckener, 2002: 26; Petrov, 2009: 175). In addition the EU Humanitarian Aid Office (ECHO) directed almost €100 million into the country, which was largely concerned with ameliorating the impact of the refugees during the conflict in Kosovo (Schneckener, 2002: 26). The EU’s overall effort during


54 In 1992 Macedonia received a peacekeeping mission from the UN. The UN Protection Force (UNPROFOR) was later (1995) renamed the UN Preventive Deployment Force (UNPREDEP) with a mandate to monitor the Northern border of Macedonia. This mission finished in February 1999, although many have argued that the end of the mission was premature (Petrov, 2009: 174; ICG, 2003: 9). In 1992 the OSCE launched a monitoring mission to Skopje with a mandate to monitor developments along the border with Serbia (Schneckener, 2002: 26).

55 The PHARE is one of the instruments financed by the EU to assist applicant countries of Central and Eastern Europe countries, although it was extended to the Western Balkans also.
this period can be traced back to the so-called Regional Approach and the subsequent SAP. The Regional Approach, adopted by the General Affairs Council in 1997, established political and economic conditionality in bilateral relations with Albania, Bosnia and Herzegovina (BiH), Croatia, FRY and Macedonia (Pippan, 2004: 225).

In the aftermath of the Kosovo War, the EU moved beyond the Regional Approach, and created contractual frameworks in the form of the Stabilisation and Association Process (SAP). The Kosovo War and the NATO bombing in March-June 1999 had a catalytic effect on EU-Western Balkan relations. The bombing resulted in a refugee crises (already alluded to) which had an adverse effect on political stability in neighbouring countries Albania and Macedonia (Friis and Murphy, 1999: 768). The EU’s response on 1 April 1999 was to start the so called ‘turbo-charged’ negotiations (lasting four months) resulting in the EU setting-up the Stability Pact, the SAP, the Stabilisation and Association Agreements (SAA) and the European Agency for Reconstruction (EAR) (Friis and Murphy, 1999: 781).

The Stability Pact, launched on 10 June 1999, saw the bringing together of a large number of countries and organisations – EU, US, Russia, IMF, UN, OSCE and others\(^\text{56}\) – in a framework that coordinated military and economic efforts to stabilise the region (Papadimitriou, 2001: 77). It was in this context that the EU launched the SAP. The SAP aims at assisting each of the five countries to meet EU criteria and to become candidates for membership. For the very first time it offered these countries a prospect of EU integration, based on a progressive approach adapted to the situation in each country. The SAP offers incentives, but also sets both economic and political conditions, including the

\(^{56}\) Canada, Japan, Turkey, Russian Federation, Bulgaria, Romania, Hungary, the Council of Europe, the European Bank for Reconstruction and Development, the World Bank, the Black Sea Economic Cooperation, the WEU, the Central European Initiative (Friis and Murphy, 1999: 775)
need for regional cooperation, respect for fundamental rights and JHA. The deal represented an undoubtedly “ambitious vision of the regions’ rapprochement with EU” (Pippan, 2004: 219): in order to develop a closer relationship with the Union, ultimately ending up in full membership, countries have to gear their political and economic and institutional development to the EU model (Phinnemore, 2003; Pippan, 2004). Within the SAP the EU replaced traditional cooperation agreements with the prospect of a SAA. The SAA’s contain formal commitments on the side of the third country to align its legalisation with the EU acquis. The SAA’s were designed to offer “an appropriate alternative to the Europe Agreements” (Phinnemore, 2003: 78).\(^{57}\) In this sense the Agreements were unique but were also clearly “couched within the perspective of possible membership” (Phinnemore, 2003: 80). The membership perspectives held within the SAP and SAA’s were later reinforced and put on a firmer footing during the European Council of Thessaloniki in June 2003. The ‘Thessaloniki Agenda for the Western Balkans: Moving Towards European Integration’ enriched the SAP by introducing the European Partnerships and represented a concerted effort on behalf of the EU to reassure the countries of the Western Balkans that their future was within the EU.

The EU’s assistance to the Western Balkan region was provided through the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) financial assistance programme, and in turn was managed by the European Agency for Reconstruction (EAR) (see below). The CARDS assistance programme was established on

\(^{57}\) Europe Agreements were the legal framework of relations between the countries of Central and Eastern Europe and the EU. These agreements were adapted to the specific situation of each partner country. In the context of accession they formed the framework for the implementation of the accession process.
5 December 2000 under Council Regulation EC 2666/2000, it replaced OBONOVA\textsuperscript{58}, and established in a new single legal framework of the Western Balkans. On the same day, Council Regulation 2667 – the so-called Agency Regulation – established the operations of the EAR. The EAR’s genesis lies in the end of the Kosovo conflict and the need for the EU to dispose funds and aid speedily. Agreed in November 1999 (Council Regulation 2454/1999) it became operational between 17 January and February 2000, with its first operational centre opening in Pristina, Kosovo. Thereafter, the EAR established its headquarters in Thessaloniki, Greece. In December 2001 the EAR was asked to assume management responsibilities for EC assistance programmes in Macedonia. In January 2002 EAR established an operations centre in Skopje, and by March 2002 the EAR took over the full responsibility for the implementation of CARDS assistance in Macedonia (Development Researchers Network Consortium (2004)).

### 3.3. The Outbreak of Conflict in Macedonia (2001-2003)

The following section provides an insight into the wider domestic context in Macedonia prior to the deployment of both ESDP missions *Concordia* and *Proxima*. It does this by looking at the factors that led to the eruption of ethnic violence in Macedonia in 2001. In Macedonia, between February and August 2001, an armed conflict between ethnic Albanian’s and the Macedonian army, escalated from small scale violence on the Macedonian-Kosovo border region to the brink of a fully fledged civil war. It also details both the EU and the international community’s activities prior to the launch of *Proxima*. It ends by establishing the shortfalls in the Macedonian security sector that *Proxima* was intended to plug.

\textsuperscript{58} Established in 1996 by Council Regulation (EC) 1628/96. The value of the package for the period between 1996-2002 amounted to €400 million. The Programme was given to Bosnia-Herzegovina, Croatia and Macedonia.
3.3.1 Break-Out of Violence and the Prospect of a Civil War

With the end of the conflict in Kosovo, Macedonia was the site of heightened tension between radical ethnic Albanians in the northern parts of the country (the area between Kumanovo and Tetovo). These tensions facilitated a flourishing in cross-border organised crime. These cross-border activities were related to the trade of small arms and the relocation of the Kosovo Liberation Army (KLA) and ‘Presevo-Medvedja-Bujanovac Liberation Army (PMBLA) recruits from Albanian dominated Southern Serbia (Presevo Valley) to Northern Macedonia (Schneckener, 2002; Balalovska et al, 2000; Petrov, 2009). By early 2000 the ethnic Albanians in Macedonia created their own paramilitary organisation, the National Liberation Army (NLA). By the end of 2000, the NLA saw a boom in numbers and popularity, which was based on recruiting the many unemployed KLA and PMBLA fighters living in the villages in Northern Macedonia (ICG, 2001; Balalovska et al, 2000; Schneckener, 2002; Petrov, 2009).
In February 2001, Belgrade and Skopje agreed a new boundary line between Southern Serbia and Northern Macedonia; this effectively meant a clampdown on paramilitary groups and illegal movements across the border (Phillips, 2004). Soon after this development the first serious clashes occurred between NLA fighters and Macedonian security services, which escalated the conflict. An incident on 22 March 2001 at Tetovo in which two Albanians were shot by Macedonia police officers catalysed the tension already present in Macedonia. The Macedonian authorities quickly lost what little control they had of Albanian dominated areas. By the end of March, the 2001 Macedonian Army had launched an infantry assault on the Tetovo area in order to push the rebels out (Phillips, 2004; Mace, 2004).
Between March and April 2001, Javier Solana (HR-CFSP) undertook ‘shuttle diplomacy’ between Brussels and Skopje. Solana helped to facilitate the political dialogue between both sides, providing a framework for political negotiations (Schneckener, 2002: 30). During this period, on 9 April, the EU signed a SAA with Macedonia. Despite some progress on political dialogue, such as the establishment in May of a government of national unity which drew together the leading Macedonian and ethnic Albanian political parties, progress on political dialogue was slow and the conflict actually re-erupted with new rigour in June 2001 (ICG, 2001: 14-16; Petrov, 2009: 180).

After the re-start to the conflict in June, the EU and NATO coordinated their efforts. Solana and NATO Secretary General George Robertson cast themselves in the role of unofficial mediators and held joint meetings with both the Macedonian and Albanian leaders (Schneckener, 2002: 32; Daftary, 2001). The EU appointed the former French Defence Minster Francis Leotard as the EUSR on 25 June; while the US sent a special envoy James Pardew in July. They essentially formed a joint EU-NATO mediation team (Schneckener, 2002: 34; Phillips, 2004). This team laid the foundations for the preparation of a Framework Agreement which attempted to provide for the peaceful co-existence between the two largest communities in Macedonia (Petrov, 2009: 182).

First put to the two sides on the 7 July, the Framework Agreement document comprised principles and suggestions for solving interethnic problems, including decentralisation, non discrimination in the public service, special parliamentary procedures for changing constitution and other major laws, education and language matters as well the expression of identity (Schneckener, 2002: 34). After much wrangling, the Ohrid Framework Agreement was signed on the 13 August 2001. Crucially, the Framework Agreement provided for the demobilisation of the National Liberation Army, including disarmament
and structural changes in public security institutions (ICG 2002; Mace, 2004). The Ohrid Agreement requested the EU to coordinate the efforts of the international community in monitoring and implementation of its provisions. On this point, the Council of Ministers mandated the EUSR with the task of binding the international efforts in Macedonia together (be it the Commission, the EU Monitoring Mission, NATO, OSCE and the UN) (Grevi, 2007). The EUSR was to be responsible for the ‘co-ordination of the international community’s efforts, as well as the ‘coherence of EU external action’ (Council Joint Action, 2002).

3.3.2 The EU and NATO Response (2001-2003)

Having successfully mediated the Ohrid Framework Agreement in August NATO had agreed to launch a military mission made up of European troops to secure the peace and oversee the demobilisation of the NLA (Mace, 2004: 480). The EU’s and NATO’s response to these developments ultimately resulted in three NATO led missions (Essential Harvest, Amber Force and Allied Harmony), and an ESDP mission (EURFOR Concordia) between 27 August 2001 and 15 December 2003. All of these missions embedded themselves within the Ohrid Framework Agreement, and as such, set about creating the necessary security conditions for stability in Macedonia (see Figure 3.3).

59 In effect this meant that the EUSR became responsible for coordinating all international assistance in Macedonia. On 10 December 2002 the Council passed a Joint Action in which the mandate of the EUSR was amended to read: ‘The EUSR will ensure close coordination of the international community’s efforts to help in the implementation and sustainability of the provisions of the Framework Agreement’ (Council Joint Action 2002/963/CFSP)
As already mentioned Javier Solana took up a leading role through ‘shuttle diplomacy’ and is widely credited as having played a central role in securing a peace deal (Schneckener, 2002; ICG 2001; Mace, 2004; Phillips, 2004: 117). However, it is important to remember the strong role played by the Commission. EC assistance during this period was equally as important, if much less high profile. In fact, the Commission had first become active in JHA reforms in Macedonia way back in June 2000 through the PHARE programme, when technical assistance was given to the judicial sector. During the pre-conflict period the EC had also contributed an EC Monitoring Mechanism (ECMM), as well as assistance under the umbrella of ECHO when refugees from Kosovo ended up in Macedonia (Ioanndies,
In early 2001, the Commission released community funds through the CARDS institutional reform programme and made its first ever use of its RRM. Adopting two financing decisions released €12.8 million for emergency relief. The first of these decision was take on 8 May and release €2.5 million to support reconstruction. On October 3 the second RRM funding decision was taken which released €10.3 million for reconstruction and institution building. This included reconstruction projects on the restoration of electricity in conflict ridden areas; and institution building programmes including beginning work on the police and judicial sector (Mace, 2004: 478; European Commission Conflict Prevention and Crisis Management Unit (2003b). The RRM programmes were managed by the new established office of EAR, which had opened in Skopje in December 2001. An important initiative under this funding mechanism in JHA was the secondment of experts from EU member states, in a Twinning project called the European Commission Justice and Home Affairs Team (ECJHAT) to the Macedonian MoI in 2003-2004 to assist in the formulation of key strategic documents for police reform (Ioanndies, 2006: 72). Germane to which was the comprehensive evaluation, undertook in 2002, of the current state of JHA sectors across the countries of the Western Balkans (Ioanndies, 2006; Flessenekmper, 2008). The ECHAT Twinning project was due to be succeeded by the EC Police Reform Project (ECPRP) Twinning Project.


61 See Chapter Two (section 2.3.2)

62 The Twinning programme aims to help beneficiary countries to develop modern and efficient administrations with the skills to implement the EU acquis. Twinning projects set-out to deliver specific, guaranteed results. The parties agree in advance or a detailed work programme to meet an objective concerning priority areas of the EU acquis, as set out in overarching frameworks

63 ECHAT was implemented by the Generale de la Gendarmerie Nationale

64 ECPRP was implemented by the officers from the Federal State of Brandenburg
3.3.3 Security Sector Shortfalls in Macedonia

The legacy of the Yugoslav Federation and the 2001 crisis (including its build-up) left its mark on Macedonia’s security sector. In particularly there were serious shortfalls in the country’s capacity to deal with a burgeoning organised crime problem, which itself was feeding off endemic corruption (at both local and national level). Endemic corruption was a major contributing factor to the “centrifugal forces” (ICG, 2002: 3) still at work during this period in Macedonia. The Ohrid Framework aims to diminish ethnic conflict by decentralising government institutions and boosting Albanian representation. However, this can only succeed to the extent the institutions function effectively with credibility.

While the Macedonians were concerned with the potential for trans-border insurrection from Kosovo, far less attention was paid to trafficking in contraband and weapons, even though there exists a critical link between corruption and smuggling (ICG, 2002: 3).

Serious organised crime became an increasing concern during this period; Macedonia had become a transit country for heroin from Southeast Asia through Afghanistan bound for the EU member states, as well as being a transit country for human trafficking from eastern Europe (Montanaro-Jankovski, 2005; Stojarova, 2007: 106).

As result of these concerns the EU had included a number of JHA articles in Macedonia’s SAA, including ‘Reinforcement of Institutions and the Rule of Law’, ‘Visa, border control, asylum and migration’, ‘Prevention and Control of Illegal Immigrants’, ‘Combating of Money Laundering’, ‘Preventing and Combating of Crime and other illegal activities’ and ‘cooperation of illicit drugs’ (Council of the European Union, 2001: 68-73). However, as the SAP Annual Report of 2003 stated, reform on JHA had seen “little progress” (European Commission, 2003b: 26). Moreover, the situation was “worsening” which mean much work needed to be done in order to “allow the state to challenge efficiently the evils of organised crime, corruption and drug trafficking” (European Commission, 2003: 26-29).
As a result, while ESDP *Concordia* was effective in discharging its mandate, it did not address these concerns (ICG, 2003: 8), therefore, another mission was deemed necessary.

**3.4 Enter Proxima: The Planning of the EU Mission to Macedonia (August 28 – December 14, 2003)**

This section will detail the planning of the Proxima mission. In doing so the section seeks to explore through the policy-cycle of civilian crisis management, how actors interact as well seeking to ascertain who drives and sets the policy agenda. This links back to the *Steering* component of governance, as discussed in the thesis conceptual apparatus, in Chapter One.

**3.4.1 Fact Finding Mission and the Concept of Operations (CONOPS)**

The previous two sections (3.2 and 3.3) have laid down the context within which the Proxima police mission was conceived. What was soon to become known as Proxima but at this stage was referred to as an ‘enhanced policing role’ or EU Police Mission (EUPOL) was underpinned by the EU’s first ever joint, Council Secretariat and European Commission, fact finding mission. This fact-finding mission was conducted 14-28 August, and the report was presented on the 28 August 2003 (Council of the European Union, 2003a: 1). The fact-finding report was never published, not even within the list of classified Council documents (Merlingen, 2007: 445). However, as interviews with members of the fact-finding team confirm the fact-finding mission was imprecise (Interview, 4, 20, 37 & 40). Personnel from the Council Secretariat accepted that the findings of the mission were, in fact, pre-determined in Brussels (Interview, 2, 4, 17 & 37).

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65 The mission was entitled Proxima to convey the ambition of the mission to work in proximity with the Macedonia police forces and public of Macedonia (Interview, 4 & 37)
In this sense, the fact finding mission was an exposition of what was the dominant logic at
in the Council Secretariat during this period; namely, that ESDP (both military and civilian)
should take up every opportunity to improve operationality (Interview, 2, 4, 17, 20, 37 &
39). Following this logic, the opportunity to ‘run through’ the ESDP toolbox by having a
civilian mission succeed a military mission, was too good an opportunity to pass up
(Interview, 2, 4 & 37). Moreover, the situation in Macedonia was relatively benign and
therefore judged to be a low risk undertaking (Interview, 4 & 37). As a member of the EC
Delegation in Macedonia put it:

    when you are learning to drive you do it in an empty car park because
there is little danger of you hitting anything or something going wrong.
The success of Proxima was assured before it even started (Interview, 20)

While the fact-finding mission was indeed a joint one, this does not mean that voices or
perspectives are of equal weight (Interview, 20 & 39). A Commission representative from
the geographical desk dealing with Macedonia (now within DG Enlargement having been
transferred from DG RELEX in June 2003 after the Thessaloniki Summit) was sceptical,
not of the need for a stabilisation mission, but of the need of a Council involvement in
policing reform which was something that required a mid to long term focus (Interview,
39). Members of the Council Secretariat (DG IX) and the Police Unit were well aware of
the Commission’s reservations; a member of the Police Unit, who was also part of the fact
finding mission, recalled how the Commission made them feel like “intruders” (Interview,
4).
The draft CONOPS\textsuperscript{66}, produced on the 12 September 2003, was based directly upon the fact-finding mission. What is immediately apparent in the draft CONOPS is the presence of two elements of the external dimension of JHA agenda: the fact that this is an inherently cross-pillar affair, and that existing contractual relations should assume primacy. Under the sub-heading ‘Overall Framework and EU Political Objectives in Fyrom’, it asserts that the EU’s long-term interests will be best advanced by Commission managed frameworks. First, the:

EU’s long-term political objective is the successful implementation of the Stabilisation and Association Process leading to the former Yugoslav Republic of Macedonia being part of a region of stable, prosperous and democratic countries who co-operate with each other and which are closely integrated with the Union (Council of the European Union, 2003a: 3).

In addition to this, the draft CONOPS, reinforces the SAA framework agreement and the specific EC funding allocation through the CARDS assistance programme:

The SAA is underpinned by a comprehensive assistance programme called CARDS. In December 2001 the Commission adopted a five year strategy (2002-2006) for its financial assistance to the Former Yugoslav Republic of Macedonia under CARDS. A total of €130.5 million has been earmarked to finance the implementation of this strategy over the three-year period 2002-2004 €42.7 million has been earmarked for reforms in Justice Home Affairs, including security sector reform (Council of the European Union, 2003a: 3)

Having established the overarching contractual framework as the fulcrum for Macedonia’s Europeanisation, the draft CONOPS makes detailed observations that reveal a thorough awareness of the preceding, and ongoing, EC assistance:

In the overall framework of the Stabilisation and Association process the EC has been providing assistance for the development of a reform strategy for the MoI/police for more than 12 months, in relation with the development of a border management strategy supported by a large-scale

\textsuperscript{66} I had the draft CONOPS successfully de-classified on the 3 June 2010 (Council of the European Union, 2010)
ongoing programme. To this end it has deployed a team of experts (ECJHAT) whose tasks also encompass the prosecution and criminal justice systems. This programme also benefited from the comprehensive JHA assessment reports produced for all Western Balkans countries under the CARDS regional programme; these reports will allow continued comparative monitoring of progress by sector in these countries (Council of the European Union, 2003a: 3)

Having vividly depicted the work already done in the JHA sector in Macedonia, the draft CONOPS sketches out how a ESDP police mission will engage vis-à-vis other reform activities, and in particular EC-led assistance. In short, a ‘two pronged’ approach is envisaged:

The enhanced EC programme would focus on support to the development and implementation of the MoI/police reform and integrated border management strategies. The EU Police Mission would focus on urgent crisis management needs, including operational support to the consolidation of law and order, border police, internal control, as well as to support general confidence building (Council of the European Union, 2003a: 9)

The next section will examine how supporting actors (CIVCOM and COWEB) impacted on the construction of Proxima.

3.4.2: Institutional Advice and Recommendations

Having submitted the draft CONOPS, CIVCOM and the COWEB (see section 2.3), reacted with criticisms and recommendations on the 18 September 2003. These documents are particularly illuminating for the fact that they reveal that the planning process did provide constructive feedback. For example, both COWEB and CIVCOM offered concerns on exactly how the proposed division of labour outlined in the draft CONOPS would actually occur. This included the lack of specific modalities for the ‘two pronged’ approach, as well as the lack of a traceable benchmarking system for declared goals. It also introduces the potential utility of ‘JHA Agencies’ for the first time. The COWEB report
draws our attention to two major shortcomings in the draft CONOPS. On the ‘two pronged’ method of reform COWEB commented:

Co-ordination between the EC Police Programme and the EU Police Mission needs to be carefully considered in order to ensure full synergy, coherence and impact of the enhanced EU role in policing. Any coordination arrangements should fit into existing overall coordination structures under the EUSR. A successful resolution of this question will be essential to the Union’s credibility (my emphasis) (Council of the European Union, 2003b: 2)

Further consideration should also be given to the objectives and the end state of Proxima; this would include a benchmarking process, itself a pre-requisite for the assessments of progress (Council of the European Union, 2003b: 3). On the role of ‘JHA Agencies’, the final CONOPS should explore the possibilities for ensuring Proxima contributes to EU internal security: “In addition possibilities for close cooperation with EUROPOL should be explored” (Council of the European Union, 2003b: 3).

CIVCOM’s advice, which unlike the COWEB report was circulated to the working group of JHA counsellors (JAI), works explicitly in conjunction with the COWEB report (Council of the European Union, 2003c: 2). CIVCOM accepted that this was the “first step in the planning process” (Council of the European Union, 2003c: 2) and outlined three shortfalls: planning, modalities and coordination. On the issue of the mandate CIVCOM recommended that the “scope and mandate of the mission should be elaborated to make clear what the distinct role of EUPOL is, as well as how it complements the EC programme” (my emphasis) (Council of the European Union, 2003c: 3). On Coordination: CIVCOM showed a degree of concern about mission structure. The concern being that “it will be imperative to ensure the best possible coordination of the EU police ‘package’ as a

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67 COWEB also received presentations from both the office of the EUSR and the Council Secretariat DG IX on the proposed ESDP police mission (Council of the European Union, 2003b: 2).
joint and fully coherent mission”. The advice to overcome this was to “include concrete modalities of political as well as technical – coordination” (my emphasis) (Council of the European Union, 2003c: 3). Finally, on planning: much like the advice of COWEB, CIVCOM raised the issue desired ‘end state’ of the mission:

Further, details on the end state and system of clear benchmarking to determine progress towards the end state needs to be developed at the appropriate time. This implies the development of a detailed exit strategy to cover scenarios in which the EUPOL end is reached or, alternatively, where a refocusing of EU action is necessary (Council of the European Union, 2003c: 2)

These three themes points to a distinct lack of clarity in the CONOPS over the proposed division of labour between the Council led ESDP police mission and ongoing EC led activities, in terms of how Proxima will ‘add value’ and complement the ‘longer term’ reform efforts work undertaken by the Commission. In order for an EU ‘package’ to be strategically coherent, concrete mechanisms of coordination are required. Finally, more detail on goal attainment is required in order for the mission itself to know what constitutes success.

The next section will analyse the Council Joint Action on Proxima as well as the mission mandate.

3.4.3 The Council Joint Action and the Mission Statement

The redrafted and final CONOPS was received by CIVCOM on the 14 October (Council of the European Union, 2003) and was approved by CIVCOM on the 27 October. However, the operational planning (the formation of the Operational Plan (OPLAN) had already started immediately after the Council Joint Action of 29 September 2003. Therefore, the final CONOPS by-passed CIVCOM’s second examination of the CONOPS.
The Council Joint Action of 29 September 2003 formally established the mission, and just as important for this section lays out the strategic framework from which operational planning can start. The Joint Action firmly places the mission into the context and relationship of, on the one hand the EC’s institution building programme under the CARDS framework and the SAP, and on the other, the role of the EUSR. It states while both are pursuing the Ohrid Framework Agreement, the EUSR is specifically tasked with ensuring “the coherence of the EU external action and to ensure coordination of the international community’s efforts” (Council Joint Action, 2003: 1). The Joint Action establishes the planning team and phase, to be commenced no later than 1 October, and an operational phase from the 15 December 2003. Within this ‘Planning Phase’ there will be a team comprised up of a Police Head of Mission/Head of Planning Team (Bart, D Hooge). Moreover, it will be the Council Secretariat (DG IX) that will be the actor to elaborate the CONOPS with the assistance of the Head of Planning Team, and then later will be responsible for the OPLAN (Council Joint Action, 2003: Article 2). The Planning Team are asked to operationliase the official ‘Mission Statement’ and chain of command (see figure 3.4).
Source: Council Joint Action, 2003

The ‘Financial Arrangements’ which comes out of the Community budget, which requires the Head of Planning to report fully to, and be supervised by the Commission on activities undertaken (Council Joint Action, 2003: Article 10). Finally, on synergising with the Commission it states under the sub-title Article 11: “the Council notes the intention of the Commission action towards achieving the objectives of this Joint Action, where appropriate, by relevant Community measures” and that the “Council also notes that coordination arrangements are required in Skopje as well as in Brussels”. However, as the

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68 See Chapter Two, section 2.3.2
CFSP Counsellors69 pointed out, these two lines regarding Council and Commission cooperation is very much an outline. Interviews with the CFSP Counsellors confirmed that these paragraphs are inserted by default in the spirit of Article 3 of the TEU70, and does not correspond to any insight that the Joint Action drafters have regarding Council and Commission cooperation: “you should not read too much into it. It is merely an outline, we cannot force these actors to hold hands” (Interview, 3: for the same sentiment, Interview, 34).

The next section will examine the coordination of the operational planning phase of Proxima

3.4.4 Operational Planning and Coordination of Proxima

The planning team was very small, comprising just 6 personnel, which was in line with the skeleton structure in the Council Secretariat DG IX during this period (Interview, 2 & 37). This meant the planning process resulted in “a lot of cutting and pasting from the EUPM planning process” (Interview, 37) that had taken place in 2002, however, as we will see in the next section (3.5), the deficiencies with the EUPM mission exposed in a lessons learnt paper were not accommodated in Proxima’s planning phase. In attempting to deal with some of the concerns regarding the coordination the Council Secretariat the Commission produced a strategic document dealing exclusively with the issue of the ‘Coordination Aspects of Proxima’ on the 13 October. Pitched as a “crucial challenge” the assumption is that coherence produces effectiveness is once again front and centre:

Coordination will aim at achieving maximum transparency and information sharing between the two components in order to ensure they

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69 See Chapter Two, section 2.3.2 for recap on CFSP Counsellors

70 See Chapter One, section 1.2.1 for recap
are mutually reinforcing and achieve the greatest possible joint impact and effectiveness (Council of the European Union, 2003e: 1)

On top of the Joint Action ‘mission statement’, “the Council Secretariat and the EC will elaborate a mission statement clarifying the common objectives of the two components and for each components sub-objectives and desired end-states” (2003d:2). Regarding ‘Coordination in Brussels’ it states that “a joint Secretariat-Commission task force will be set-up. This task force will follow the progress of the EU engagement as long as it includes both Council Secretariat and ESDP instruments” (Council of the European Union, 2003d:2). Moreover,

Joint Briefings by the Council Secretariat and the Commission on progress made in the two components will be provided to the Member States in the PSC as well, as, when appropriate, to the concerned working parties (my emphasis)(Council of the European Union, 2003e: 2)

The ‘task force’ was “in reality far less dramatic than it sounds” (Interview, 37). It was comprised of a desk officer from DG IX; a desk officer from the Commission geographical desk (DG Enlargement FYROM Unit); and a desk officer from CFSP Relex A (in the Commission). Rather than have some formal requirement to meet, the Task Force could coordinate as they deemed necessary (Interview, 37). This all meant that the ‘Task Force’ were closer to an “ad hoc” group than an “institutionalised” one (Interview, 37; also Interview, 4). Furthermore, no elaboration of a mission statement defining the role of Council and Commission components of police reform was forthcoming, as promised in the ‘Coordination Aspects of Proxima’.

The next section examines what efforts were made to link Proxima to the internal security of the EU, as outlined in the external dimension of JHA.

3.4.5 Making Proxima Relevant for the Internal Security of the EU
During the construction of Proxima, JHA committees and working groups (Article 36 Committee, the Multi-disciplinary group on organised crime, and JAI) were considering the positive impact the police mission could have on EU internal security. However, aside from one passing reference in the COWEB report (of 18 September) to EUROPOL (see section 3.4.1), no reference was made to how Proxima could be linked to the internal security of the EU in the respective planning documents. Rather, the potential relevance of Proxima to the AFSJ is discussed elsewhere, parallel to the work of the Council Secretariat and the Commission (see figure 3.5).

Figure 3.4: the Construction of Proxima

The Construction of Proxima

Joint Fact Finding Mission 14-28 August 2003

CIVCOM Advice 18 September

Draft CONOPS 12 September

Council Joint Action 29 September

Operational Planning 10 October-15 December

COWEB Report 18 September

Coordination Task Force

Relevance for Internal Security of the EU

Note from Multi-disciplinary Group on Organised Crime to the Presidency (27 October)

EU-Western Balkan Forum JHA Ministerial Meeting 28 November

Note from the Presidency to the Multi-disciplinary Group on Organised Crime and Article 36 Committee (11 November)

Source: own elaboration
These discussions focused on the burgeoning role of the EU in the external dimension of JHA; more specifically how the EU can get better at combating organised crime in the Western Balkan region. This move incorporates the ‘internal relevance’ of the external dimension of JHA. The first of these occurs on 27 October 2003. While these documents are directed toward the Western Balkans, it encompasses Macedonia (with specific references). In the form of a note to the Presidency of the Multidisciplinary Group on Organised Crime, it immediately sets-up the logic or threat perception at play:

The Balkans are a crossroads for crime, involving in various ways not only the Balkan states themselves but also neighbouring states whose flourishing economies are a magnet for organisation illicit operations in the area (2003f: 1)

This threat is then placed into the context of the AFSJ and protecting the EU internal space. Peppered with references to the Thessaloniki Summit (referred to earlier in section 3.2.2) with the acknowledgement that while, recent progress by the countries of the Western Balkans have indeed brought them closer to the EU’s expectations, it will be necessary in order to complete this process for the “countries of the region to carry out through the necessary reforms but also for the Union to implement a targeted action strategy” (original emphasis) (Council of the European Union, 2003f: 3). This task is intended to be “additional to those already carried out under the association and stabilisation process” (Council of the European Union, 2003f:3).

Following this, on the 11 November 2003, another note from the Presidency to the Multidisciplinary Group on Organised Crime and crucially the Article 36 Committee entitled ‘EU Action against Organised Crime in the Western Balkans’. After reiterating that organised crime from the Western Balkans is “a source of grave concern to the EU”
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(Council of the European Union, 2003g: 1) the paper goes on to explain that within the framework of the SAP and long-term capacity building, two forms of assistance have and are being promoted by the EU:

1. Police Assistance Projects: these have been (and are due to be) EUPM, Police Assistance Mission of the EC in Albania started on the 1st January 2003 (PAMECA), and EUPOL Proxima (my emphasis);

2. CARDS Assistance Project: this encompasses a whole range of individual projects including:
   ~ Support to the police ECJHAT;
   ~ Support to the judiciary in all Western Balkans countries;
   ~ Support to the fight on money laundering in Macedonia;

It also makes reference, crucially to EUROPOL where it states that several measures should be considered in the external dimension of JHA:

   EUROPOL should set-up strategic co-operation negotiations with the Western Balkans states, as soon as possible;

   A “swift exchange of information should be enabled between on the one hand, Europol and, on the other hand, the EU Police Mission, which is active today in Bosnia-Herzegovina, and the new police force which, as from 15 December 2003, could intervene in Macedonia (my emphasis) (Council of the European Union, 2003g: 6)

The request here is “not so much for new instruments, but rather a need to exploit their full potential the benefits of existing instruments” (Council of the European Union, 2003g: 8).

All of these points coalesce on the 28 November (still with in the planning phase of Proxima) in the EU-Western Balkan Forum JHA Ministerial Meeting in Brussels. This meeting brought together both the EUSR for Macedonia and the Director of EUROPOL. This forum embeds the JHA reforms in the ‘Thessaloniki Agenda for the Western Balkans: Moving Towards European Integration’ and the enlargement process (Council of the European Union, 2003h: 2). Furthermore, it urged EUROPOL to negotiate and conclude individual co-operation agreements as soon as possible. These agreements, it is said, will
be able to support the EU efforts in the region and form part of the threat assessments reports on organised crime in the Balkans. Finally, in order for the external dimension of JHA to be coherently mobilised required much greater internal coordination (Council of the European Union, 2003h:3).  

Despite these policy discussions, on JHA taking place during the period of the planning stage of Proxima (between the 27 October and the 28 November) and there being detailed references to the short term (Proxima) – long term (CARDS and ECJHAT) and explicit consideration of how EUROPOL could be engaged in Macedonia through information exchanges with missions, none of the above had any briefing with the Council Secretariat (DG IX) or the Police Unit (Interview, 4 & 29). This is because of how structurally divorced the internal looking committees were from external ones: “there was no reflex to coordinate” (Interview, 28: for the same sentiment, 24 & 37). For example, during this period, CIVCOM, the Commission’s external relations services, the Council Secretariat, including the Police Unit, had no briefing, formal or otherwise with the Article 36 Committee (Interview, 2, 4 & 28). The significance of which, is that one key way to ensure the internal relevance of the mission is secured (as an element of the external dimension of JHA agenda) is through the incorporation of JHA agencies; however, the construction of Proxima failed to take advantage of this. This was despite the fact that, as we have demonstrated, there were clear ‘policy noises’ at the same time (Interview, 4 & 28).

3.5 Policing Macedonia: the Operationalisation of the EU’s Mission (December 2003 – July 2006)

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71 The direct quote was: “Closer co-operation of the different components of the EU’s activities (institutional building, CFSP/ESDP and the third pillar instruments) aiming at practical and operational results in the region is necessary to ensure continued cross-fertilisation between instruments as well as coherence in the fight against organised crime” (Council of the European Union, 2003h: 3)
This section concentrates on the operational aspects of Proxima. In doing so it takes forward the themes raised in the previous section. By concentrating on what we have called the ‘operational’ aspects of Proxima we link this section back to the thesis conceptual apparatus, outlined in Chapter One, and in particular the Management component of governance. It covers the start up of Proxima, Proxima II and its follow-on EUPAT whereby ESDP’s presence officially ended in June 2006.

3.5.1 Fitting into the Commission’s Strategic Framework: Where and When?

We have already ascertained from the planning documents that a key concern during the planning process has been the division of labour between the ESDP Proxima mission and ongoing EC assistance. The Commission, through its management of the SAP, and its contractual agreement the SAA, retains the strategic oversight and, as such, represented the Union’s long term interest. Put differently, the Commission was to manage the long-term Europeanisation of Macedonia (inclusive of JHA matters). Proxima on the other hand, is clearly positioned as the short-term stabilising dimension of EU assistance. The capacity of both the Council and the Commission to reconcile this distinction, in a synchronised fashion, becomes integral to any notion of strategic coherence and a test of cross-pillar coordination.

The Country Strategy Papers produced by DG RELEX Western Balkans Directorate (prior to being transferred to DG Enlargement) constitutes the strategic framework for the goals of the EU. Macedonia’s Country Strategy Paper covers the period between, 2002-2006, and includes a Multi-Indicative Programme for 2002-2004. The priority areas for cooperation in the sphere of JHA are outlined as the reform of the judiciary, integrated
border management, immigration and asylum and police and fight against crime (European Commission, 2002: 26-27). Clearly, here there was a direct overlap with the mission statement of *Proxima*, most notably in the areas of integrated border management and the police and fight against crime. The Annual Action Plans, managed by the EAR, are developed from the Multi-Indicative Programmes, which lay out in much greater detail exactly what the Commission were doing and how they intended to proceed during this period. The 2003 and 2004 SAP Annuals Reports and corresponding Annual Action Plans reveal that a number of initiatives have been actioned in relation to JHA. 72

The 2004 SAP Report and corresponding Annual Action Plan made two key references to the presence of *Proxima*. First, the SAP Report stated that “tasked with monitoring and advising of the local police forces, the ‘*Proxima*’ mission should also support progress of a professional police operating according to EU best practice and standards” (European Commission, 2004b: 31); and on the two pronged approach, the 2004 Annual Action Programme stated that “All action under the proposed project will be coordinated with EU *Proxima* Mission at the project design to ensure compatibility and complementarity” (EAR, Annual Action Programme 2004). These are the only two references to *Proxima*, prior to 2005. By the Multi-Indicative Programme of 2005-2006, the Commission went as far as to argue that coordination had been garnered: “Activities have been closely co-ordinated with CARDS assistance projects” (my emphasis) (European Commission, 2005a: 10).

The key point here is that claims are being laid down to effective coordination between EC and *Proxima* activities. This is despite the fact that only a handful of references to each

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other work exist, and this is perfunctory. The following sections will shed light on how effective this coordination really was.

3.5.2: The Start up of Proxima and the Mid Term Review (15 December –July 2004)

Despite these conclusions on coordination in the previous section, Proxima actually had a very difficult start, much of which was a consequence of inadequate planning and the unsynchronised provision for reform activities between the Council and the Commission. The mandate of Proxima was translated into a broad and ambitious set of 28 programmes for a one year mandate (Council of the European Union, 2004b: 29). This broad based approach to programming reflected a certain “naiveté that was present throughout the planning process” (Interview, 17) about exactly what was achievable and regarding the flexibility of EU actors in Macedonia during this period. At full capacity the mission was to have 200 international personnel (with 150 police officers) who were intended to cover all functions in the uniform police, the department for state security and counter intelligence and internal control. Additionally, a team of EU border police officers were deployed at border crossing points and international airports at Skopje and Ohrid. Officers divided up across regional headquarters in Skopje, Tetovo, Kumanovo, Gostivar, and Ohrid (Proxima Factsheet, 2003: 2). However, the inadequate nature of the planning meant that the mission had to devise their own programmes and methods, which swallowed up a quarter of its initial mandate. As Head of Mission, Bart D’ Hooge

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73 This report was de-classified in November 2009.

74 Proxima consistently stayed 20% below this 200 capacity figure. At largest the mission reached 180, with 10% of this being made up by officers from Switzerland, Turkey and Ukraine (Interview, 37)

75 Proxima had to borrow basic equipment, such as computers and phones from the office of the EUSR, as well as NATO and the OSCE juts to become operational (Ioanndies, 2006; Flessenkemper, 2008).
commented in the Mid Term Review: “the first three months of Proxima were the build-up phase…[..]..the assessments phase, where we did in depth assessments of the ministry of interior, both at the field and central level” (Council of the European Union, 2004b). In practical terms this meant that the mission had to repeat the planning process, all over again (Interview, 4 & 37).

Just six months into the mission, in May 2004, the Head of Mission, Council Secretariat and the EUSR Soren-Jessen Petersen had become increasingly concerned with the progress of Proxima and its propensity to get embroiled in jurisdictional arguments with the Commission Delegation (Interview, 2 &17). They were particularly concerned whether the mission was in a likely position to attain its goals by the end of the stipulated mandate. This concern led them to order a review of Proxima activities, which had taken place between 15 December and 15 June 2004. Published in July 2004, the conclusions of the report were that the mission was “not optimally suited to the Mission tasks and activities” (Council of the European Union, 2004b: 28). In reviewing the activities, the Mid-Term Report concluded that work had started but was largely undirected and often “ad hoc” (Interview, 37; see also Merlingen & Ostraukaite, 2006: 91) in ‘monitoring, mentoring and advising’ on each aspect of the original mandate. While virtually no progress had occurred on the fight against organised crime and crime prevention (Council of the European Union, 2004b: 12 and 21-23). The operational consequences of this review had Proxima’s refocused itself and streamline the previous 28 programmes down to a more concentrated and manageable 5. This new focus covered uniform police, criminal police, border police, law enforcement and internal control (Council of the European Union, 2004b).

These changes came into force on the 12 July 2004. In addition, the mission produced a new ‘Rationalised approach to reporting and strategic review of Mission activities’, which
included the addition of an Analysis Cell to measure the completion rate of Programmes, Projects and Activities which were tied to a specific time frame and monitored on a weekly basis (Council of the European Union, 2004b: 29). The Analysis Cell would later constitute the bulk of the end of mission report. Finally, the review introduced the concept of a ‘Single Contact Point for Programmes’ which was devised with coordination with the Commission especially in mind (Interview, 37). It had not escaped the attention of the Police Unit in the Council Secretariat that this last innovation was actually a reiteration of the provision supposedly laid on for coordination detailed in the ‘Coordination Aspects of Proxima’ (Interview, 4).

3.5.3 The Impact of Cross-Pillar Tensions between the Council and Commission

Beyond the lack of specificity in the planning teams identification of programmes, the key reason behind the missions stuttering start lay with the lack of coordination with the Commission (Interview, 2, 4, 17, 20 & 37 ). This exposes a lack of clarity that is at odds with the planning document ‘Coordination Aspects of Proxima’, about exactly how Proxima should complement ongoing EC assistance. During the first half of the Proxima mission, cross-pillar developments derailed the strategic coherence of the overall ‘EU effort’. As the report stresses, Proxima had, during its build-up phase, identified several issues that needed to be addressed by not just Proxima but also by “long-term strategies” (Council of the European Union, 2004: 6); which was exactly what the CONOPS and ‘Coordination Aspects of Proxima’ had envisaged. However, this division of labour was severely undermined by unforeseen circumstances when the ‘long-term’ element, the ECPRP Twinning project, was delayed by six months. It did not actually deploy until June 2004 (lasting until September 2005) in the Ministry of Interior and Police Academy and
was implemented by the Federal State of Brandenburg (Ioanndies, 2006: 86-88). As the Mid-Term Report elaborates the ‘Comprehensive Reform of the Minster of the Interior and Police’ is a dimension of Proxima’s mandate that is fundamentally a “long-term process” to be supported by the EC police experts. This delay in the ‘follow on’ to ECJHAT (the ECPRP) curtailed, in one swoop, what was to be a cornerstone of the EU’s police reform strategy in Macedonia, namely the notion of two-pronged reform. Mission planning had assumed, and were to a large degree dependent upon, the fact that the ECPRP would address long-term reform and would run in conjunction with Proxima (Interview, 2, 4, 17 & 37). In this sense ECPRP represented the strategic component while Proxima would address the ‘urgent needs’. The Council Secretariat were keen to absolve themselves of blame here, as in the words of one official in DG IX, “we kept our side of the bargain” (Interview, 2). The general attitude being that given it was the Commission who were to blame for the delay; the onus was on them to offer alternatives arrangements.

A key aspect of the Management of Proxima is the fact that if it was not for the context of inter-institutional tension and rivalry that was endemic during this period, (see Chapter Two, section 2.4), the delay need not have been so debilitating. Again, as unforeseen as this was, it also reveals how “inflexible” (Interview, 4) the two-pronged proposition was, and how inflexible Council and Commission relations were more generally (Interview, 37). For example, although not mentioned in the Mid-Term Report, more could have been done to ameliorate the deleterious impact of the delay, if it was, not for the refusal of the Commission to hand over their expertise in police reform. Expertise acquired through the review of JHA systems in the 2002 CARDS regional survey, and more recently the work of the ECJHAT (Interview, 4, 17 & 37). As Tobias Flessenkemper, a member of the Proxima team during this period explains the poor start was:
aggravated by the fact that Brussels failed to provide the mission with a police reform knowledge base and an appropriate toolbox for programme management even though it has an inventory of standardised tools and methodologies. However, it was owned by the European Commission and was not transferred to the ESDP police missions (Flessenkemper, 2008: 82)

The failure to hand over the knowledge base, despite specific requests (Interview, 4 & 37), meant the gap left by the ECPRP delay could not be filled in a way that was strategically aligned with the Commission. Here institutional intransigence is a direct result of the Commission’s fear, during this period, of the Council Secretariat’s expansion into policy areas where they have previously been dominant. The Commission was particularly sensitive to any potential loss of competency in external relations and feared that if they gave the Council Secretariat more of a foothold, than they had already achieved, they would not be able to reclaim their starting role (Interview, 18, 28, 32, 39 & 40; see also Piana 2002). This rendered the Commission sceptical of the motives behind the Council Secretariat’s request, which manifested itself in defensive responses to the overtures of the Council Secretariat DG IX (Interview, 18 & 39).

Unfortunately, given how inculcated cross-pillar tensions had become the problems inevitably spilt over in to other aspects of the mission. For example, the knock on effects of this episode were that when ECPRP did eventually deploy, Proxima had already started work in their absence. In doing so Proxima fostered good working relations with the Ministry of Internal Affairs in the process (Interview, 2 & 4). The ECPRP team, and more specifically the EC Delegation, perceived this as an encroachment on their institution building role (Interview, 20) and their strategic control of police reform process (Interview, 20 & 40). When the ECPRP arrived in the Ministry of Interior, one antidote among many others (Interview, 20, 7 & 40 ) held that a member of the team complained that it was
“occupied by *Proxima* officers wasting the time of the Macedonia’s officials”

(Flessnkemper, 2008: 92; and Interview: 37).

### 3.5.4 Administration and Control and Intra-Institutional Coherence

The practical management of *Proxima* (see Figure 3.6) and its coordination with other EU actors (be it inter-institutional and intra-institutional) formally took place through weekly meetings.

**Figure 3.5: Operational Aspects of Proxima**

![Operational Coordination in Macedonia](source: authors own)
These meetings were led by the EUSR, and brought together the EU Presidency, the EC Head of Delegation, EAR, Proxima, EUMM and where relevant the ECPRP (and prior to that the ECJHAT) – as articulated in the ‘Coordination Aspects for Proxima’ document in the planning phase (Council of the European Union, 2003). In addition to this, attempts to foster coordination saw the coming together of a ‘Police Experts Group’ which regularly brought together Proxima, the ECPRP coordinators, the EC Delegation, EAR and the OSCE (Ioannides, 2006: 77-78). The Police Experts Group was chaired by the Police Advisor to the EUSR, until the Mid-Term Review, after which the post was transferred to the EC Delegation (Ioannides, 2006: 77). While the evidence of weekly coordination and regular Police Experts meetings suggests an ideal arena of exchange for the construction of strategic coherence, those privy to their contents were less satisfied. On the whole the meetings were too procedural and as a result very formal which meant actors lacked the informal relationships that tend to facilitate operational flexibility (Interview, 20, 37 & 39). They certainly did not appropriately exchange information and assessments, as the one might assume they would (Grevi, 2007). The Police Experts Group, in particular, often ended up with actors merely defending their mandates rather than advancing possible synergising moves for future projects (Interview 37; Ioannides, 2006: 105). In addition, evidence of weekly meetings existing does not automatically translate into improvement in coordination: for example, it was widely known that during the period 2001-2005 the Head of the EC Delegation was barely on speaking terms with the EUSR office (Flessenkemper, 2008: 92). At one point, during 2005, the EUSR and Head of the EC Delegation had a public fall out that made its way into the local press, a situation not helped by the fact that the EUSR shared a press office and therefore had a joint media strategy, while the EC Delegation had their own press office (Ioannides, 2006: 97; Interview, 37 & 39).
In terms of intra-institutional coherence, relations also proved difficult to manage, both between *Proxima* and the EUSR office (Council) and the EC Delegation and EAR. The EUSR shared its office in Skopje with *Proxima*. The relationship suffered from the fact that the identity of *Proxima* as a reform mission was limited, due to the fact that as it was under the aegis of the EUSR. During the first six months of the mission the EUSR mediated contact between the mission and Brussels. The EUSR, especially at the start of the mission micro-managed *Proxima* and frequently interfered in operational matters (Flessenkemper, 2008). This impaired *Proxima’s* relations with the Police Unit in the Council Secretariat, and as a result, the Commission, as communications had to go through the EUSR to DG VI the DG IX all before any consideration is given to the Commission (Interview, 17). In addition, the EUSR lacked the policing and management expertise and so more often than not its advice was of a political nature rather than a technical police one (Interview, 4 & 37). This was further complicated by the fact that the EUSR office was managed by the DG VI (the Western Balkan directorate) while the *Proxima* was managed by DG IX (Interview, 17).

During the first 6 months of *Proxima* relations within the Council Secretariat were not working especially smoothly. Competing pressures (other ESDP missions) and low staff levels affected coordination between the DG VI and DG IX. This meant the experts on the ground did not always get to talk to the experts in the Council Secretariat Police Unit (Interview, 4 & 37). After the Mid-Term Review, communications within the Council were mainstreamed and the mission was given permission to deal directly with DG IX and the Police Unit which was for more efficient (Interview, 4 & 37).

Intra-institutional coherence (i.e. *internal coherence*) also impacted upon the *Proxima*. As we have demonstrated (in the 3.1 section), the EAR were the implementing Agency for the
EC and CARDS assistance, and had a headquarters in Skopje from January 2002. As the report on the role of the EAR, commissioned by the Commission, holds that relations between the EC Delegation and the EAR:

> cannot to characterised as smooth. There seems to be significantly differing interpretation of the roles and the duties of, and the division of responsibilities between, the Delegation and the Agency (Development Researchers Network Consortium 2004: 20)

The EC Delegation felt that they had been effectively squeezed from both sides: by Proxima and EAR. For example, the EC Delegation felt that its role had been supplanted by the EAR (Interview, 20 & 38). The concern was that EAR had added another layer of coordination which rendered any clear understanding on their respective roles quite challenging (Interview, 38). First, because the EC delegation were very defensive vis-à-vis the position of EAR, and secondly, it made it hard to know who to talk to (Interview, 37).

Personnel in the Proxima mission were often no fonder of EAR than the Commission were, as members of the EAR were depicted as being “very ambitious” (Interview, 20, 37 & 39) and wanted to show they could do the job they were hired to do. Namely, be more efficient than the other EU actors in the region at distributing funds: “this creates a certain mindset, that does not help coordination”, as a member of the EC Delegation commented (Interview, 20). Both the EC Delegation and Proxima saw the EAR as attempting to carve out a role as a ‘Balkan manager’ (Interview, 20, 37 & 38).

3.5.5 Proxima II and More Missed Opportunities

This section will discuss the second phase of Proxima. The decision to formally extend the mission was taken on 17 November 2004 on the basis of the Mid-Term Review, with a revised OPLAN (Council Joint Action, 2004c). The revised OPLAN was aligned with the change made during the Mid-Term Review. Due to the fact that the extension was in effect
rubber stamping the changes made during the Mid-Term Review, the Council Secretariat failed to take advantage of the opportunity to provide more systematic continuity with Proxima II activities. Missed opportunities included the capacity to synchronise the planning process with the Commission in light of the failures from the first planning phase. And as a result, must be regarded as a “missed opportunity” to resolve some of the more salient problems of the Proxima I (Interview, 37). One clear shortcoming in the extension of the mission was the fact that the PSC determined that all pre-mission planning was to be done solely by the Council Secretariat (DG IX) and the EUSR office (DG VI), and not by the expert within the mission itself (Flessenkemper, 2008: 92). In defence of the Council Secretariat, some interviewees from both Proxima and the Commission stated that the Macedonian authorities had made it very clear during this period that ESDP would not get a third extension, they had already decided that ESDP missions had become a symbolic burden (Interview, 20, 37 & 38).

On the operational level Proxima II had a greater geographical coverage, as the mission went beyond the former crisis areas, and was also given a new Head of Mission: German Brigadier Jurgen Scholz (Interview, 37). The extended geographical coverage also represented part of the Macedonian’s desire for the mission to be seen as a reform mission rather than a crisis management one. The paradox was that the mission started to reduce staff, from 180 to 120 during the year 2005. These actions turned Proxima II into something closer to a logistical exercise than a reform mission (Interview, 37). This downsizing of the mission also represented what was a “pendulum swing” (Interview, 7) as Macedonia started to fixate on their long-term future. Macedonia handed in their Commission questionnaire in February 2005 (Interview, 7, 20 & 38) and was subsequently
granted a positive avis and candidate status on 9 December 2005 (European Commission, 2005b).

The next section will detail to what extent the Proxima was linked with the EU’s internal security, as dictated by the agenda of the external dimension of JHA.

### 3.5.6 Linking Proxima with the EU Internal Security

During this period of restructuring and extending of Proxima, more developments occurred in relation to the JHA meetings that ran parallel to the planning process (see section 3.4.5). To recap, these JHA meetings and strategic papers were concerned with how more specific ways to integrate JHA matters into EU action in the Western Balkans could be realised. In a report by the ‘Friends of the Presidency’ (published on the 13 October 2004), commissioned by the EU Presidency and Article 36 Committee to examine how effective the fight against crime has worked to date, a number of extremely specific observations were made. This included the observation that the Union had no overarching strategy for tackling organised crime in the region, despite having Council and Commission presence on the ground (Council of the European Union, 2004d). The other major conclusion was that the EU’s approach to fighting organised crime in the Western Balkans was uncoordinated and compartmentalised, despite having a number of tools, be it pillar I, II or III at is disposal. The problem is “different instruments developed to address different policies operate under different chains of command” (Council of the European Union, 2004: 32). With regard to EUROPOL, it states that it “has no operational relationship with International Organisations or with EU Police and Customs missions in the Western Balkans” (2004: 32). None of these suggestions made their way in to the re-conceptualisation of the mission, despite the mission having ample time and opportunity with which to do so (Interview, 4 & 28).
However, *Proxima* II did incorporate a more direct internal relevance through the role of ‘JHA Agencies’. Throughout the last three months of the mandate from September 2005 through to December 2005. The Head of Mission played a mediating role between EUROPOL and the Macedonian government. *Proxima* II made attempts to promote Operational and Strategic agreements\(^{76}\) on the exchange of information in support of the mission objective to combat organised crime. To this end the Head of Mission for *Proxima* sent a letter to EUROPOL; however Macedonia’s on going problems over their disputed constitutional name slowed down progress which meant that by the end of the mission the legal section of EUROPOL were still busy trying to resolve (Interview, 4).

The next section with detail the final aspects of the Council’s involvement with police reform in Macedonia, EUPAT.

### 3.5.7 EUPAT and the Double Hatting of the EUSR: Too little, Too Late!

By autumn 2005, the EU were deliberating what to do next in an ‘Options paper on the possible follow-on presence in the field of former Yugoslav Republic of Macedonia following the closure of EUPOL Proxima’ on the 26 October 2005. In short, a projected Local Implementation Component (LIC) designed to assist on the strategic development and implementation of police reform would not be ready for 4 months (April 2006 at the earliest), which effectively left two options (Council Joint Action, 2005a: 3): Either to terminate the ESDP mission with no follow-on leaving a gap of 4 months; or replace with a smaller team of police advisors (30 people) with a 6 month mandate as a bridging role (Council Joint Action, 2005a: 3). They choose the latter. This was funded through savings made in the *Proxima* budget (the mission had only used 70% of it by 4 December 2005).

\(^{76}\) See Chapter Two, section 2.2.2
This was approved by CIVCOM on 4 November, and a Joint Action was finalised on the 21 November. The Macedonia government were only willing to consider a bridging mission under strict conditions (Council Joint Action, 2005a: 2-3). Named EUPAT the mission continued the methodology of ‘monitoring, mentoring and advising’ on priority issues: border police, public peace and the fight against corruption and organised crime. Special attention is to be given to the implementation of police reform, police-judicial cooperation and professional standards and internal control. The number of personnel was to be 140, with 30 EU experts (Council Joint Action, 2005a: 3).

To help ensure a smooth transition to the follow-on activities of the Commission, the Union took the unprecedented so-called ‘double hatting’ of the EUSR as the Head of the EC Delegation which came into force on the 1 November (Council Joint Action, 2005b: 3). This ‘double hatting’ innovation did resolve the acrimony between the Council and the Commission as staff shared an office building thereby fostering closer personal relationships (Interview, 20 & 38) (see diagram ‘EUPAT Operational Coordination’).

77 These conditions were that: the mission should be presented as a reform mission; the mission should not be marketed as a ESDP mission; the mission must be clearly linked to a CARDS funded project; the mission must have a clear end date; the mission should not be seen as a follow-on mission, but rather as a transitional mission before CARDS; and finally the mission personnel should not wear uniforms (Council Joint Action, 2005a: 2-3)
Source: authors own

The shift in the expectation and focus of the Macedonians (see section 3.5.4) meant that EUPAT did not garner much enthusiasm. As a member of EUPAT stated:

We were there to ‘Monitor, Mentor and Advise’, however for this to work you need the respect of your counterparts (the Macedonian police) which we did not have. They knew that we were leaving on a fixed deadline and that the EC’s actors were the interlocutors that mattered. This meant we couldn’t create any pressure, and as a result spend a lot of time sitting in our offices (Interview, 37)
The EUPAT mission came to an end in June 2006. The next section will move onto an examination of the how the EU reviewed success with Proxima and the external dimension of JHA.

3.6 Goal Attainment: Assessing the EU’s Involvement in Macedonia

This section is concerned with the notion of policy outcomes. This can be best thought of as a concern with goal attainment. ‘Outcomes’ do not equate a traditional ‘impact assessment’ that would take place ‘on the ground’. Rather, the notion of ‘outcomes’ collates the EU’s self assessment efforts and monitoring mechanisms and seeks to uncover exactly how ‘outcomes’ (goal attainment) are measured at the EU level. In doing so, this section links with the Regulation component of governance depicted in our conceptual apparatus.

The following section will examine how programming and monitoring process was developed and measured at the EU level.

3.6.1 Managing the Monitoring Process and Strategic Programming

The relationship between the Commission and the EAR impacted heavily on the Proxima mission and its ability to synergise with the EC led strategic framework. This problem was particularly salient in the strategic programming of the EU’s JHA activities in Macedonia. This process entailed DG RELEX (the Macedonia desk within the Western Balkan Directorate) detailing a Country Strategy Paper from which Multi-Indicative Papers were elaborated. At this point, the EAR was charged with devising Annual Action Plans based upon the aforementioned papers. The DG RELEX papers were to be used as “instruction manuals” (Interview, 39). This process took, on average, nearly a year to complete, with planning and programming of activities for 2004 starting in February 2003 (Interview, 37).
Given the initial one year mandate of Proxima it was hard to factor-in detailed information of how and where Proxima could ‘add value’ to the specific projects as envisaged in the draft CONOPS. As Commission personnel in both Brussels and within the EC Delegation admitted, it is hard to synergise (with ESDP missions) within such a rigid timetable of assistance (Interview, 20 & 39). As a result Proxima’s appearance were often limited, perfunctory paragraphs within the SAP Annual Reports (as shown in the section 3.5.1) detailing the successful coordination between the Proxima mission and ongoing EC assistance. This reveals the impact of the institutional disconnection between Council led and Commission led assistance. Whether it is on the ground or back in Brussels, there was no formal provision for the joint assessment of reform efforts. Moreover, little informal coordination was done (Interview, 7). When it came to the writing of SAP reports, which lest we remind ourselves, are the primary monitoring mechanism for Macedonia’s Europeanisation, what dictated the inclusion of references to Proxima were what a member of the Macedonia’s DG Enlargement team referred to as “political impulses” (Interview, 7). In other words they knew that there were requisite sentences that need to be included vis-à-vis coordination, regardless of the quality of said coordination.

The next section will look at the type and depth of data that was used to review the success of Proxima.

3.6.2 End of Mission Reports: Quantitative versus Qualitative Data Sets

Proxima’s self assessment exercise came in the form of the Final Mission report, 23 February 2006 (declassified in November 2009). This was conducted solely by DG IX in the Council Secretariat and sent only to CIVCOM. The bulk of the information produced by the Analysis Cell (which was established after the Mid Term Review, see section 3.5.2) was in the form of a quantitative benchmarking system. This was a series of statistical data
and percentages on the mission activities, which eschewed a qualitative review of reform efforts (Interview, 4, 20, 37 & 49). According to the adapted benchmarking system the Mission has implemented 87.1% of its planned programme activities and has reached its desired end state (Council of the European Union, 2006c: 3). It goes on to breakdown the 5 elements of the mandate:

- Consolidation of law and order including the fight against organised crime: 86%;
- The practical implementation of the compliance reform of the Ministry of the Interior, including the police: 85%;
- The operational transition towards the creation of a border police including Integrated Border Management efforts: 81%;
- Confidence Building on the local police within the population: 88%
- Enhanced cooperation with neighbouring states in the field of policing: 85.5%

(Council of the European Union, 2006c: Annex 1)

Interviews confirm that these percentages were an easy way to mask the fact that the missions struggled to capture data against the attainment of qualitative benchmarks; rather the mission’s Analysis Cell gathered a wealth of statistical data on project implementation (Interview, 4, 37 & 49). Such an approach details what was carried out but not what was attained. It also gives greater credence to those accusations that the ‘success’ of the mission were pre-ordained (Interview, 4 & 37). There was simply “no way that the Member States would accept that one of its fledgling missions could be anything but success” (Interview, 28).

The next section details lessons learnt section of the end of mission report which does include a qualitative dimension.

3.6.3 End of Mission Report: Lessons Learnt
Proxima’s Final Mission Report constitutes a major element of the EU’s self-assessment process. We have already seen the quantitative dimension to the Proxima End of Mission Report; however, the Report also contained a ‘lessons learnt’ section. Within this section there is an explicit acknowledgment that Proxima’s goals were, in fact, both of a short term and medium term nature and were not reflected in the planning process adequately:

Medium-term capacity building or institution strengthening requires a medium term mandate. From the point of view of the planning projects and implementing achievable goals, a realistic frame should be defined in order to accomplish concrete change (Council of the European Union, 2006c: 8)

Implicit in this quote (i.e. “concrete changes”) is the fact that in the absence of a timeframe and mandate that matched the mission’s goals, Proxima needed to rely on EC assistance to deliver stated ‘concrete changes’. Proxima required the strategic umbrella of the SAP, and the SAA as the “delivery mechanism” (Interview, 17) to achieve the EU’s overall goals in the country. It is acknowledged within the Council Secretariat that the SAP is the “heart of the Europeanisation process” (Interview, 2). However, the two were often far too disconnected to tell whether or not they were two parts of a unified whole or not. The consequences of which served to compromise the concept that Proxima was complementary to EC assistance. The distinction between immediate post conflict needs and the longer term aim of institutional change was strongly reflected during interviews. Council Secretariat members from both DG VI and DG IX argued, and Commission officials from within the EC delegation and DG Enlargement were keen to stress that they had “different jobs” with “different guiding principles” (Interview 2 & 1, 7, 17 and 38 for a similar sentiment). In Macedonia the ESDP component corresponded to the ‘Stabilisation’ dimension, while the EC assistance made up the ‘Association’ aspect (Interview, 1, 2 17). In this respect they can be said to represent “two sides of the same coin” (Interview, 17). However, what ‘Stabilisation’ means in this context and what one could legitimately
conceive as representing stability became contested and to a degree fuelled some of the cross-pillar tensions and weariness exhibited by the Commission over the ESDP’s ambitions. While the Council Secretariat saw “no contradiction” (Interview, 2) in combining a security presence with capacity building; the Commission services interpreted the capacity building, at best unnecessary and at worst an “intrusion” (Interview, 4). As a member of the Police Unit and Fact Finding Team (within the Council Secretariat DGIX) recalled, the Commission could not see what the “added value” of Proxima was, beyond a political presence, which the EUSR could have fulfilled alone (Interview, 4). In this sense the EC Delegation was not entirely sure what to make of, or how to address Proxima. This was exacerbated by the fact that the missions initial mandate was only for a year (Interview, 20).

This ambiguous identity that characterised Proxima was also recognised by some members of the mission (Interview, 35 & 37). While the mission was formally described as a police reform mission, Proxima could equally be seen as a civilian extension to Concordia, with the primary goal being that reassurance rather than as an instrument of reform. This can be evinced through the fact that the mission was armed, the deployment pattern of the mission was in the former crisis areas; and finally, it had a one year mandate which was indicative of a stabilising role rather than mid to long-term reform role (Flessenkemper, 2008: 84-85; Interview, 37 & 39).

The end of mission report also goes on to actively criticise the lack of difference between the CONOPS and OPLAN. It reads, “the OPLAN should describe operational policies and practices on a higher resolution then the CONOPS…[ ]..Prior to its implementation, it should be communicated for further review to the Council or any other relevant body. Relevant parts of the CONOPS should be referred to in OPLAN”. It continues,
the CONOPS should serve as the sole political steering document
detailing all the Mission’s requirements. A clear distinction between
CONOPS and OPLAN as the respective strategic and tactical documents
would enhance the Mission effectiveness (Council of the European
Union, 2006c: 6).

On pre-mission planning it states that programming needed more time and thorough
preparation, which “from an administrative point of view the Fact Finding Report should
be accurate and detailed including a thorough examination (Council of the European Union,
2006c: 7).

Perhaps most telling of all, and most indicative of Proxima as a ‘missed opportunity’,
comes when the Final Report bemoans the fact that the ‘EUPM Lessons Paper’ (Jointly
produced by the Council Secretariat and the Commission, with advice from CIVCOM) was
not implemented. Given that this lessons learnt paper was readily available, having been
published on the 29 April 2003, there was ample time and opportunity for its findings to be
incorporated into Proxima’s planning (whose fact finding mission didn’t take place until
August 2003). A closer examination of the EUPM planning document reveals a number of
issues which could have dramatically improved Proxima’s performance. For example, the
paper calls for delineation between CONOPS and OPLAN with the PSC and CIVCOM
considering it in “its totality” (Council of the European Union, 2006c: 6). In other words,
the “relevant bodies should not assume that advice will be taken on board” said a
CIVCOM representative (Interview, 32). In addition, the ‘EUPM Lesson Learning’
document makes suggestions on the ‘Composition of Planning’ (Council of the European
Union, 2003i: 4-6):

* The mission chain of command should play a greater interface role between the
  Committees/working groups;
• A designated point of contact in the Council Secretariat (desk officer) is essential, in parallel with the existing project manager in the Commission responsible for the implementation of the CFSP budget;

• The option of a temporary enforcement of the Police Unit should be considered when police missions are undertaken;

• On the notion of ‘Intra-EU Coordination’, the ‘Task Force’ provided for EUPM only basic information exchange between relevant actors. Therefore it recommends that “designated contact points, more regular and issues specific meetings of the Task Force facilitate better coordination and a more problem-solving approach” (Council of the European Union, 2003i: 19)

The Proxima Final Mission report also makes an important reference to EUROPOL. It details how attempts were made to pursue both strategic and operational agreements between Macedonia and EUROPOL. Interviews confirm that these efforts came very late and although would have facilitated a EUROPOL – Macedonia relationship; it would have been too late for the mission itself to have benefited from the information (Interview, 4, 28 & 37). There was no involvement in the Commission services in any of this (Interview, 4, 7, 20 & 39).

3.6.4 EUPAT and the Follow on Report

The ‘Joint Paper on Lessons Learnt on the transition between the EU Police Advisory Team in the former fYROM and a European Community Policing Project’, 14 December (de-classified December 2008) was co-written by the Council Secretariat, Commission, sent to CIVCOM and circulated between JHA working groups and COWEB. This circulation of relevant documentation is in contradistinction to the Proxima Final Report. The report made a key recommendation, that implied a direct criticism of Proxima and the
notion of exit strategies and follow-on activities when it argued for the need of “clear divisions” and “proper mechanisms of transition when an EU exit strategy for an ESDP mission foreseen a hand over to EC instruments” (Council of the European Union, 2008a: 2). This needs three elements:

- ensure at the planning phase that synchronisation between ESDP and EC planning, including Joint Roadmaps;
- ensure adequate transition phases between ESDP mission and EC projects;
- finally, regular reviews of common planning documents (roadmaps) should be built in. This would increase flexibility, as the findings of Mid Term Reviews should be used to develop synchronised planning between the Council Secretariat and the Commission as regards the anticipated built-in of the EC project (Council of the European Union, 2008a: 2).

5.7 Conclusion

This chapter has covered the planning, implementation and assessment of Proxima. In doing so it has explained the mission’s relationship with other EU actors, the EUSR, the EC Delegation, the EAR and Brussels based bodies.

The Steerimg section (3.4) covered the planning of Proxima and in doing so shed considerable light on the first of our research questions (What has been the impact of the external dimension of JHA agenda on the construction and outlook of civilian crisis management missions?) and Hypothesis A. 78 We have shown that the construction of Proxima witnessed positive cross-pillar dynamics, which in themselves, displayed an acute

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78 Hypothesis A: The narrower the scope of the civilian crisis management mission mandate the easier it was to design and construct a mission that accommodated the JHA agenda in a coordinated and coherent fashion.
awareness of the need to ensure that Proxima’s work would be complementary to EC led assistance. These dynamics were strongest in the strategic planning phase (draft CONOPS, CIVCOM and COWEB advice) where a comprehensive knowledge of prior and ongoing EC assistance was reiterated. However, as the construction of Proxima entered the operational planning stage, things started to unravel. For example, although the ‘Coordination of Proxima’ document made the right noises at the level of rhetoric – i.e. a Joint Council and Commission ‘Task Force’ – this did not translate into action. This institutional ‘Task Force’ was “not fit for purpose” (Interview, 37) and its shortcomings left Proxima and EC led assistance without an institutional forum through which to manage and synergise their relationship and activities. Moreover, operational planning suffered from an imprecise attitude which hampered the fact-finding mission. Much of this, as the End of Mission Report details, and interviews corroborate, was taken in an uncritical fashion from the EUPM planning process.

By the time that we shift focus to the Management section of the mission (section 3.5), many of the good intentions from the planning phase had been lost; this sheds light on research question two (To what extent has the external dimension of JHA agenda affected the coordination and coherence of goals in civilian crisis management missions?) and Hypothesis B. 79 For example, without an effective forum for the Council Secretariat and Commission desk officers to coordinate through, the missions provision for a short term (Proxima) – long term (EC assistance) fell apart after the first hiccup: the delay on the follow-on to the ECJHAT mission, the ECPRP. At this point poor working relations, a

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79 Hypothesis B: The clearer the institutional leadership behind a civilian crisis management mission, the better the prospects of that mission having and maintaining the highest levels of coordination with other EU actors
product of acrimonious Council – Commission relations, hindered the rest of Proxima, and to a lesser degree Proxima II. The Commission’s refusal to hand over their knowledge base being a particular nadir of horizontal coherence. What the operational aspect of Proxima showed, was that the need to support the overarching framework that a country is governed by (an aspect of the external dimension of JHA agenda) is predicated on reasonable cross-pillar relations. Moreover, this element of the JHA agenda requires good intra-institutional coherence also. For example, part of the role of supporting an overarching framework takes place with the process of devising programmes and the writing of reports. The addition of the EAR to the institutional matrix in Macedonia meant that devising programmes was a time consuming and ultimately inflexible affair. This made it difficult to provide Proxima with a specific, and strategically coherent, role within the Annual Action Plans. Finally, poor cross-pillar relations made the writing of reports very disconnected. Meaning that the ‘heart of the Europeanisation’ process (SAP and SAA) received little input from Proxima.

Regarding attempts to make Proxima more relevant to the internal security of the EU, this chapter discovered that, despite much ongoing policy work in the fight against organised crime in the Western Balkans including specific suggestions on how to integrate JHA Agencies (EUROPOL in particular) into Proxima, the notion of ‘internal relevance’ played no role in the construction of Proxima (this is pertinent to research question one). The structural disconnect between internal focused actors (Article 36 Committee and JAI) and all actors focused on external relations meant that the two failed to meet during the planning process. However, the need to link the mission with the internal security of the EU did come to impact the outlook of Proxima II in the dying months of its mandate, when the Head of Mission (Jurgen Scholz) attempted to mediate between Macedonia and
*Proxima* on strategic and operational agreements, although nothing was signed during the mission.

Finally, in connection to research question three (*To what extent has the governance of the three missions been improved by a learning process based on accumulated experience?*) and Hypothesis C\(^{80}\) we can deduce that the relationship between *Proxima* and the external dimension of JHA has revealed (or created) a considerable amount of policy space (such as Council-Commission institutional forums; internal coordination in relation to JHA Agencies; and especially over the monitoring of goals and lack of joint assessment procedures). However, institutional actors were hesitant and often failed to fill these gaps, even when the gaps were pointed out by EU reports (i.e. accumulated experience). The governance of *Proxima* can be considered a learning process based on accumulated experience, with the caveat that this was a very slow learning process. Additionally, concrete acts of entrepreneurship are hard to come across. Two specific cases would be: the double hatting of the EUSR as the Head of the Commission Delegation and, secondly, the mediating role between EUROPOL and the Macedonia government taken on by the Head of Mission toward the end of *Proxima* II.

Therefore, three themes can be teased out of this analysis and carried forward into thesis’s Conclusion, in which the thesis’s research questions, and corresponding hypotheses, will be considered in detail, and compared with the other two case studies. First, the lack of an institutional forum amounting to a ‘black box’ was highly significant. The fact that actors recognised the need for such an institutional anchor and just could not make it work is a condemning account of Council-Commission relations during this period. This

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\(^{80}\) Hypothesis C: The governance of the mission have been shaped by a ‘learning by doing process’ rather than individual acts of institutional and policy entrepreneurship
hindered effective cross-pillar relations in the external dimension of JHA and as a result produced poor levels of horizontal and strategic coherence. Second, internally relevant policy work was disconnected from external policy developments, despite having obvious overlapping goals and specific options for coordination in a series of policy papers. Work occurred in parallel, rather in synchronisation severely circumscribing the impact and value of Proxima to the internal security of the EU. This reflected weak horizontal and strategic coherence. Third, the monitoring of goal attainment and report writing in general suffered from woeful levels of coordination and therefore missed out on opportunities to strategically reinforce Council (Proxima) and Commission work.

The next chapter, Chapter Four, will examine the EUBAM mission in Moldova launched in 2005.
CHAPTER FOUR:

The EU-Border Assistance Mission to Moldova and Ukraine (EUBAM) and the External Dimension of Justice and Home Affairs

4.1 Introduction

As the second of three case-studies analysing the role and impact of the external dimension of JHA in relation to civilian crisis management missions, this chapter explores the EU’s involvement in the Transnistrian conflict and Moldova more generally. It tracks the EU’s governance of EUBAM and the external dimension of JHA through three sections: 4.4 ‘Enter EUBAM: Constructing the EU Mission to Transnistria’; 4.5 ‘Managing EUBAM: JHA meets Conflict Resolution’; 4.6 ‘Measuring Success: EUBAM and Goal Attainment’. These three sections will be linked back to the thesis conceptual framework, and more specifically, the three components of security governance: *Steering*, *Management* and *Regulation*. The chapter concludes with a brief analysis linked to the thesis key research questions, outlined in Chapter One. The section also highlights some ‘key themes’ to be carried forward into the thesis conclusion.

Prior to all of this the chapter will open with two contextual sections detailing Moldova’s post independence experience, including the Transnistrian conflict (4.2) before outlining the EU-Moldova relationship prior to EUBAM (4.3).

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81 As detailed in Chapter One, the other two case-studies are ESDP Proxima (2003-2006) and EULEX Kosovo (2006/8- ).

82 *Steering* denotes the component of governance that helps explore the interaction of relevant actors and tracks who drives and sets the agenda in policymakers. See Chapter One (1.3.2)

83 *Management* denotes the component of governance explores how policies are carried out, administered and controlled. See Chapter One (1.3.2)

84 *Regulation* denotes the component of governance explores the notion of policy outcomes, and links into issues pertaining to motive, institutionalisation and goal attainment. See Chapter One (1.3.2)
4.2 Moldovan Independence

Moldova’s first decade of independence proved to be a very challenging period. Many of these problems Moldova has faced since breaking away from the Soviet Union drew their energy from the country’s tendentious history. As a small, poor country Moldova was hit extremely hard by the country’s short civil war over the break-away region of Transnistria. The consequences of this war have created a status quo in which Transnistria has become de facto independent from Moldova; an independence not recognised by the international community nor Moldova. Moreover, these events have established Transnistria as a reputed ‘black hole’ of criminality. As one senior European Commission expert commented, the assumption was “anything and everything came through it” (Interview, 22).

4.2.1 Moldova and the Post Soviet Experience

Moldova declared its independence from the Soviet Union on 27 August 1991. Prior to the 1920’s, few observers regarded Moldova as anything other than an eastern offshoot of Romania. Moldova appeared on the world stage as the small Autonomous Soviet Socialist Republic (MASSR) established on the western border of Soviet Ukraine in 1924. Overnight the Soviet Union sought to replace a language and ethnicity previously ‘Romanian’ as ‘Moldovan’. By 1940 the Romanian provinces of Bessarabia and Bukovina were annexed by the Soviet Union and added to the new name of the Moldovan Soviet Socialist Republic (MSSR) (King, 2000: 2-3; Teague, 2004: 19-23). As a consequence

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85 For a ‘brief history’ of Moldova see (Teague, 2004: 19-23). For an exhaustive history of Moldova, see King (2000)

86 The Soviet Union dissolved in December 1991.
when the Soviet Union imploded in 1991 many assumed that Moldova would unite within Greater Romania (Teague, 2004: 19).

Figure 4.1: Map of Moldova, Transnistria and Region

![Map of Moldova](http://www.ildado.com/genimg/moldova-transnistria-map3.jpg)

Moldova has a small population of 4.3 million and is the poorest country in Europe (Teague, 2004: 19). Since independence Moldova’s progress has been consistently undermined due to the weak economic performance. This has not been helped by the fact that Moldova spent the first decade of independence in recession, which cast a long shadow over the Moldovan economy. For example, Moldova’s real GDP in 2004 was less than half of what it was in 1989. The principal reason for this was the civil war over the Transnistria region. The area was the industrial heartland of Moldova, meant Moldova no
longer received it benefits (Financial Times, 2006: 8). For example, while still controlled by the Soviet Union, the Transnistria region contributed more than a third of Moldova’s GDP (Hanne, 2004: 80). By 2005 agriculture still accounted for 40% of Moldova’s GDP (Vahl & Emerson, 2004: 158). Moldova is also heavily reliant upon Russian energy, and in particular gas via the Russian state-owned gas company Gazprom (King, 2003: 75-76).

Moldova’s Presidential and Parliamentary elections throughout the 1990s reflected a basic division among pro-Romanian, centrist, and pro-Russian or pro-Soviet camps (King, 2000: 146). Prior to the launch of EUBAM, Moldova had three Presidents; 1991-1996 Mircea Snegur; 1996-2001 Petru Lucinschi; and between 2001-2005 Vladimir Voronin (the head of the Communist Party) (King, 2000: 158; King, 2003). In geopolitical terms, Moldova quickly found itself in a ‘buffer-zone’ between two political-military blocs: NATO and the military alliance of the Commonwealth of Independent States (CIS). However, Moldova concentrated its policy toward the CIS in the realm of trade only. Moldova did not sign-up to the CIS Collective Security Treaty signed in 1992, nor has it ever turned to the CIS for a solution to the Transnistrian conflict. Moldova joined NATO’s Partnership for Peace Initiative in 1994 (Neukirch, 2004: 135).

4.2.2 The Transnistrian Conflict and its Consequences

In 1992 Moldova experienced a brief but bloody war over the territory east of the Dnester River (covering 4,200 km) (see figure 4.1) that left over 1,000 dead or wounded and 130,000 internally displaced persons (Williams, 1999: 74; King, 2000: 178). This narrow strip of land has been part of the Moldovan autonomous republic in the interwar period but

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87 For an examination of the democratic experience in post-communist Moldova see (Crowther, 2004: 27-47)

88 Countries participating or usually referred to as CIS states are Armenia, Azerbaijan, Belarus, Kazakhstan, Moldova, Russia, Tajikistan, Turkmenistan and Uzbekistan
was joined with Bessarabia to form the MSSR after the Soviet annexation in 1940, refereed to earlier (King, 2000: 178; Hanne, 2004: 79). With a population of 600,000, Transnistria’s national demographics are split: 40% Moldova; 28% Ukrainian; and 26% Russian (King, 2000).\(^{89}\) The region had long held a strong ideological links to the Soviet Union, perceiving it as a distinctively ‘Soviet space’, sceptical of Western European demands for greater democratisation (Neukirch, 2001: 126; Roper, 2005: 503; Urse, 2007: 4). From this standpoint, one can talk of the Transnistrian authorities looking ‘East’ rather than ‘West’ for their political inspiration (Williams, 1999: 79). In addition, much of the Transnistrian elite, including its leader Igor Smirnov, were born and raised in Russia (Roper, 2005: 503). It was within this context that the Moldovan rejection of the Russian alphabet in August 1989 fuelled fears of a creeping pan-Romanianism (Neukirch, 2001: 123; Vahl & Emerson, 2004a: 5).

After 1990 the situation deteriorated quickly, with Transnistrian workers arming themselves with weapons taken from Soviet army stores (King, 2000: 189). The first violent clashes occurred in November 1990 when the Moldovan police and Transnistrian militia exchanged fire (Vahl & Emerson, 2004: 6). By 1991 most of the region east of the Dnestr River was no longer under the control of the Moldovan authorities (King, 2000: 189). In September 1991, in reaction to the Moldovan declaration of independence the Transnistrian authorities formed an armed force and adopted a constitution (Roper, 2005: 502). Throughout the autumn of 1990 and 1991 the Transnistrians consolidated its hold over the region (King, 2000: 189). The next major turning point was the abortive Moscow coup in August 1991; these events served to cement the opposing side’s ideological differences. In December 1991 Igor Smirnov was elected as the President of what was now being

\(^{89}\) The remaining 6% is made up of Bulgarians, Gagauzians, Roma and Poles (King, 2000)
called the ‘Transnistrian Moldovan Republic’ (Roper, 2005: 502). The Moldovan President supported Gorbachev and condemned the plotters, while the Transnistrian leadership hailed the putsch as a valiant attempts to save the Soviet Union (Kaufman, 1996: 123; Urse, 2007: 5).

During the spring and summer of 1992 tensions escalated with a number of small skirmishes and battles along the river (King, 2000: 193; Neukrich, 2001: 125; Vahl & Emerson, 2004a: 6). The decisive battle of the conflict occurred between 19-21 June in Bender (see figure 4.1). The Transnistrians prevailed quickly due to the tacit – and at times active – support and intervention of the Russian 14th Army, which had remained in the region after the disintegration of the Soviet Union (Williams, 1999: 74; King, 2000: 194). The 14th Army stationed in Transnistria had many soldiers that were native to and loyal to a certain vision of Transnistria (Kuchler, 2008: 32 & 55). Indicative of which was the fact that the Commander of the 14th Army, General Gennadi Yakovlev, accepted the post of Minister of Defence for a short period in the aftermath of the war (Neukrich, 2001: 124). Since then Transnistria has been protected by a Russian led peacekeeping force and sustained by an array of legal and illegal economic activities. Transnistria is often described as an arms trafficking hub or ‘black hole’ for illicit trafficking in arms, human beings, organised crime, money laundering and smuggling (Popescu, 2005: 5; ICG, 2006: 5; ICG, 2003b; Glenny, 2009). Moreover, there has been a great concern over the security of some 40,000 tonnes of equipment and ammunition reputed to be stockpiled in the country (European Commission, 2004c: 11; Vahl & Emerson, 2004: 158). This status quo or ‘frozen conflict’ has been supported and used by different political and economic groups.

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90 It is not entirely clear how much control Moscow and President Yeltsin actually had over the 14th Army during this period (Kaufman, 1996: 125-126).
in Russia\textsuperscript{91} and to a lesser extent Ukraine, who have essentially underwritten Transnistrian separatism (ICG, 2003b: 6; Hanne, 2004: 179; Popescu, 2005: 17). In this sense the conflict is not sustained by ethnic or religious dispute, rather is sustained by elites in Russia, Ukraine, and to a degree Moldova, whom benefit from lucrative criminal enterprises that take advantage of the legal limbo that the region exists in (Popescu, 2005: 6). Aided by a disinterested international community for a decade, a \textit{de facto} republic has stabilised and has over the years embarked on a separate state-building process (Hanne, 2004: 179). \textsuperscript{92}

Attempts at conflict resolution have been limited and made little progress (Severin, 2004: 161). On 21 July 1992 a cease-fire was signed by Moldovan President Snegur and Russian President Yeltsin. Direct talks between the Moldovan authorities were initiated in early 1993. In April 1993 the OSCE\textsuperscript{93} opened a mission in Chisinau, with an initial mandate to assist the two parties in reaching a settlement. Over the years various OSCE\textsuperscript{94} settlement plans have been put forward. For example, in 1994 and in conjunction with Russian President Yeltsin, the OSCE facilitated talks and the signing of a declaration whereby both sides agreed to talk about the future legal and constitutional status of the region (Vahl & Emerson, 2004: 164). This process eventually led to Ukraine becoming the third official ‘mediator’ in the Transnistrian conflict; and in 1995 and in January 1996, to the signing of

\textsuperscript{91} Russian subsidies, direct and indirect are crucial here. For example, Transnistria is given a preferential rate for its natural gas. Moreover, Russia gave over $50 million in direct aid and $150 million in credits in 2006 alone (ICG, 2006: 4)

\textsuperscript{92} See Glenny (2009: 110-114) for more on life and state-building within Transnistria

\textsuperscript{93} For an exhaustive account of the all the conflict resolution efforts see (Vahl & Emerson, 2004: 163-175)

\textsuperscript{94} The OSCE was referred to as the CSCE until January 2004.
a Joint Declaration between Russia, Ukraine and Moldova, recognising the sovereignty and territorial integrity of Moldova (Vahl & Emerson, 2004: 163-164).

A new OCSE agreement was tabled in June 1997 and again in November 1998 after the previous talks had failed to find any substantive compromises. These new proposals were based around a ‘Joint Statement on Issues of Normalisation of Relations between the Republic of Moldova and Transnistria’ eventually signed by all parties in July 1999 (Vahl & Emerson, 2004: 166). In which the two sides agreed to intensify negotiations based on five so-called ‘common spaces’: borders, economy, legal, defence and social spaces. However, progress was almost non-existent due to the fact Transnistria insisted on keeping separate military forces while Moldova insisted on having a single military force (Vahl & Emerson, 2004b: 167). In 2003 the Moldovan President Voronin invited Transnistria to become a co-author of a new Moldovan constitution. This process established a Joint Constitutional Commission (JCC) co-chaired by Chisinau and Tiraspol, and supported by Russia, Ukraine and the OSCE. The EU was later added to this process as a guarantor (Vahl & Emerson, 2004b: 170).

4.3 EU-Moldova Relations

Moldova and the Transnistria conflict remained far down the list of the EU’s priorities for the majority of the 1990’s. In fact, the Union only ‘woke-up’ and seriously contemplated engaging with Moldova, and the region more generally, towards the end of both the accession negotiations vis-à-vis Central and Eastern Europe and after having confirmed the ‘EU perspectives’ for the countries of the Western Balkans in 2003. Having ‘woken-up’ the EU moved quickly, erecting an ENP framework that could hopefully safeguard the Union’s security and fulfil their neighbour’s political aspirations.
4.3.1 EU – Moldova Relations (1991-2003)

The EU’s relationship in the early 1990’s focused on establishing bilateral relations with ex-Soviet states. The Political and Cooperation Agreement (PCA) between the EU and Moldova entered into force on 1 July 1998, more than three years after it was signed (28 November 1994) (PCA, 1994). Despite successive Moldovan governments’ rhetorical commitments regarding European integration (especially in the late 1990’s), much of the PCA commitments made by Moldova were either not introduced or remain unimplemented (Vahl & Emerson, 2004: 175). Although primarily geared toward economic relations, non-economic issues have become gradually more prominent in the overall relationship, in particular matters pertaining to JHA became prominent.  

A separate system of Technical Assistance to the CIS (TACIS) was set up rather than extend the PHARE programme that supported the ECE countries (Council Regulation 99/2000). TACIS contributions were relatively small compared to other actors, totalling over €320 million between 1991 and 2006 (Kuchler, 2009: 81) with Moldova receiving €52 million between 1991-2006 (Vahl & Emerson, 2004: 168).

During this period (1991-2003) Moldova’s attitude toward the EU, can be described as one based on easy rhetoric rather than active engagement, indicating that the commitment to a Western oriented policy was opportunistic rather than deep seated (ICG, 2006: 2). For example, having come to office in 1996 President Petru Lucinschi declared that European

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95 The PCA’s lay out common objectives and activities which included trade and economic cooperation, science and technology, political dialogue and JHA.

96 TACIS also covered Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan and Uzbekistan. Mongolia was covered by the TACIS programme from 1991-2003.

97 EU assistance was much more limited than that provided for by the World Bank and the IMF. While the World Bank during the same period gave €252 million to Moldova with the IMF giving €310 respectively (Vahl & Emerson, 2004a: 19)
integration was a central foreign policy goal, although little changed as a result (King, 2003: 77). Rather the Moldovan authorities had a propensity to see the EU as a “panacea for the country’s lack of direction and purpose” (Lowenhardt et al, 2001: 617-618). In this sense Moldova repeatedly tried to solicit an EU-Association Agreement, however, there was little evidence to suggest that Moldovan elites had any understanding of what this would entail, in terms of substantive domestic reform (King, 2003: 78).

Nevertheless the EU’s limited engagement with Moldova does reflect the fact Moldova and Transnistria were far down the list of priorities for EU (Vahl, 2004: 181). This half-hearted engagement in Moldova (Kuchler, 2009: 82) was reflective of the EU’s enduring focus on the accession of the countries of Central and Eastern Europe and latterly on the stability of the Western Balkans during this period. Moldova was keen to be included within the SAP, however, the EU were extremely reluctant to be seen to offer Moldova a membership perspective by accident (Popsecu, 2003: 31). Rather, the PCA was envisaged as the appropriate framework for Moldova (European Commission, 2003c: 7). However, the EU soon re-focused, realising that after the forthcoming enlargement of Romania, Moldova would be on the EU’s doorstep and therefore needed to be engaged more directly (Barbe & Kienzle, 2007: 526).

4.3.2 EU – Moldova Relations (2003 - present)

98 For example, Moldova did not even have a European Commission Delegation until 2005.

99 The European Commission External Relations Commissioner Chris Pattern commented in 2003, “Moldova was manifestly a part of South East Europe but that SAP was designed for the Western Balkans (Popescu, 2003: 31).

100 In an unpublished internal Commission paper from 2002, regarding EU strategy toward Moldova, it was stated: “Moldova’s stability clearly matters to the EU. Within a few years, Moldova will be on the borders of an enlarged EU. It has been destabilised by weak government, armed conflict and secession, bear economic collapse, organised crime and emigration. [ ]..The EU needs to help Moldova address these problems” (Popescu, 2005: 29).
The inception of the ENP occurred after joint letters from the UK and Swedish Foreign Ministers to the Spanish EU Presidency January 2002. This letter stated:

Within three years Ukraine and Moldova will border the EU – with all the attendant problems of cross border crime, trafficking and illegal immigration. Moldova will not be an EU neighbour until later, when Romania joins, but it already faces grinding poverty, huge social problems and mass emigration (Foreign & Commonwealth Office, 2002)

The letter was followed by a joint memo from Javier Solana (HR-CFSP) and Chris Pattern (External Relations Commissioner) sketching out a blueprint for the policy. This recommended the creation of an economic and political space in order to safeguard stability, prosperity, shared values and the rule of law (Johansson-Nogues, 2007). At this stage the policy was conceived very much as a proximity policy, aimed at Moldova, Ukraine and Belarus; only later was the ENP extended to other countries.\textsuperscript{101} The Commission responded with a ‘Wider Europe’ proposal sketching out the contours of the policy on 11 March 2003 (European Commission, 2003a). This concept paper spoke of extending the ‘four freedoms’ (persons, goods, services and capital) of the EU to participating countries, although this was removed from subsequent ENP documentation (Jeandesboz, 2007, 2009). It stated that with enlargement came the opportunity to “avoid the new dividing lines in Europe and to promote stability and prosperity within the new borders of the Union” (European Commission, 2003a: 3). The aim should be to “develop a zone of prosperity and a friendly neighbourhood – a tiny ‘ring of friends’ – with whom the EU enjoys close, peaceful and co-operative relations” (European Commission, 2003a: 3).

\textsuperscript{101} It was only in June 2004 that the EU voted to extend ENP to Azerbaijan, Armenia and Georgia. Later still, the ENP was extended once again, this time to all the Euro-Mediterranean Partnership (aka, the Barcelona Process) with the exception of Turkey (Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia, as well as the Palestinian Authority)
In May 2003 the Thessaloniki European Council formally launched the new ENP\textsuperscript{102}, after which the Commission were mandated with drawing up the technical specifications (Johansson-Nogues, 2007: 20).

This was followed by a more detailed strategy paper on 12 May 2004, this paper explicitly links the ENP with other foreign policy objectives, especially through “efforts to realise the objectives of the European Security Strategy” (European Commission, 2004a: 2).\textsuperscript{103} The paper expands:

The ENP should reinforce the EU’s contribution to promoting the settlement of regional conflicts. The ENP can also help the Union’s objectives in the area of JHA, in particular in the light against organised crime and corruption, money laundering and all forms of trafficking, as well as with regards to issues related to migration. It is important for the EU and its partners to aim of the highest degree of complementarity and synergy in the different areas of cooperation (European Commission, 2004a: 6)

The Strategy Paper of May 12, 2004 also stated that the ENP is designed as a “comprehensive policy integrating related components from all three pillars” (European Commission, 2004a: 6). At the launch of the Action Plan stage, External Relations Commissioner Benita Ferrero-Waldner laid out the benefits to the EU in three areas; each corresponded to an existing EU pillar:

1. the EU would benefit from a more politically stable neighbourhood through political and economic reforms (Pillar I)

\textsuperscript{102} For a comprehensive history or genealogy of the ENP see Johansson-Nogues (2007: 20-35) or Jeandesboz, (2007, 2009)

\textsuperscript{103} The European Security Strategy states that the EU’s key task is to “make a particular contribution to stability and good governance in our immediate neighbourhood (and) to promote a ring of well governed countries to the East of the European Union” (European Security Strategy, 2003)
2. the EU benefits because ENP partners sign-up to commitments on the fight against terrorism, non proliferation of WMD, and the peaceful resolution of regional conflicts (Pillar II)

3. the EU benefits through increased security at its border, and will itself tackle the problems from migration to organised crime (Pillar III)(Cremona & Hillion, 2006: 4; See also Ferrero-Waldner, 2006).

The ENP is operationalised through commonly agreed, country specific, Action Plans. The Action Plans were to be drafted under six major headings: political dialogue; economic and social cooperation and development; trade related issues, market and regulatory reform; cooperation in JHA; transport, energy, information society, environment and science and technology; and finally social policy and people to people contacts (Johansson-Nogues, 2007: 33). The Action Plans set out short to medium term objectives with a methodology extremely similar to the enlargement process (Kelly, 2006: 31; Sasse, 2008). These Action Plans would be assessed annually and reviewed every 2-3 years (European Commission, 2003a: 2-3). In this respect Action Plans fulfil the same function as the SAA, minus the membership perspective (Cremona & Hillion, 2006: 10). However, the EU is clear on this last point; the ENP is not a mechanism for accession (European Commission, 2004a).

The removal of the “reform anchor” (Sasse, 2008: 296) or “golden carrot” (Dannreuther, 2008: 67) that the prospect of accession, so successfully provided for during the enlargement process, has led to criticisms that the ENP has ‘too vague’ an incentive structure to work (Smith K.E, 2005: 764). Moreover there have also been criticisms that the ‘partnership’ aspect of the process has also been overplayed. A number of observers have commented on the asymmetric nature of the Action Plans, which are rather ‘thick’ on the partners commitments while relatively thin on the EU’s responsibilities (Popescu, 2005: 217).
The ENP came with its own financial instrument the ENPI, which was part of the Commission’s wider reform of its financial instruments (see Chapter Two, section 2.2.2). ENPI replaced the TACIS framework from 2007 and had a budget of €209.7 million for the 2007-2010 periods (Kuchler, 2008:85). However, the first stage 2004-2006, the so-called ‘European Neighbourhood Programme’ used non-utilised resources from TACIS (Johansson-Nogues, 2007: 34).

**4.4: Enter EUBAM: the Construction of an EU Mission to the border of Transnistria**

This section will detail the planning of the EUBAM mission. In doing so it seeks to explore, through the policy cycle of civilian crisis management, how actors interact and seeks to ascertain which actors drive and set the policy agenda. This links back to the *Steering* component of security governance, as discussed in the thesis conceptual apparatus, in Chapter One.

**4.4.1 Formulating an Enhanced Engagement toward Transnistria and Moldova**

Since early 2003 the EU have sought to undertake a more dynamic policy engagement toward the Transnistrian conflict and EU-Moldovan relations more generally: this has manifested itself both through both Council and Commission led action. This enhanced engagement reflected the EU’s growing concerns over soft security threats, detailed in the previous section, such as organised crime and illegal immigration, reputed to be emanating from the region. Many of these policy interventions were envisaged as ways through which pressure could be applied to relevant actors in the Transnistrian conflict. These policy developments, prior to the specific planning of what would later become EUBAM, are considered here in order to reveal what the policy context was, as well as which actors
could claim ‘policy pedigree’ in devising policy in this domain. The import of which becomes apparent later when discrepancies emerge over the entrepreneurial origin and institutional ownership of EUBAM.

First, in February 2003 the EU Council decided, in conjunction with the US, that a visa ban would be imposed upon key figures within the Transnistrian leadership. This travel ban was said by the Council to be “In support of the EU’s more active involvement in the political process, the Council had decided to implement targeted sanctions in the form of a travel ban”. Furthermore, “The EU reserves the right to consider additional restrictive measures at a later date” (Council Common Position, 2003). In addition, by first renewing the ban in February 2004, and then later extending the ban to additional personnel in August 2004 (while also extending the ban until February 2005) (European Commission, 2003c: 6; Vahl, 2005: 2-3). 104

This was followed on the 11 March of 2003 by Commission efforts to initiate a trilateral dialogue. This was done through the direct initiative of the then External Relations Commissioner Chris Patten, whom brought Moldova and Ukraine together for talks in order to try and put a stop to the Ukrainian policy of turning a ‘blind eye’ to illicit cross border activities along the Transnistrian section of the border (Vahl & Emerson, 2004: 169). The focus of the talks was the organisation of the joint border and on the possibility of Ukraine imposing a ban on the export of Transnistria goods which did not carry the official customs stamp and documents issued by Moldova. As a direct consequence a bilateral protocol between the Customs Services was signed in Kiev on 15 May 2003 on the ‘Mutual recognition of shipping, commercial and customs documents supply’

104 However, the impact of the sanctions have been diluted by the fact that Russia and Ukraine, as so called ‘neutral’ participants have not activated the travel ban (Popescu, 2005: 33).
European Commission, 2003c: 6; Barbe & Kienzle, 2007). This agreement covered the Transnistrian section of the Moldovan-Ukrainian frontier and intended to lower the ‘vested interests’ the status quo had in protecting shady businessmen and corrupt officials which merely serves to perpetuate the cycle of smuggling, trafficking and other illegal activities. As the DG RELEX produced Moldovan Country Strategy Report states, “a key element in any effort to achieve a settlement relates to ensuring Moldova’s control over it entire customs territory” (European Commission 2004c: 11). The Commission’s logic was though efforts concentrated on the so called ‘low politics’ of customs and border initiatives, the EC could bring the relevant parties together, and over time, have a longer-term impact on the frozen conflict (Interview, 5 & 22). From the DG RELEX’s geographic services perspective, the strategy was to ‘normalise’ relations via ‘low politics’ or internal market solutions, such as trade and EU standards of integrated border management rather than more traditional high diplomacy (Interview, 22 & 30). However, the necessary measures contained in the protocols on customs were not properly introduced due to the obdurate nature of the Kuchma regime running Ukraine during this period (Vahl, 2005: 3). In February 2003 the EU also had its first official involvement in the Transnistrian settlement talks, when the Moldovan President Vornoin invited the Commission (in the form of an EC expert) to participate in the Joint Constitutional Commission (referred to in section 4.2.2) (Barbe & Kienzle, 2007: 528-529). Although this proved to be short-lived affair due to that fact that this forum quickly descended into fractious inertia, it still represented a precedent for the Union by establishing the EC as an interlocutor in the process (Interview, 30).

During the summer of 2003 the prospect of a civilian crisis management mission to the Transnistrian conflict area was raised for the first time in the PSC. The proposals for a

105 See Mc Mafia for a damming account of the criminality at the heart of the Kuchma regime at this time (Glenny, 2009).
civilian ESDP mission came through two ‘well springs’: the EU funded think tank the Institute for Security Studies (EUISS)\(^\text{106}\) and the (Dutch) Chairmanship of the OSCE in July 2003. A concept paper\(^\text{107}\) was circulated which sketched out a mission, lead by the EU with troop contributions from Russia and Ukraine, tentatively entitled an EU-led ‘peace consolidation force’ (Vahl, 2005: 2; Popescu, 2009: 464). Moldova were very supportive of the idea, openly suggesting at their EU-Moldova Cooperation Council in March 2003, that the mission should be formulated along the lines of the already launched or committed to ESDP civilian missions in the Western Balkans: EUPM and Proxima (Popescu, 2003: 45). The proposal for the mission was discussed in the PSC and did not receive any blanket opposition, although, neither did it get into any operative discussions (Interview, 16; Popescu, 2009: 464). The failure to get an ESDP ‘peacekeeping’ force ‘off the ground’ can be boiled down to Russian disapproval; this culminated in a statement from the Russian Foreign Ministry in late July 2003 explicitly opposing any change in the existing, Russian dominated, peacekeeping format in Transnistria (Popescu, 2009: 464). This statement effectively “killed the idea before it got started” (Interview, 16). Following this (still in 2003) the Council through the intervention of the Javier Solana (HR-CSFP) adopted a harder line with Russia, when he recommended that Moldova outright reject the Russian’s so called ‘Kozak Memorandum’ (Vahl, 2005: 3; Popescu, 2005: 31). This memorandum was named after the Russian special envoy to Transnistria Dimitri Kozak, whom in

\(^{106}\) The EUISS is a Paris-based agency of the European Union, operating under the Common Foreign and Security Policy (CFSP). Its goals are to find a common security culture for the EU, to help develop and project the CFSP, and to enrich Europe’s strategic debate. EUISS was established by the \textit{Council Joint Action of 20 July 2001} (since revised by \textit{Council Joint Action of 21 December 2006}) as a replacement to the Western European Union Institute for Security Studies (established in July 1990). It was inaugurated on 1 January 2002. See \texttt{http://www.iss.europa.eu/} for more

November 2003 was sent by President Putin to the region to develop a unilateral settlement plan that would have opened the way to a Russian military presence until 2020 (Popescu, 2005: 30). Russia’s provocative decision to instigate this initiative was seen by those dealing with Eastern Europe within the Council Secretariat services as a direct response to the earlier ESDP mission proposal that had attracted Russian opprobrium (Interview, 16).

During the period (summer 2003) that the Council were discussing the feasibility of an ESDP mission, the European Commission external services were developing the fledgling ENP framework and the corresponding Action Plan for Moldova. Jointly adopted on 22 February 2005, Moldova’s Action Plan was drawn up on the back of previous DG RELEX reports. These included the 2001 produced Country Strategy Paper that was designed to cover the period 2002-2006 (prior to the inception of the ENP) (European Commission, 2001); a renewed Country Strategy Paper 2004-2006, written in 2003 (European Commission, 2003c); and in December 2004 an ENP Country Report for Moldova (European Commission, 2004c) (Interview, 5, 14 & 19).


The field of Justice and Home Affairs with its main components: integrated border management/customs, migration and asylum management and organised crime/international terrorism (including the fight against corruption, money laundering and trafficking in human beings) calls for more attention. This is due in part to the effect of Romania’s entering the EU, turning Moldova’s Western borders into the EU’s future external borders (European Commission, 2003c: 21).
While simultaneously outlining that another key ‘strategic consideration’ is the frozen conflict in Transnistria, of which, it is stated that a “key aspect of the settlement process is to ensure Moldova’s control over its entire customs territory. The EU is committed to assisting Moldova in this respect” (European Commission, 2003c: 4). As a result the ‘EU response strategy’ for the 2005-2006 period (written in 2003) directly links policy programmes development and their ‘expected results and indicators’ on Transnistria, with border management, and other JHA components.

The EU-Moldova Action Plan, (of February 2005) which should be seen as the operational dimension of the ENP, builds upon this by specifying ‘Priorities for Action’ which include efforts to find a

- viable solution to the Transnistria conflict;

- progress towards a system of efficient, comprehensive state border management on all sectors of the Moldovan border including the Transnistria sector;

- working towards the EU granting Autonomous Trade Preferences, by ensuring effective control of the origin of goods from Moldova;

- Steeping up the fight against organised crime, including trafficking in human beings;

- Ensuring the efficient management if migratory flows, including initiating the process towards conclusion of a readmission agreement between the EC and Moldova (EU-Moldova Action Plan, 2005c: 2).

Other aspects of the EU’s enhanced engagement with Moldova included the opening of EC Delegation in Moldova in the autumn of 2005 in order to manage the implementation of
EC initiatives. This was also symbolically important given that in the past Moldovan affairs had been managed from the EC Delegation in Kiev (Interview, 5). Soon after the signing of the EU-Moldova Action Plan, on the 23 March 2005, the EU appointed a EUSR from the Netherlands, Adriaan Jacobvits de Szeged, who was well acquainted with the situation having been the OSCE Chairmen in office to the region between 2002-2003. Moreover, he had been a key proponent of the EU led ‘peace consolidation force’, detailed earlier in this section. His tasks were to be four-fold, and were closely related to the Moldovan Action Plan which are:

- To ‘strengthen the EU’s contribution to the resolution of the Transnistrian conflict’;
- To work on the EU’s contribution to an eventual settlement;
- To follow developments, cultivate contacts with the government in Chisinau and other domestic and offer EU advice and facilitation; and
- To assist the development of EU policy towards Moldova and the region, in particular concerning conflict prevention and resolution (Council Joint Action, 2005)

Having outlined the difficult ways in which the EU sought to enhance its engagement with Moldova; we now turn to the specific construction of EUBAM.

**4.4.2 Fact Finding Mission: the Orange Revolution and the Construction of an ‘impure’ ESDP Mission**

On the 2 June 2005, the Presidents of Moldova (President Voronin) and Ukraine (President Yuschenko) sent a joint letter to the Commission President Jose Manuel Barroso and the HR-CFSP Javier Solana. This letter requested additional EU support in the creation of a
international customs control arrangement and an effective border monitoring mechanism on the Transnistrian segment of the Moldova-Ukraine State border’ (European Commission, 2005d). This letter should be seen in the context of the so-called Orange Revolution in Ukraine which brought to power a more Western-oriented government.\textsuperscript{108} The Commission were keen to seize on this as a ‘window of opportunity’ to address the long-standing stalemate in Transnistria (Interview, 5 & 19).

It is important at this stage to point out a set of accounts over the entrepreneurial origin and institutional ownership of the mission, which are difficult to reconcile with both sets of actors from the Council and Commission insisting that they were responsible for the concept of a border assistance mission that would render “order at the border” (Interview, 16 & 22 for similar sentiments). This discrepancy is evinced through interviews with two senior officials, one in the General Council Secretariat Eastern Europe Unit directly advising Solana, and the other as the Head of Unit for Directorate E, Unit 2 for ‘Ukraine, Belarus, Moldova and Southern Caucasus’ both of whom participated in the joint Council Secretariat and Commission Fact Finding Mission, led by the EUSR, that took place between 23 and the 29 August 2005. Both were persistent in their claims for entrepreneurial origin. On the Commission side, the argument holds that the mission’s concept was devised by building on the prior work undertaken by the EC since 2003 (previous section 4.4.1), and that the Council Secretariat had only become involved relatively late, in the spring/summer months (Interview, 22). In contrast, the Council Secretariat claimed that the mission concept was developed from the 2003 ESDP proposals and adapted in a classic example of ‘problem solving’ policy making, in order to suit the new context (Interview, 16).

\textsuperscript{108} On the 28 December 2004 President Yuschenko was sworn into office in Ukraine during the so-called Orange Revolution. For a summary see (Karatnycky, 2005).
Although, the Fact Finding Mission was a joint undertaking, in practice the Council and Commission personnel actually ended up operating in two distinct groups (Kurowska & Tallis, 2009: 49) This undermined the reasoning behind the concept of the joint Fact Finding Mission in the first place (Interview, 5 & 22). The report of the Fact Finding Mission recommended that a mission should extend to the full length of the border so as to not simply redirect existing trafficking routes. The two major routes of illegal immigration running through the mission area highlighted in the FFM report were the northern route from Moldova to Ukraine border (linking up with the Transcarpathian route), as well as the southern route runs from Odessa to Istanbul (Interview, 13 & 16; Kurowska & Tallis, 2009: 49). The report endorsed the notion of a Commission led mission as well as a small enhancement of the EUSR’s team\(^\text{109}\); although the FFM report was not specific (unclear) on exactly how this division of labour should look (Interview, 16 & 22).

The PSC considered the options outlined in the FFM Report between the 9 and 20 September. On the 9 September the PSC agreed to an EC led Border Assistance Mission. This process was “not a straightforward one” (Interview, 16). Indeed the PSC took a great deal of convincing and the clumsy wording (see 4.3.3) of the Council statement reflects this struggle (Interview, 16).

In order to secure the mission as a Commission project, officials worked extremely hard to demonstrate its suitability to administer the mission. While, from the Council perspective, some Member States and Council Secretariat officials were waking up to the realisation that they were voluntarily ceding ground, amounting to a potential policy precedent, on the institutionally sensitive concept of civilian crisis management (detailed in Chapter Two,

\[^{109}\text{These reinforcement of the team resulted in EUSR special advisers in Kiev, Chisinau and a liaison officer located to the Headquarters for the EC Border Assistance Mission (Council of the European Union, 2006c: 3-5; Interview, 13).}\]
2.4) (Interview 16, 18, 22 & 29). The Commission, according to one senior official from the geographic service in DG RELEX, “won the debate” (Interview, 5) due to four interrelated reasons.

First, with the previous attempt to establish an ‘ESDP’ mission in 2003 (detailed in the previous section), Member States were deeply concerned about the potentially deleterious effects such a mission might have on EU-Russia relations (Interview, 16). Second, the Council rely on the CFSP budget to fund operations (as detailed in Chapter Two, section 2.3.2), would have struggled to finance the mission in the short period of time afforded by this ‘window of opportunity’ (Interview, 16). Whereas the Commission, as we will see below, had its own funding stream ‘ready to go’ for such scenarios in the shape of the Rapid Reaction Mechanism (Interview, 5, 16 & 22).

Third, ESDP did not actually have a concept paper on ‘border management’ or ‘border missions’ to utilise at this stage. While ‘border monitoring’ was included in the civilian ESDP in 2004, it had not been fully fleshed out (Interview, 28; Council of the European Union, 2006d) which meant that could not claim greater expertise in this area (Interview, 5 & 22). This point gives greater credence to the idea that the mission’s origin lay with the Commission. For example, the Commission had already publicly demonstrated, in the paper ‘Crisis Management and Conflict Prevention’ (produced by the Crisis Management and Conflict Unit in CFSP A) that the Commission had a strong pedigree in the realm of ‘Customs and Border Management’ (see Chapter Two, section 2.2.1) (European Commission, 2003b: 21). Later the Council rectified this weakness by approving a

110 Although the Council did launch an EU Border Assistance Mission to Rafah at the crossing point between Gaza and Egypt in the Palestinian Territories. This mission was finalised in a Council Joint Action on the 12 December 2005 (Council Joint Action 2005). However, this mission was more of a third party presence mission and far more limited than EUBAM to Moldova–Ukraine (Interview, 28).

Fourth, the Commission officials pointed to the fact that ESDP missions were envisaged as short term solutions directed at stabilisation rather than capacity-building (“or at least should be”) (Interview, 5, 18 & 22). In addition the Commission were better able to take advantage of the single overarching nature of the framework, the ENP, through its delivery mechanism, the ENP Action Plans. In this sense, the Commission were advocating that they be given the ‘policy space’ to make tactical inter-linkages within the ENP policy framework in order to facilitate longer-term reform and sustainable Europeanisation (Interview, 5 & 22).

The PSC made its decision on the 9 and 20 September to cede operational, if not political, control of the mission to the Commission which led to a ‘Memorandum of Understanding between the European Commission, the Government of the Republic of Moldova and the Government of Ukraine’, signed on the 7 October 2005 (European Commission, 2005d). This was followed on the 27 October 2005 by an Information Note to the Council announcing the RRM decision (European Commission, 2005d). The ‘Memorandum of Understanding’ signed by the Presidents of Moldova and Ukraine as well as the European Commission’s External Relations Commissioner Benito Ferrero Waldner, attempts to replicate the Legal Joint Action that usually structures the construction of ESDP civilian missions. The Fact Finding Mission report had recommended this move in order to ‘legally secure’ any none ‘pure’ ESDP mission (Interview, 3 & 11).

On the topic of construction of the mission the Council Secretariat (DG VI & IX) and the geographical services were keen to emphasise the fact that although EUBAM was not required to adhere to the traditional policy-cycle of civilian crisis management missions
(i.e., Joint Actions and CIVCOM scrutiny), it did not get to completely obviate Council formations. For example, during the mission’s construction (from 20 September onwards) regular exchanges between the Council Secretariat and COEST (see function in 2.3) took place ensuring that the clear political dimension to the mission was given the necessary attention (Interview, 16). Also, given that the mission would be seconding Member States’ experts CIVCOM was consulted informally, although no documentation was published and the advice did not stray into the operational specifics of a normal civilian ESDP mission (Interview, 11 & 32). Therefore all of the preparatory work for the mission was done by the DG RELEX, who held the ultimate responsibility for the operationalisation of the mission. This process was a collaborative effort bringing together the expertise of the Commission’s sectoral services from DG CFSP A, the geographic services in Directorate E, Unit 2 for ‘Ukraine, Belarus, Moldova and Southern Caucasus’ and the sectoral DG’s: DG Justice Liberty and Security (JLS) (previously DG JHA) DG TAXUD, DG Trade and EuropeAid. This collaboration would be extended into the deployment and management of the mission (Interview, 5, 19, 22 & 29).

As mentioned earlier the ‘Memorandum of Understanding’ echoes, to a large extent, the Council Joint Actions for civilian ESDP missions. This is done by outlining a ‘Mandate’ and ‘Coordinating Arrangements’. The Overall Objectives were to:

a. Contribute to the implementation of the EU ENP Action Plan with Moldova and Ukraine, the implementation of the June 2004 Council conclusions on Moldova, and the February 2005 Council conclusions on Ukraine, in particular as regards outstanding border management issues in Moldova and Ukraine

b. Build up appropriate operational and institutional capacity in Moldova and Ukraine to ensure effective border control and surveillance

c. Contributing to the settlement of the Transnistria conflict by strengthening border control and border surveillance in Moldova and Ukraine, thus reducing possible security threats originating from this region
d. Improve transnational cooperation on border management (European Commission, 2005d)

The ‘coordinating arrangements’ stated that the mission will report ‘activities and findings’ to the Commission in Brussels, as well as via the EC delegations in Chisinau and Kiev. The Mission will “have no authority to enforce the laws” of Moldova or Ukraine. However, despite not having executive powers, the Mission will “have the right to make unannounced visits to any location on the Ukrainian-Moldova state border, including all Border Units and Customs Posts” (European Commission, 2005c: 2). In addition to this, the Mission, “in any case of doubt, may request the head of the relevant customs or border guards unit to order the re-examination and re-assessment of any consignment of goods on which customs duty or other revenue” is paid (European Commission, 2005c: 2). The assistance provided in the ‘Memorandum of Understanding’ was for 24 months, and will operate from the 1 December 2005. Personnel of the Mission would not be permitted to carry arms. At this initial stage the number of experts was estimated to be 50 seconded staff (European Commission, 2005c: 3).

By the 27 October 2005 the Commission had confirmed its decision to use the RRM to the tune of €4 million. The RRM (as detailed in Chapter Two, section 2.3.1) could only be funded for up to six months. Therefore, the Commission envisaged in the ‘Commission’s RRM financing decision on the establishment of EUBAM that the RRM could be seamlessly succeeded by the TACIS (later to become the ENPI) funding instrument (European Commission, 2005c). The combined funding under the RRM and TACIS programme over the period December 2005 to November 2007 amounted to €20.2 million (EUBAM Factsheet, 2007). The mission’s experts will be paid for by the Member States seconding personnel (European Commission, 2005e: 3).

4.4.3 Hostile Takeover or a Reactivation of Control?
The RRM Financing decision of the 28 October 2005 produced by the Commission (Memorandum to the Commission), stated in accordance with the decision of the PSC (20 September 2005) that:

given the desirability of enhancing the complementarity between the different EU instruments, the Commission agreed that the Head of the Border Assistance Mission will separately be appointed Senior Political Advisor to the EUSR, thereby providing the Political Security Committee with a political overview of the overall EU involvement (European Commission, 2005f: 5-6)

Despite this, the Council felt that the statement was not entirely as clear as it could have been regarding who had ultimate control of the mission. As a result, the Council quickly reconsidered the “framing of control” (Interview, 16) in a Council Joint Action (2005e) of the 7 November 2005. This Joint Action reactivated the Council’s active control of the mission, by adapting the initial mandate of the EUSR (Mr Adriaan Jacobovits de Szeged) to ensure that EUSR’s scope now explicitly incorporated “new tasks” that cover the need:

to enhance the effectiveness of border and customs controls and border surveillance activities in Moldova and Ukraine along their common border, with a particular focus on the Transnistrian section, notably through an EU Border Mission (Council Joint Action 2005e, Article 1)

What might seem to be mere institutional semantics actually represented a ‘political act’ devised to assuage those Member States who were sceptical of Commission motives. This decision cannot be explained without recourse to the ‘bureaucratic tensions’ (Interview, 16, 18 & 28) that were pervasive during this period, between the Commission and the Council, over who exactly would claim long-term institutional ownership of civilian crisis management, and other related concepts, such as the burgeoning definitions of security sector reform that were in development (see Chapter Two, 2.4). The decision to publicly activate more direct control was designed to halt any sense of a ‘Commission victory’ or ‘hostile takeover’ that had started to filter around the Brussels, since the PSC decision of
However, in the short term the consequences of these institutional machinations served to add a sense of opacity regarding the ownership of the mission (Interview, 22; similar sentiments from Interview 13 & 14).

This next section will examine to what extent the need to make the external dimension of JHA relevant to the internal space of the EU impact on the construction of EUBAM.

4.4.4 Trying to Make EUBAM Relevant to Internal Security of the EU

As the 12 May 2004 ENP Strategy Paper outlines how JHA matters were designed to play a central role in the ENP. This is especially pertinent to a key component of the external dimension of JHA agenda, the notion of ensuring its relevance for the internal EU space. In this context we can see that the ‘Principles and Scope’ section of the ‘Strategy Paper’ outlines the potential role of internal agencies:

Co-operation on migration, asylum, visa policies, measures to combat terrorism, organised crime, trafficking and drugs and arms, money laundering and financial and economic crime. Action Plans will identify concrete steps to strengthen the judiciary and to increase police and judicial co-operation including in the area of family law as well as co-operation with European Union bodies such as EUROPOL and EUROJUST (European Commission, 2004a: 17)

Moldova’s ENP Action Plan did indeed detail, in a section entitled ‘Police and Judicial Co-operation’, the role on JHA Agencies, although this is restricted to stating that both parties (Moldova and the EU) will “Explore the possibilities for co-operation between Moldovan agencies, EUROPOL and EUROJUST” (European Commission, 2005: 34). No specific operative instances are given where this might occur. It is unsurprising that no link is made between ‘JHA Agencies’ and a EUBAM mission, given that the mission was not actually conceived, in its final formation (autumn 2005), until after the EU-Moldova Action Plan
was signed (February 2005). However, what is surprising is the complete omission of references to ‘JHA Agencies’ in the policy discourse surrounding the mission’s construction.

This lack of coordination persisted despite the fact that the EUBAM’s mandate had an explicit preventative focus on organised crime. Interviews point toward the speed of the mission’s construction and the lack of clarity regarding the ownership of the mission as explanatory factors for these missed institutional opportunities (Interviews, 16 & 22). Furthermore, no preparatory documents for the mission were circulated within the Article 36 Committee (Interview, 15 & 24). The lack of links to FRONTEX in the construction of EUBAM can be out down to the fact that FRONTEX only started to be consider external operations during 2005 itself, and therefore were not in time to become involved (Interview, 54).
Figure 4.2: The Construction of EUBAM

Source: authors own

4.5 Managing EUBAM: JHA meets Conflict Resolution

This section concentrates on the operational aspects of EUBAM. In doing so it takes forward the themes raised in previous section. By concentrating on the ‘operational’ aspects of EUBAM this section links back to the thesis conceptual apparatus outlined in Chapter One, and in particular the Management component of governance. In other words it seeks to ascertain how the deployment of EUBAM was administered, carried out and controlled.

4.5.1 The Launch and Summary of EUBAM
As if to underline the hybrid nature of the mission’s construction, EUBAM was officially opened by the Council’s HR-CFSP, Javier Solana and the European Commission’s External Relations Commissioner Benita Ferrero-Waldner. After acknowledging the alacrity with which the mission was constructed – “only six months since the request was made” (Council of the European Union, 2005: 1) - they laid out the dual nature of the mission’s objectives: namely, matters pertaining to JHA and conflict resolution:

The deployment of the EU Border Mission marks an important step in the development of co-operation between the EU and the Moldovan and Ukrainian authorities in the fight against weapons trafficking, smuggling, organised crime and corruption. The Mission is also part of the EU’s ongoing commitment to helping to improve security and stability in the region. In this respect, the EU hopes that the Mission will contribute to wider efforts to find a viable and sustainable solution to the Transnistria conflict (my emphasis) (Solana & Waldner, 2005: 1)

During the first six months of EUBAM the EC financed the Mission through the RRM (see section 4.4.2) before being transferred to a second 18 month phase of EUBAM under the TACIS funding programme. The Commission decided to reinforce this by allocating additional funding to the tune of €16 million (EUBAM Annual Report, 2006: 3). In 2007 the ENPI ‘kicked in’ which produced an Annual Action Programme for the Republic of Moldova that had a budget of 40 million (European Commission, 2008c: 13). The budget for December 2009 – November 2010 was €12 million (EUBAM Press Statement 18 July 2010). Both the Moldovan and Ukrainian authorities agreed in early 2007 to extend the mission until November 2009 (EUBAM Annual Report, 2007: 4); and then again from November 2009 to November 2011 (European Commission, 2009: 7-8). EUBAM’s Head of Mission changed when Ferenc Banfi left the mission on the 31 December 2009, with Udo Burkholder taking over on the 18 May 2010 (EUBAM Annual Report, 2009-2010). Early, in February 2007, a new EUSR, Kalman Mizsei (former assistant secretary general of the UN) was appointed (Council Joint Action, 2007) after EUSR Adriaan Jacobvits de
Szeged resigned. EUBAM’s headquarters are in Odessa, with a liaison office based in Chisinau. There are six field offices (3 on the Moldova side; 3 on the Ukrainian), having opened two additional field offices in Chisinau and Odessa in July 2006 (figure 4.3) (ENP Moldova Progress Report, 2006: 6). An extra branch office was opened in February 2010 in Chisinau (European Commission, 2010: 8).

Figure 4.3: Map of EUBAM

![Map of EUBAM](source: EUBAM Press Pack)

During EUBAM’s first six months the mission consisted of 69 EU experts and around 40 local staff (EUBAM Annual Report, 2006: 3). By the end of 2007 the mission topped 230 in number, with 119 EU experts and 111 Moldovan and Ukrainian personnel (EUBAM
Annual Report, 2007: 2). The mission is managed ‘on the ground’ by the EUBAM Advisory Board which meets every quarter to review progress. The advisory board is composed of representatives from the Moldovan and Ukrainian customs and border authorities, the European Commission, the United Nations Development Programme (UNDP) (as an implementing partner), and the EUSR, representatives from the EU Presidency, as well as the OSCE and the International Organisation for Migration (IOM).

In effect the EUBAM acts as the Secretariat of the board (Interview, 13). The ‘Field Level’ is where field officers has Border Guards and Customs liaisons officers in day to day cooperation and weekly meetings (Interview, 13 EUBAM Annual Report, 2006: 4-5; EUBAM Press Pack, 2007: 14).

EUBAM soon settled on a series of threats that could be corroborated by seizures. As a result the main issues of border security were: illegal immigration and trafficking in human beings for exploitation; smuggling of drugs; smuggling of high value goods such as alcohol, tobacco, cars and meats; and the evasion of tax and import duties due to false certificates of origin (EUBAM Press Pack, 2007: 20; Interview, 13 & 16). The major surprise was that rather than arms smuggling, of which little evidence was found, it was the organised smuggling on a massive scale of consumer goods and foodstuffs, especially frozen chicken. In the first eight months of the mission, between October 2005 and May 2006, this kind of smuggling cost the Moldovan’s €18 million in lost budget revenues (EUBAM Annual Report, 2006: 5). The Transnistrian authorities illegally re-exported to

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111 Established in 1951, the IOM is the leading inter governmental organisation in the field of migration and works with government and non-governmental parties. With 132 Member States and offices in 100 countries. See web-site for more http://www.iom.int/jahia/Jahia/about-iom/lang/en

112 It is calculated that Transnistrian companies imported 42,000 tons of chicken across the Ukrainian border from October 2005-April 2006, the equivalent of 70kg of meat for each Transnistrian. By comparison the average German ate 11 kg of chicken in all of 2004 (ICG, 2006: 6).
where the chicken, making profits in the tens of millions of Euros per year (ICG, 2006: 6). Drugs steadily became a bigger concern as the mission went on and became more adept in detecting trafficking routes (Interview, 13). By 2009 EUBAM was uncovering major shipments of heroin and cocaine being smuggled through the ports of Ukraine in to Moldova and into the EU to the tune of €140 million in 2009 street value (EUBAM Annual Report, 2009: 21; EUBAM Activity Report, 2010: 1). Moreover, as interviewees and independent reports were quick to point out, much remains uncovered. For example, many of the goods that enter and exit the Transnistrian border checkpoints do so by train and EUBAM is only present at two such checkpoints (ICG, 2006: 7).

The next section details how the Council relaxed their scrutiny of EUBAM preparing the ground for the Commission to make the mission its own.

4.5.2 Control and Coherence: Ceding the Technical Ground to the Commission

As the construction of EUBAM section explained, there was a deep ambiguity over exactly how the day-to-day management and control of the mission would manifest itself. While the operational management of the mission was managed by the DG RELEX in the Commission (see section 4.5.3); the Council retained close oversight, especially during the early ‘bedding down’ stages of the mission (Interview, 16). Throughout the mission the traditional ESDP crisis management and political bodies in the Council - the PSC, CIVCOM and COEST – received monthly reports and regular briefings from the Head of Mission. CIVCOM also visited the mission on several occasions despite having no formal responsibility (Interview, 11 & 32). On other occasions CIVCOM were asked to give more ‘hands-on’ operational advice (Interview, 11 & 32). For example, between the 19-24 May 2006, CIVCOM exchanged information and views on the EUBAM Needs Assessment and

The close oversight at the start of the mission saw the Council actors receive weekly reports, although these reports decreased after a series of briefings from the Head of Mission to the PSC, revealed scant evidence to substantiate the more sensational allegations of criminality, such as large scale weapons smuggling (Interview, 16). One senior adviser to the HR-CFSP stated that once the Head of Mission started to talk in detail about chicken smuggling, and other food stuffs, Member States representatives started to lose their interest in minutiae of the mission (Interview, 16). As a consequence the reports became monthly, and Member States relinquished control over DG RELEX’s ownership of the mission as the political sensitivities diminished (Interview, 16 & 22). However, the fact that PSC and COEST were still in the formal chain of command, and CIVCOM in the informal, ensured that if the mission did venture into more politically sensitive areas, the Council were still well placed to ‘step-in’ and reassert their, now, latent control (Interview, 16 & 32).

Another reason for the Council’s increasingly relaxed approach to EUBAM was influenced by the swift separation of the EU’s overall enhanced engagement in the region. Policy developments early in the mission essentially divorced the Council and Commission activities into a ‘political dimension’ and a ‘low, technical dimension’ (Interview, 22). This, in turn, served to create a degree of ‘policy space’ for the EC dimension of the mission, and more specifically allowed for inter-linkages between the more ‘technical’ aspects of the mission and the overarching role of the ENP. From the Commission’s perspective this was a welcome development, as it allowed them to firmly embed EUBAM into the ENP Process and the corresponding Action Plans. On a practical level this removed the EUSR
from the quotidian work of the mission and left the mission more germane to the goals of JHA than those of conflict resolution (Interview, 13, 22 & 29)

4.5.3 Cross Pillar Coordination: Moving Away From Conflict Resolution

Through the EUSR and his team\textsuperscript{113} the EU joined the conflict resolution process, referred to as the ‘5+2’ talks during 2005. This involved Moldova, the Transnistrians, Russia, Ukraine and the OSCE – as well as the EU and US. However, as a consequence of the implementation of the new Customs Regime and the 5+2 talks came to an abrupt standstill. This was problematic as the talks were a central aspect of the EUSR’s mandate. The customs regime was fiercely opposed by the Transnistrian authorities and Russia. The Commission negotiated ‘Joint Declaration’ (announced on the 30 December 2005), was explicitly designed to work in conjunction with the start of EUBAM. The rationale behind the Customs Agreement which is fully in line with previous Commission efforts to normalise relations at the border (detailed in section 4.4.1), represented how ‘low politics’ worked. Namely, by incentivising the technical registration of Transnistrian companies having Ukraine only recognise Moldovan customs stamps. At the same time Moldova worked hard to facilitate the registration of Transnistrian enterprises in Chisinau and issue certificates of origin. The upshot of which being that Transnistrian companies without the requisite legal documentation faced being taxed twice. Such a system is designed to put political pressure on the Transnistrian authorities by making it more attractive for Transnistrian companies to export legally, by only having to pay one tax duty. By establishing a transparent and legitimate customs regime on the Moldovan-Ukrainian border the Commission seeks to ‘normalise’ relations, reintegrate the Moldovan economy.

\textsuperscript{113} The EUSR has five advisors, including the double hatted Head of the EUBAM as a senior political advisor. As mentioned earlier, the other four officials were in Chisinau, Kiev and Odessa respectively (Interview, 13)

The implementation of this customs regime proved problematic due to the negative reaction of the Russian and Transnistrian leaders. However, the fall-out from this reaction does represent an example of how the separation of the ‘political’ and the ‘technical’ dimension of the EU’s enhanced engagement enabled it to act in a strategically reinforcing manner. Initially the implementation of the customs regime was set for 18 months, starting in January 2006. However, after strong pressure from the Transnistria lobbyists in Kiev, the Ukrainian government postponed the agreement without setting a new implementation date. At this point Javier Solana (HR-CFSP) intervened, meeting with Ukrainian Foreign Minister Boris Tarasyuk to express his serious concerns on this implementation failure. On the public level Solana released a statement stating the “great importance” (Solana, 2006) that the EU attaches to the customs regime and reaffirmed the EU’s “firm commitment to Moldova’s territorial integrity” (Solana, 2006). As a high ranking Commission official in DG RELEX stated, this kind of policy intervention, with an overtly ‘political’ dimension is a policy action that the Commission was simply incapable of enacting (Interview, 5 & 22). In this sense, the ‘political dimension’ is sometimes usefully separated from the technical side, as it can be deployed to reinforce the EC’s work without compromising its depoliticised identity (Interview, 13). As a result the Ukrainians did implement the customs regime. However, this victory came at a heavy price. Overtly supported by the Russia, the Transnistria authorities mounted their own blockade of the Ukrainian border, impeding all
cargo and local trains from crossing the border. In addition the Russian authorities targeted Moldova, by first imposing a gas price hike, and later establishing a trade embargo on wine - Moldova’s chief export product (Barbe & Kienzle, 2007: 528). Measures such as these weakened the already fragile Moldovan economy, and served as a reminder to both Moldova and the EU that no progress on the settlement of the conflict without Russian approval (Interview, 13, 14, 16 & 29). The ‘5+2’ group stopped meeting in February 2006 (European Commission, 2008: 6) and did not meet again until June and November 2009, when informal meetings were convened between the Moldovan President and Transnistrian leader Igor Smirnov (European Commission, 2010: 4).

In terms of the impact on coordination, the quiescent nature of the ‘5+2’ talks, which endured for the lion share of the mission, left the EUSR without a ‘day to day’ policy role through which more direct synergies could be established between EUBAM and the conflict resolution talks (Interview, 16 & 22). This mean that the EUSR adopted a ‘travelling EUSR model’ (Interview, 13, 16, 22; Grevi, 2007: 70). As such the EUSR concentrated on the cultivation of key players in the region, particularly on the Russian and Ukrainian side, in order to coax actors back to the negotiating table (Grevi, 2007). Establishing contacts with the Transnistrian authorities proved to be especially difficult, hence the concentration on the Russian authorities (Interview: 16 & 30). The ‘travelling model’ of the EUSR has attracted criticism and lead to calls for the EUSR to be permanently based in Chisinau rather than in the Netherlands at The Hague (ICG, 2006: 5; Grevi, 2007: 70).

Indicative of the EUSR’s growing frustration with the inertia of the settlement process was his attempts to resurrect the concept of a ‘pure’ ESDP peacekeeping mission. It is

114 This blockade lasted until May 2006, after which the blockade was slightly relaxed (Sushko, 2006: 52).
important to remember that the EUSR Jacobovits de Szeged was in fact the Dutch Diplomat in 2003 who proposed the ESDP 2003 mission, when he was the Chairmen of the OSCE. This second ESDP proposal was rejected by a significant proportion of the Member States. The reasons of the rejection of the mission mirrored those of 2003. This included the lack of an exit strategy; no formal conflict settlement proposal; and the potentially adverse reaction of the Russians (Popsecu, 2009: 463-464). European Commission officials were rather bemused by the EUSR’s attempts to engineer the launch of a new ESDP mission (Interview, 13 & 14). Arguing that it misunderstood the whole reason why EUBAM looked, institutionally speaking, like it did in the first place. Namely, ensuring that the mission itself was a ‘depoliticised’ as possible was a clear strategic choice to obviate the opprobrium of the Russian authorities (Interviews, 5, 13, 22, & 29).

4.5.4 Administering EUBAM: Making Intra-pillar Coordination Work

Before going on to look at how the Commission took advantage of the policy space afforded them in the management of EUBAM we will, in this section, reveal how the Commission managed EUBAM.

In terms of control and management the fact that the Commission were running the mission allowed the Commission to draw more easily upon its own ‘in house’ expertise. In fact the ENP Head of Unit for Overall and Sectoral Coordination (Interview, 5 & 19) argued that it illustrated the Commission’s capacity to undertake a multi-functional operation with effective levels of intra-institutional coherence. This was also important in

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115 In fact eleven countries did support some planning for this mission (Czech Republic, Estonia, Hungary, Ireland, Latvia, Lithuania, the Netherlands, Poland, Sweden and the UK, and Romania who while yet a Member State in 2006, but were already present at all EU meeting and working groups as a state that had signed an EU accession agreement). Against operational planning for the EU peacekeeping in Moldova were nine states (Cyprus, Germany, Greece, Finland, France, Italy, Portugal, Spain and Slovakia) (Popescu, 2009: 464).
reputational terms as a ‘pure’ ESDP mission (at this stage) would have struggled to operationalise a similar operation (Interview, 5, 13, 19 & 22).

The management of the mission sits with the services of the European Commission. This includes the Commission Delegations, both in Moldova and Ukraine, while at the Brussels level, with DG RELEX, DG JLS and DG TAXUD. Within RELEX, direct control and the first contact point rests with the geographical Directorate E, Unit E2 ‘Ukraine, Belarus, Moldova and Southern Caucasus’ (see figure 4.4). Within this unit there is a desk officer with responsibility for EUBAM, supported by a desk officer for the implementation of the Moldova Action Plan. On a day-to-day basis these officers within Unit E2 are the first port of call for the mission (Interview, 13 & 14). These officers have commented that although the first year of the mission saw the Unit closely supervising and liaising with the mission, since mid 2007 EUBAM started to develop a greater degree of autonomy, becoming a more and more self sustaining entity (Interview, 13, 14 & 22). This has been described by the desk officer responsible for EUBAM as an “ongoing conversation” that is supplemented by the Advisory Boards at which Commission officials are present (Interview, 13).
Source: my construction

Unit E2 is placed within DGA 2 ‘ENP, Relations with Eastern Europe, Southern Caucasus and Central Asia, Middle East and South Mediterranean’. This means that Unit E2 works under the same DGA as Directorate D which manages the ENP through two units, D1 ‘General Coordination’ and D2 ‘ENP Sector Coordination’. The work between the Unit E2 and D2 in particular is closely coordinated; it has proved to be important in ensuring that the work of EUBAM does not become isolated or dis-embedded from the broader ENP process, as often happens in ESDP led missions with respect to overarching frameworks (Interview, 5, 13 & 14).
Beyond the DG RELEX family the so-called ‘line DG’s’ or sectoral DG’s are brought into the policy-making process due to their expertise. In EUBAM’s case, DG JLS and DG TAXUD have both been closely involved from the planning stage of the mission (Interview, 5 & 13). DG TAXUD’s role was primarily on the very technical aspects of customs and tax registration (Interview, 13). For example, DG TAXUD were instrumental in helping craft the customs declaration of 2006 (Interview, 14).

4.5.5 EUBAM Beyond Transnistria: Making Inter-Linkages Count

In the last section we saw how actors coordinate EUBAM, we now turn to the notion of the right ‘policy mix’; more specifically we see how the Commission were able to reconnect and further embed EUBAM with JHA matters in the EU-Moldova ENP Action Plan.

As we have mentioned, the “settlement impasse” (Interview, 13), as one interviewee put it, served to amplify the importance of the technical work of the mission led by the Commission services. In this sense the work of EUBAM was drifting away from a focus on Transnistria and conflict resolution issues. The Commission used this shift in focus, in a strategic fashion, to broaden EUBAM’s impact and influence vis-à-vis integrated border management. Thereby taking the opportunity to extend the JHA work being done in the context of EUBAM and link it with aspects of the Moldova ENP Action Plan not focused on Transnistria (Interview, 5, 13, 14, 22 & 29).

The fact that the ENP is a single, overarching framework means that the Commission has an umbrella policy through which to link issues in a more streamlined fashion, than would be achievable by an ESDP civilian mission alone (Interview, 5, 19 & 29). These observations can be backed up by reading Moldova’s ENP Country Strategy Paper (2007-2013). Written mid-way through 2006, this was the first strategy paper written after
EUBAM had been launched. The paper raised the issues of defining and then ensuring that the right ‘policy mix’ is aligned with the “EU’s strategic external relations policy objectives” (European Commission, 2006e: 2). Critical to which is the concept of “policy coherence” between “available instruments” (European Commission, 2006e: 2). On the notion of the appropriate ‘policy mix’ it states:

Relations with Moldova are affected by a number of other Community policies which is why the choice of the right ‘policy mix’ is so important. This concerns in particular the areas of Common Foreign and Security Policy (CFSP), development policy and Justice and Liberty and Security (JLS) including migration, border management and the fight against organised crime including trafficking in human beings and drugs (European Commission, 2006e: 13)

The notion of the right ‘policy mix’ is returned to in a 2007 Communication from the Commission entitled ‘A stronger ENP’. Here the Commission located EUBAM as a prime example of the right ‘policy mix’, whereby long-term reform can be embedded. It makes the case that,

The EU can make an important contribution by working around the conflict issues, promoting similar reforms on both sides of the boundary lines, to foster convergence between political, economic and legal systems, enabling greater social inclusion and contributing to confidence building. The example of the EU Border Assistance Mission to Ukraine and the Republic of Moldova integrating EC and CFSP instruments on one approach shows how this can work (original emphasis in bold) (my emphasis underlined) (European Commission, 2007: 6)

From the Commission’s perspective, logic dictated that in order to “increase the EU’s influence and avoid the limitations of short-term crisis management” (European Commission, 2007:6) they were required to use the policy linkages on offer within the ENP to provide longer term reform (Interview, 29). This was achieved by building confidence on the ground gradually making the inter-linkages necessary (Interview, 5, 19 & 29).
It is in this context the mission produced a Needs Assessment and Recommendations report produced on the 6 May 2006. The result of which was the endorsement of an EC financed project Improvement of Border Controls at the Moldova-Ukraine border (BOMMOLUK) (EUBAM Annual Report, 2006: 5). BOMMOLUK was broken down into three stages, with the third to be implemented in 2009 (EUBAM Annual Report, 2009). The project was financed up to €9 million and was implemented by the EC Delegation Office in Moldova and EUBAM (EUBAM Annual Report, 2006: 20). The strategic positioning of its implementation was explicit, it was designed to “work hand in hand with established longer term projects in order to ensure the sustainability of measures to enhance border management, under the wider umbrella of the ENP and the ENPI” (EUBAM Annual Report, 2006: 20).

Senior officials in both Unit D1 and D2 dealing with the management of ENP argued that significant achievements were made in this regard. For example, in 2008 Moldova adopted a plan on the wider development of border guard infrastructure for the period 2009-2011, covering the creation of integrated border systems (including €31 million for radio-communications system for the Moldovan Border Guard System) and with EUBAM’s expertise, including training in evidence gathering and intelligence. This programme was jointly implemented by EUBAM and the EC Delegation in Chisinau (European Commission, 2009: 15-16). Linked to this process were several joint cross-border operations between Moldova and Ukraine (this is covered in the next section 4.5.5) that have taken place in since September 2009 (European Commission, 2010: 15). In addition, EUBAM has worked on harmonising the Moldova’s Border Guard Service and National Legislation with EU guidelines of integrated border management (EUBAM Activity
Report, 2009-2010: 2). This has included the de-militarisation process of the Border Guard Service (European Commission, 2010: 11).

4.5.6 Making EUBAM Relevant to the Internal Security of the EU

As the previous section on internal relevance in this chapter outlined, the alacrity with which EUBAM’s was constructed precluded any substantive ‘fleshing out’ of how the mission would be linked to the internal agenda or what exact role ‘JHA Agencies’ may come to play. This section details how FRONTEX and EUROPOL did become operationally involved with EUBAM, with FRONTEX taking the more prominent role.

In December 2006 an ENP Strengthening Document echoed the calls in the original ENP Strategy Paper, prior to the launch of EUBAM (European Commission, 2006f: 9). This document attached a separate report which covered the role of JHA Agencies and how they could be linked to ENP partner countries (European Commission, 2006g). In particular this report highlighted how EUROPOL and FRONTEX “are offering interesting possibilities for cooperation” (European Commission, 2006g: 7). Prior to this, on the November 2006, the EUBAM Advisory Board recommended that the mission should do more to establish cooperation with EUROPOL and FRONTEX (Interview, 41). For example, the concept of ‘strategic threat assessments’ was proposed in order to share information with agencies, such as FRONTEX and EUROPOL (EUBAM Annual Report, 2006: 33).

It was actually FRONTEX which came to play the most developed role with regard to EUBAM. The Head of Mission visited the FRONTEX headquarters (in Warsaw) and met Executive Director Ilkka Laitinen in the spring of 2006 (EUBAM Mohtly Report, 2006: 3). This resulted in the signing of a Working Agreement between FRONTEX and the Moldovan Border Guard Service on 12 August in Chisinau 2008 (European Commission, 2009: 15). EUBAM played a direct role in facilitating this agreement and the subsequent
strategic exchange of information (Interview, 13; EUBAM Annual Report, 2007: 10). The aim of which was to develop a partnership that helps counter illegal migration and related cross-border crime as well as to develop trust between border guard authorities of the EU Member States and Moldova (EUBAM August Report, 2008: 4). Moreover, this agreement paved the way for the exchange of analytical documents as well as for more systematic participation in Joint Cross Border Operations (Interview, 13; EUBAM Annual Report, 2008: 13).

Beyond the Joint Cross Border Operations, FRONTEX designed training programmes that in 2009 were used to recruit and train 400 new border guards. This was as part of the 2009-2011 development plans on integrated border management, in the previous section (section 4.5.4) (European Commission, 2010: 15).

EUBAM facilitated the creation of the Cross Border Security Assessment Report (CBSAR) from the beginning of 2007, which came in a monthly and quarterly form (EUBAM Annual Report, 2007: 2 & 12). These reports were the outcome of request from the EUBAM Advisory Board for developments of ‘Strategic Threat Assessments’. It was agreed that these reports were to be shared with FRONTEX (EUBAM Annual Report, 2007: 12). These reports quickly became an essential resource for strategic and operational planning at the border (Interview, 13 & 54; EUBAM Annual Report 2007, 12). They also helped the planning of the Joint Border Control Operations which became increasingly sophisticated (Interview, 54).

Starting in 2007 EUBAM led Joint Cross Border Operations which combined Moldovan and Ukrainian border and law enforcement agencies in pre-planned operations based on EU best practice (European Intelligence Model). By the summer of 2010 EUBAM had facilitated seven of these operations. The 4th Operation, which took place in October 2007,
was the first operation that received operational input from FRONTEX (EUBAM Annual Report, 2007: 11).

Progress on linking EUBAM with EUROPOL was intermittent. For example, during the latter part of 2005 and early 2006 talks were held and commitments made to negotiate a cooperation agreement between Moldova and EUROPOL (European Commission, 2006: 12). This was made independent of EUBAM, even though the “competent authorities” in Moldova responsible for implementing the agreement, included were direct interlocutors of EUBAM: such as the Customs Service and the Ministry of Internal Affairs (Council of the European Union, 2006f: Annex 2). As a consequence Moldova signed a Strategic Agreement with EUROPOL in 2007 (European Commission, 2008: 13-14). However, the envisaged Operational Agreement between the EUROPOL and Moldova was not signed (European Commission, 2009: 17).

Moldova and EUBAM were keen to develop a more operational relationship with EUROPOL. As a result the Head of Mission met with the Director of EUROPOL in October 2008 in order to improve the effectiveness of their cooperation (EUBAM Annual Report, 2009: 18). EUROPOL efforts to arrange a personal data exchange agreement were hampered by the fact that EUBAM does not have legal personality, and therefore could not directly exchange data with EUBAM (Interview, 53). However, EUROPOL did become operationally involved with Joint Border Control Operations in 2010, with the 7th cross-border operation. This operation saw both FRONTEX and EUROPOL involved. FRONTEX offered technical, operational expertise (Interview, 54); while EUROPOL supported the operation by providing intelligence (Interview, 53). This mission also witnessed the innovative use of a EUROPOL mobile office at EUBAM Head Quarters (EUBAM Press Statement, 2010). The results of this operation resulted in several
discoveries of large scale smuggling in human beings and cocaine heading to the EU. The drugs seized had a reputed street value of €140 million, the largest seizure to date (EUBAM Activity Report, 2010). The mobile office was in fact a single officer in the EUBAM mission from Poland.116 This liaison officer acted as a conduit for information between strategic, but not personal data, between EUBAM and EUROPOL (Interview, 53). This novel way of obviating the structures in place was not widely publicised (Interview, 53).

FRONTEX and EUROPOL exchanged information on an ad hoc basis, although both actors insist that relations were very constructive and understood the legal restrictions, such as FRONTEX’s inability to handle personal data.117 EUROPOL and FRONTEX interviewees saw EUBAM as a natural home for FRONTEX, as border experts, with EUROPOL supplying the intelligence (Interview, 53 & 54). Both accepted that there was an overlap and that under the existing institutional arrangements, inter-agency cooperation on EUBAM and Moldova was only occurring on case-by-case basis (Interview, 53, 54 & 57). Furthermore both actors point to the role that the DG JLS International Affairs Unit played. Since 2008 onwards dedicated officers in JLS dealing with JHA in the ENP, and related colleagues dealing with FRONTEX and EUROPOL served to lubricate the transfer of information and priorities. As a EUROPOL officer dealing with its external operations stated, the DG JLS (now DG Home) officer was their contact point, they did not deal with the geographic services within DG RELEX (Interview, 54).

116 Poland has an interest in the region and were volunteered as a country trusted by Moldova (Interview, 53).

117 This was changed in June 2011 (Interview, 53 & 54)
4.6 Measuring Success: EUBAM and Goal Attainment

This section is primarily concerned with the notion of policy outcomes. This is best conceived of as goal attainment and is not to be confused with an ‘on the ground’ impact assessment. Rather, the notion of outcomes collates the EU’s available self-assessment exercises in order to reveal how outcomes are established at the EU level. This all links back to the thesis conceptual apparatus in Chapter One.

4.6.1 Writing Evaluations: Cross-pillar and Intra Pillar Coordination

This section examines how the reviewing of progress in the ENP was orchestrated.
Moldova’s ENP Progress Report of 2006 was based on evaluations carried out in November 2005 and March 2006, a process that has repeated itself for successive Annual Progress Reports. As noted (within this report) intense institutional co-operation through the EU-Moldova Cooperation Council, which is an Annual meeting between Moldova (including senior civil servants) and the EU to review general progress on the ENP Action Plan. The EU actors at the meeting include the Presidency, the European Commission (the geographical services and DG JLS) and Council Secretariat (DG VI). The Commission is very much the lead actor in this forum as the arbiter of the overarching framework (i.e. the ENP) (Interview, 29). Progress is also reviewed through the Sub-Committee which meets at a more specialised expert level and supports the work of the Co-operation Committee. This forum for evaluation and monitoring currently has four operational sub-committees, including one on Cross Border Cooperation and Justice, Freedom and Security. “These various mechanisms are designed to enable both sides to move forward and follow the implementation of the Action Plan closely” (European Commission, 2006: 2).

The preparation and coordination of actors in the Cooperation Council and Sub-Committee is a twofold process. The first is an intra-pillar affair. This entails the geographic service within the ENP section (Directorate E2), the ENP Coordination Unit and DG JLS desk officer dealing with JHA and the ENP, coming together in an iterative manner to review what goes into the Progress Reports. This internal (within the Commission) process is conducted in a very smooth and collegial manner, and works as an extension of their quotidian work (Interviews, 46 & 57. Drafts of the progress reports are presented to COEST and sent to the Council Secretariat (DG VI) in order to gauge the Council’s

[118] The other sub-committees include one on Trade and Investment; Financial, Economic and Statistical Issues; and on Energy Environment, Networks, Science and Technology, and Training and Education (Interview, 46).
position. It is then revised or repackaged until the Council is satisfied (Interview, 30 & 46). In this sense cross-pillar coordination was both functional and efficient and did not witness any bureaucratic wrangling (Interview, 30 & 46).

The progress of EUBAM does not figure prominently in the reports or the discussions. This is because EUBAM’s progress is reviewed every quarter by the EUBAM Advisory Board (see section 4.5.1) at which the relevant Commission and Council (in the form of the EUSR) personnel were present (Interview, 41). Therefore, while EUBAM did not have to go through a systemic review of documentation via the Council Secretariat or CIVCOM, as per normal for an ESDP mission, it did have to satisfy the EUBAM Advisory Board (Interview, 41). Given that the Commission and the EUSR are on the Advisory Board of EUBAM no extra examination of the mission is made. In addition the EUSR makes an annual presentation to the PSC, as well as submitting quarterly reports to the Council Secretariat Unit (DG VI) (see management figure) (Interview, 16).

4.6.2 Passing Judgement on EUBAM from Inside the EU

This section takes a look at assessments made on EUBAM by EU based actors in reviewing success.

Those efforts made to review progress at the EU level, outside of those managing the mission were limited, however those EU efforts in reflection considered EUBAM a success. For example, in November 2008 the European Union Court of Auditors produced a special report on ‘The effectiveness of EU support in the area of freedom, security and justice for Belarus, Moldova and Ukraine. This also included a ‘Commission Reply’ section (European Union Court of Auditors, 2008). This report, which is representative of most of the commentary on EUBAM, refers to EUBAM as a “flagship project” that
“performed well” in border assistance. In fact border management witnessed the “best performance” on JHA matters (European Union Court of Auditors, 2008: 33). However, the report recognised the limited impact on conflict resolution. The report remarked that conflict resolution is in fact “a long term task needing policy measures beyond better border and customs controls and border surveillance” (my emphasis) (European Union Court of Auditors, 2008: 33). The Commission replied agreed, stating that the “peaceful resolution of the Transnistrian conflict is, as a matter of fact, tackled primarily at the political level”. The Commission’s priority had revolved around mid to long term notions of Europeanisation and therefore sought to ‘broaden out’ the impact of EUBAM within the framework of the ENP. It states that regarding the Europeanisation of JHA sectors:

The key issue of sustainability is tackled in a two fold manner. On the one hand, border management projects are heavily geared towards strengthening the technical and institutional capacities of the beneficiaries. On the other hand, EUBAM’s assessments and recommendations have been further transposed at national level in Moldova and Ukraine with additional EC support in view of ensuring adequate longer-term sustainability (Council of the European Union, 2008: 7)

This point made by the Commission here is that what constitutes success for EUBAM cannot be divorced from the competing objectives of EUBAM’s mandate. In this sense, the Commission were keen to draw attention to the fact that for the Commission, the long-term transformation of domestic capacities (or Europeanisation) was the guiding principle and benchmark by which success can be judged, where as for the Council, the hope was that the mission could have more purchase on the conflict resolution process (Interview: 5, 22, 29, 41 & 46).

Other separate reviews of JHA and EUBAM included the updates on the 2005 External Dimension of JHA Strategy itself (as described in detail in Chapter Two). These were conducted every 18-months. Reports from both 2006 and 2008 were extremely positive
about EUBAM. The first, published 16 November 2006, refers to EUBAM as “a striking
eexample” (2006: 13) of how the challenge of enhancing the “coordination and coherence
between JHA policies and external policies” (2006: 15) can be achieved. It states that
since the missions

deployment in November 2005 it has contributed significantly to the
fight against organised crime, including smuggling of persons and goods,
by increasing cross-border cooperation between Ukrainian and Moldovan
border guards and other law enforcement officials. In April 2006, e.g.
Ukrainian and Moldovan border guards, supported by EUBAM,
apprehended 322 persons having crossed the border illegally and
prevented another 876 from crossing the border illegally. The same
operation also allowed for the seizure of 11.3kg of narcotics (Council of
the European Union, 2006b: 13).

Furthermore, “the implementation of the JHA section of the ENP Action Plan with
Moldova gathered additional momentum in 2006” (Council of the European Union, 2006b:
13). This includes the role of ‘JHA Agencies’ have made “great strides in forging
operational ties with priority countries through agreements, contact points and operational
activities” (Council of the European Union, 2006b: 7). The Second Progress Report on the
implementation of the 2005 Strategy, produced 18 months later (covering January 2007 to
EUBAM as having “promoted a transparent trading system and harmonised border
management standards and procedures as well as combating smuggling and other illegal
activities, particularly from Transnistria” (Council of the European Union, 2008b: 19). It
also celebrated the working arrangement with FRONTEX (Council of the European Union,
2008: 10) and also stated that “the EUROPOL-Moldova strategic agreement in 2007 is a
very significant step towards enhancing out common fight against organised crime and
increasing security both within the EU and Moldova” (Council of the European Union,
2008b: 19).
Finally, the innovative decision to establish a EUROPOL Mobile Unit (essentially a Polish officer), something that should be regard as a relative success, went under-reviewed, as did the operational involvement of FRONTEX – which was also a significant achievement. Both developments were barely referred to. For example, the ‘Fourth Implementation Report of the Strategy for the External Dimension of JHA: Global Freedom, Security and Justice’ (for the period between January 2010-June 2011) now produced by JAIX makes no reference to these developments (Council of the European Union, 2011). In fact the development of EUROPOL’s Mobile Units role was only revealed in interviews (Interview, 41, 53 & 54).

This following section will conclude the chapter by briefly linking its findings to the thesis’s research questions and corresponding hypothesis; it will also identify some themes that can be carried forward into the thesis Conclusion where the research questions and hypothesis will be considered in detail.

4.7 Conclusion

This chapter has covered the planning, management and assessment of EUBAM. In doing so it has expounded on EUBAM’s relationship with its other EU actors and its constituent parts. The EU’s overall engagement with the Transnistrian conflict and Moldova represents an exhaustive attempt to deploy the full spectrum of the EU’s foreign and security resources: be it technical assistance from the EC; diplomacy from the EUSR; secondment of Member State personnel and involvement of JHA Agencies.

The Steering section shined a light on the first of our key research questions (What has been the impact of the external dimension of the JHA ‘agenda’ on the construction and
outlook of civilian crisis management missions?) and Hypothesis A \(^{119}\) by covering the construction of EUBAM. Here we found that EUBAM’s elaboration cannot be isolated from the EU’s enhanced engagement, directed toward the region from 2003 onwards. This enhanced engagement witnessed an overhaul of the EU approach to Moldova and the region more generally, through the launch of the ENP and adjoining Action Plans. The role of the overarching framework (ENP), a key facet of the JHA agenda, proved to be one of the factors that secured the mission for the Commission services. Although, a lack of money, geopolitical concerns (e.g. Russian disapproval) and the lack of the border assistance expertise were also influential factors. In addition one can not escape the fact that the construction was underscored by malign cross-pillar dynamics (i.e. horizontal coherence) over political oversight and control of the mission. The role of the overarching agreement offered the Commission an opportunity through which it could burnish its institutional reputation by demonstrating that it did indeed have the capacity to undertake such an operation, and also make a better job of avoiding the limitations of short-term crisis management by embedding it in an overarching framework, the ENP. The first half of this point cannot be divested from the wider debates about the loose definition of civilian crisis management that left enough ‘grey areas’ for entrepreneurship from either Council of Commission. Finally, the notion of ensuring the mission contributed to the internal security of the EU was present, but only in the *de facto* sense. The mission had a clear preventative focus on organised crime; however, this did not translate into systematic coordination with EU level actors concerned with defending the EU space as might be expected. For instance, pillar III was completely divorced from this process.

\(^{119}\) Hypothesis A: The narrower the scope of the civilian crisis management mission mandate the easier it was to design and construct a mission that accommodated the JHA agenda in a coordinated and coherent fashion
As we shift the focus onto the deployment of the EUBAM insight is provided on the thesis second research question (To what extent has the external dimension of JHA ‘agenda’ affected the coordination and coherence of goals in civilian crisis management missions?) and Hypothesis B. The result of the mission’s construction was an institutionally hybrid mission that was neither a distinct ESDP mission nor an exclusively EC managed operation. However, the disputatious character of the mission’s origin, was overcome and the mission soon found a *modus operandi*, described by one senior Council Secretariat official as “one step back, two steps forward scenario” (Interview, 16). This *modus operandi* saw the mission divide itself into a conflict resolution dimension, led by the EUSR, and a JHA dimension led by EUBAM and managed by the Commission. In many respects this division, which actually served to bring a greater sense of coherence to the goals of EUBAM by allowing it to focus on JHA and the ENP, was actually a result of the indefinite pause in the 5+2 talks. This simplified the coordination and coherence of goals. The fact that this took time to develop with the Commission gradually expanding the scope of EUBAM is pertinent for research question three (To what extent has the governance of the three missions been improved by a learning process based on accumulated experience?) and Hypothesis C.

The management phase also saw JHA agencies (EUROPOL and FRONTEX) became operationally involved, with FRONTEX and EUROPOL, taking part in cross-border

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120 Hypothesis B: The clearer the institutional leadership behind a civilian crisis management mission, the better the prospects of that mission having and maintaining the highest levels of coordination with other EU actors

121 Hypothesis C: The governance of the mission have been shaped by a ‘learning by doing process’ rather than individual acts of institutional and policy entrepreneurship
operations and supplying strategic intelligence. The use of EUROPOL Mobile Unit (i.e. a Polish Officer), was an innovative act, combining entrepreneurship with a lesson learnt process, and can be linked to research question three and Hypothesis C also. Similarly, DG JLS became active through a desk officer in the International Affairs Unit from 2008 served to lubricate relations between JHA agencies and other Commission actors.

In the Regulation section we saw that the fact that the Commission ran EUBAM meant that writing of the progress reports was a smooth, collegial process reflecting strong degrees of internal coherence.

Therefore, three themes can be teased out of this analysis and carried forward into thesis’s Conclusion, in which the thesis’s research questions, and corresponding hypotheses, will be considered in detail, and compared with the other two case studies. First, we witness an increased operational role for JHA Agencies. EUROPOL and especially FRONTEX have moved on from rhetorical flourishes on how agencies should become active, to actually becoming operationally involved and impacting on the implementation and success of the mission. Although the exchange of personal data still proved too difficult to overcome.

Second, the fact that EUBAM was ran by the European Commission allowed it to draw on its expertise within the sectoral DG’s and link its work more firmly, and simply, with the ENP also managed within the RELEX family. This sense of intra-institutional (internal) coherence removed, to a large extent, the need for a ‘black box’ to coordinate Council and Commission personnel that had plagued previous ESDP missions (such as the previous case-study Proxima). Third, the writing of reports did not suffer from the same lack of coherence witnessed in the previous case-study (Proxima) due to the fact that the majority of the information resided in the Commission, however, the reports themselves still proved to be, in the main, superficial with inadequate with regard to benchmarking and measuring.
effectiveness. Fourth, the role of DG JLS, International Affairs Unit, represented a new addition to the fold serving to lubricate the policy-making and managing process.

The next chapter will analyse the thesis’s last case-study EULEX Kosovo which was launched in 2008.
CHAPTER FIVE:

EULEX Kosovo and the External Dimension of Justice and Home Affairs

5.1 Introduction

As the final case study analysing the role and impact of the external dimension of JHA in relation to civilian crisis management missions, this chapter explores the EU’s involvement in Kosovo. It tracks the EU’s governance of EULEX Kosovo and the external dimension of JHA through three sections: 5.2 ‘Constructing ESDP in Kosovo’; 5.3 ‘Managing EULEX’; 5.4 ‘Measuring Success: monitoring EULEX and JHA’. These three sections will be linked back to reflect the thesis conceptual framework, and more specifically, the three components of security governance: Steering, Management and Regulation.

The chapter concludes with a brief analysis linked to the thesis key research questions, outlined in Chapter One. The section also highlights some ‘key themes’ to be carried forward to the concluding chapter of the thesis.

Prior to this the Chapter will open with a contextual section detailing Kosovo’s recent history, covering the 1999 war (5.2.1), the role of UNMIK (5.2.2) and history of EU-Kosovo relations (5.2.3).

122 Steering denotes the component of governance that helps explore the interaction or relevant actors and tracks who drives and sets the agenda in policymakers. See Chapter One (1.3.2)

123 Management denotes the component of governance explores how policies are carried out, administered and controlled. See Chapter One (1.3.2)

124 Regulation denotes the component of governance explores the notion of policy outcomes, and links into issues pertaining to motive, institutionalisation and goal attainment. See Chapter One (1.3.2)
5.2 The Kosovo Context

Kosovo’s recent past had been tumultuous to say the least. Kosovo became a UN protectorate immediately after the 1999 conflict, which witnessed the bombing of Serb targets by NATO, and finally declared independence on 17 February 2008.

Beyond the UN and wider international community, Kosovo (and the Western Balkans) is undoubtedly an EU problem. Kosovo, as many have argued is not merely a province in Europe’s outer space (Judah, 2008: preface), rather it constitutes its inner courtyard and as a result harbour legitimate accession aspirations. In this sense Kosovo’s proximity to the EU quickly made Kosovo’s well documented mix of organised crime and political instability (Glenny, 2009) a key security concern and political responsibility for the EU (Pond, 2008: 108; Judah, 2008: 128).

5.2.1 Kosovo Background and the War

Kosovo is small, covering just 6,759 square miles (Judah, 2008: 127). The demographics of Kosovo are tendentious, perhaps not surprising given the turmoil that the Balkans and Kosovo province has laid witness to over the last twenty years (Ker-Lindsay, 2009: 8). In the absence of official figures or any academic studies of quality we turn to the estimate of 2 million, used by the vast majority of foreign journalists. Within this estimate, Albanians constitute 90%, Serbs 6%, and the rest made up of other minorities – Roman, Bosniaks and Goranis (Judah, 2008:1-3).

On 1 December 1918 Kosovo become part of the new Kingdom of Serbs, Croats and Slovenes (renamed in Yugoslavia in 1929). Invaded by the Axis powers in 1941 and subsequently renamed in 1946 by the new Communist government as the Federal Peoples
Republic of Yugoslavia, it became a federation of six republics\textsuperscript{125} and was ruled by General Tito until his death in 1981 (Ker-Lindsay, 2009: 9). Kosovo was incorporated into Serbia as an autonomous region demarcating its present day boundaries (Ker-Lindsay, 2009: 9). Although the first two decades of Communist rule in Kosovo were challenging for Albanians, with Serbs and Montenegrins dominating the Party and security services, the 1970’s witnessed Kosovo develop a degree of autonomy, which meant Kosovo came close to attaining equal status with the other federal units in Yugoslavia (Malcolm, 1998: 314; Ker-Lindsay, 2009: 10).

Kosovo was at the centre of Slobodan Milosevic’s rise to power in 1989, with Milosevic stoking latent Serb nationalism by reiterating Serbia’s historic connection to Kosovo, ending the relative autonomy that Kosovo had enjoyed under the Yugoslav federation (Malcolm, 1998: 314; Glenny, 1996). Kosovo Albanians protested against this move and were suppressed by the Serbian police (Judah, 2008: 66-67). From a Serbian perspective, Kosovo is its natural province, on both legal and historic grounds (Judah, 2008: 13). As Tim Judah has put it, “in the Serbian story Kosovo looms large” (Judah, 2008: 18); meaning, Kosovo strikes at the heart of the Serb notion of identity. This notion sees Serbs commonly hark back to the Middle Ages, when Kosovo was the epicentre of their medieval kingdom, a situation that only changed with the arrival of the Ottomans, when Albanians started to migrate into the area (Judah, 2008: 19-19). Suffice to say, Albanians repudiate many Serb assertions about Kosovo’s history (Judah, 2008: 24-25; Ker-Lindsay, 2009: 8).\textsuperscript{126}

\textsuperscript{125} These republics are Serbia, Slovenia, Croatia, Bosnia and Herzegovina, Macedonia and Montenegro. Kosovo and Vojvodina were autonomous republics within Serbia.

\textsuperscript{126} For a comprehensive history of Kosovo see Noel Malcolm (1998).
The Yugoslavia federation fragmented in 1991 after the succession of its republics, Slovenia, Croatia and Macedonia; the ensuing wars only being officially settled in 1995 with the Dayton Peace Agreement. 127 Kosovo managed to stay absent from these wars of independence. The Albanian members of Parliament voted to establish Kosovo as a republic on equal terms with the other Yugoslav republics on 2 July 1990 (having been coerced into giving it up in 1989) (Malcolm, 1998: 335-356) and on 21 September 1991, they declared independence by referenda (a move deemed illegal by Serbia) (Judah, 2008: 68-69). Later on 24 May 1992 elections were held for a President and a Parliament, with Ibrahim Rugova and the Democratic League of Kosovo (LDK) winning respectively (both had embraced a philosophy of nonviolence) (Malcolm, 1998: 347; Judah, 2008: 70).

The Kosovo Liberation Army (KLA) was officially founded in December 1993, although its origins were opaque, with some tracing their heritage to a cobweb of Marxist-Leninist groups in the early 1980’s (although these groups were more old fashioned nationalists than Marxist) (Judah, 2008: 75). The KLA started to attract serious numbers during the 1990’s, including future Prime Minster Hashim Thaci, who was the political (and perhaps operational) head of the KLA (Judah, 2008: 75-77; Ker-Lindsay, 2009: 11). In 1997 a group of about 150 KLA members began to target Serbian policemen and people they considered as collaborators (Judah, 2008: 79). On 1 October 1997 a student demonstration of 20,000 in Pristina clashed with police, with a member of the KLA being killed (Judah, 2008: 80). By the summer of 1998 matters had escalated considerably, a failed seizure of a coal mine by the KLA resulted in a Serb backlash. The police and army moved through KLA areas forcing 200,000 Kosovars, according to the UNHCR, to flee (Judah, 2008: 83). Talks were brokered by the Americans in February of 1999, and focused on making

Kosovo an autonomous part of Serbia guaranteed by NATO; Milosevic rejected the plan and refused to leave Kosovo. With some 2,000 already dead in the conflict, US President Bill Clinton and UK Prime Minster Tony Blair decided to take action (Ker-Lindsay, 2009: 13-14). Without explicit UN Security Council approval, NATO bombed Serb targets for a prolonged period both inside and outside of Kosovo starting on 24 March 1999 and ended on 10 June 1999 (Glenny, 2001: 659-652; Judah, 2008: 90-91). Serbian troops are thought to have killed anywhere up to 10,000 people, and drove 70% people of Kosovo Albanians from their homes (Pond, 2008: 98).

5.2.2 Kosovo after the War: becoming an UN Protectorate

In the aftermath of the war a UN Interim Administration Mission in Kosovo (UNMIK) was created under the terms of the Security Council Resolution 1244 (UN, 1999); its focus was to rebuild a Kosovo (free of Serbian control) until a decision about Kosovo’s long term future could be found (Ker-Lindsay, 2009: 15-16). UNMIK’s security was guaranteed by a 17,000 NATO force, known as K-FOR (Gow, 2009: 241; Mertus, 2009). In practical terms UNMIK was a coalition of the UN, EU and OSCE; between them these actors made up four pillars. Pillars I (police and justice) and II (civil administration and ministerial bureaucracies) were ran by the UN. Pillar III (democratisation and institution building) was ran by the OSCE; and pillar IV (economic reconstruction) was under the responsibility of the EU (de Wet, 2009: 84; Gow, 2009: 241; Bernabeu, 2007: 74-75). Meanwhile, in Serbia Slobodan Milosevic was forced from power in October 2000 by an alliance of democratic opposition parties, temporally easing political tensions in the region (Ker-Lindsay, 2009: 17).


129 For more detail on Bernabeu (2007) and Mertus (2009)
In May 2001 UNMIK directed Kosovo to adopt a new Constitutional Framework, which transferred competences from UNMIK to Kosovo’s Provisional Institutions of Self-Government. Later, in 2001, Standards for Kosovo (known as the ‘Standards before Status’ policy) was introduced (Bernabeu, 2007: 74; Ker-Lindsay, 2009: 17). Political elites in Kosovo disliked UNMIK, which became extremely unpopular (and reducing its legitimacy) and was soon regarded as something akin to a ‘colonial power’ (Papadimitriou & Petrov, 2007 & 2012; Grevi, 2009: 335; Tansey, 2009).

Between the 16 and 19 March 2004 Kosovo suffered rioting and its worst violence since 1999. The impact of the riots was considerable; by the time the rioting was contained it is estimated that 50,000 people had taken part, culminating in 19 deaths (Ker-Lindsay, 2009: 20-21). Recognising that the UN was, in part, responsible for the rising tension and subsequent violence (due to how long the process had taken so far) the UN accepted that settlement talks could not be put off indefinitely. In an October 2005 report by UN Special Envoy Kai Eide it was recommended that a move be made to start negotiations on Kosovo’s final status (Eide, 2005; Ker-Lindsay, 2009: 21 & 26). As a result Martti Ahtisaari (the former president of Finland) was appointed as the UN Envoy and was tasked with delivering a final status report after facilitating bilateral negotiations between Pristina and Belgrade. Direct talks began in February 2006, although these were difficult due to deeply held and often intractable differences on both sides (Ker-Lindsay, 2009: 33).  

130 Under this agreement a full range of powers governing a wide range of area, including economic policy, were set out for the assembly, the presidency, the executive and the judiciary (Ker-Lindsay, 2009: 17).

131 In this scheme progress was required in eight key areas before final status talk could get under way: (1) the existence of effective representative and functioning democratic institutions; (2) enforcement of the rule of law; (3) freedom of movement; (4) sustainable returns of refugees; (5) creation of a sound basis for a market economy; (6) fair enforcement of property rights; (7) normalised dialogue with Belgrade; and (8) transformation of the Kosovo security services (Ker-Lindsay, 2009: 19).

132 For an blow by blow account of these talks see Ker-Lindsay (2009: 33-44)
The final status negotiations were made more complicated by the fact that three permanent members of the UN Security Council, US, Britain and France had publicly stated - in some cases repeatedly - that they favoured independence come what may (i.e. unilaterally if necessary) (Ker-Lindsay, 2009: 31). On the other hand Russia as a longstanding ally of Serbia maintained that any settlement had to be acceptable to Pristina and Belgrade (Gow, 2009: 243; Ker-Lindsay, 2009: 3; Antonenko, 2007).

Ahtisaari presented his proposals on 2 February 2007. They included a comprehensive plan for a stable and multi-ethnic Kosovo; a new constitution, and guide to structures, institutions and functions of future Kosovo. However, it did not explicitly mention the final status recommendation for the province (Ker-Lindsay, 2009: 54). Rather this were announced after a presentation to the Security Council on 26 March 2007, and called for ‘supervised independence’ under the aegis of an International Civilian Representative and an EU mission. As the report stated, “Belgrade could not regain its authority without provoking violent opposition. Autonomy of Kosovo within the borders of Serbia – however notional such autonomy may be – is simply not tenable” (Ker-Lindsay, 2009: 625). Therefore, “independence is the only option for a politically stable and economically viable Kosovo” (Ker-Lindsay, 2009: 64). This call for ‘supervised independence’ was rejected by Russia (Ker-Lindsay, 2009: 68-69 & 79). In light of the Russian position and several EU states (Greece, Romania, Cyprus, Spain, Slovakia, Slovenia and Poland) who had expressed concerns over independence, both the US and the other states in favour of independence accepted the need for further talks. Consequently the Ahtisaari proposals were officially withdrawn on 20 July 2007 (Ker-Lindsay, 2009: 79).133

133 Although after independence many of the Ahtisaari proposals remained embedded in the new constitution, including the deployment of an EU civilian mission in the Rule of Law, i.e. EULEX Kosovo (Papadimitriou & Petrov, 2012).
As a result of this impasse a diplomatic Troika was formed composed of representatives\textsuperscript{134} from the US, Russia and the EU, to see if any common ground could be found between the Serbs and Albanians: this process was given 120 days to do its work. If no agreement could be found between the Kosovo Albanian and Serbian then Kosovo would declare independence (Weller, 2008: 1224). Despite holding talks the differences between the two sides, again, proved intractable (Ker-Lindsay, 2009: 3 & 96-97). \textsuperscript{135} On the 7 December 2007 the Troika presented its final report to the UN Secretary General (Judah, 2008: 140; Ker-Lindsay, 2009: 96). The on the 19 December 2007 the Security Council met in a closed session to discuss the report. At this critical juncture the US, Britain and France turned back to 1244, arguing that it provided the necessary legal (and moral) cover to undertake independence and create an EU mission (de Wet, 2009: 85; Ker-Lindsay, 2009: 89-90 & 100). After much speculation the Kosovo Assembly did declare independence on the 17 February 2008, sending out letters of recognition to all 192 member countries of the UN. By the end of 2008, the total number of countries having recognised Kosovo stood at 53 (28\% of the total of membership of the UN). In the immediate aftermath of Kosovo’s independence, violent ethnic tensions returned (culminating in the death of a UN policeman), especially in the north of Kosovo where the Kosovo Serb predominately live in towns such as Mitrovica (the River Ibar becoming a shorthand for the division) (Tansey & Zaun, 2009: 16-17; Judah, 2008: 101). \textsuperscript{136} Deep divisions now cemented themselves between the Serb and Albanian communities, with Kosovo Serbs in the North refusing to accept Pristina’s authority and instead looked to Belgrade, a situation that embedded itself

\textsuperscript{134} The Troika was led by Ambassador Wolfgang Ischinger of Germany (EU) with Alexander Bitsan-Harchenko of Russia and Frank Wiesner of the US (Weller, 2008: 1226).

\textsuperscript{135} For a comprehensive examination of these attempts see Ker-Lindsay (2009: 81-101) and Weller (2008).

\textsuperscript{136} For a very detail account of the North of Kosovo see ICG (2011).
further over the weeks and months to come (Pond, 2008: 100; Gow, 2009: 248’ Ker-Lindsay, 2009: 6; Tansey & Zaum, 2009: 13 & 17).

Figure 5.1: Map of Kosovo

Source: http://www.worldofmaps.net/en/europe/map-kosovo/physical-map-kosovo.htm

5.2.3 EU-Kosovo (under UN Security Resolution 1244/99) Relations
The Kosovo war had a significant impact for EU-Kosovo relations, although these were bound up within broader EU-Western Balkan relations. Kosovo’s unique position during the ensuing years, as a UN protectorate, left the province officially out of the various contractual agreements on offer to the Western Balkan countries, such as the SAP and SAA’s. However, in November 2002 the EU set up a Stabilisation and Association Tracking Mechanism (STM) in order to assist the Kosovo authorities to benefit from the core elements of the SAP, despite the thorny legal situation. This mechanism offered a forum to discuss Kosovo’s progress and acted as a parallel track to EU’s regular SAP (European Commission, 2005g; 2006h).

In April 2005, in a special paper entitled ‘A European Future for Kosovo’, it was made clear that the EU perspective confirmed in the Thessaloniki Declaration of June 2003 for the wider Western Balkans is also open to Kosovo (European Commission, 2005g). The EU adopted a European Partnership for Kosovo (and Serbia and Montenegro) in June 2004 which focused on supporting the ‘Standards before Status’ process (European Commission, 2005g: 3). This was succeeded on 30 January 2006 (and then again in February 2008) when the Council adopted a European Partnership with Serbia and Montenegro including Kosovo (as defined by the UN Security Council 1244). The partnership lays out priorities in the political realm especially those pertaining to democracy and rule of law, economic requirements focusing on building growth and the final stage which focused on the *acquis* including a central focus on JHA issues (European Commission, 2006i, 2008a).

The Cologne European Council in June 1999 emphasised the EU’s commitment to Kosovo which mainly manifested itself through the UNMIK (although not exclusively) in which the EU played a central role (European Commission, 2005g). The EU ran the economic

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137 The SAP and SAA were discussed in Chapter Three in the case-study on Macedonia (see section 3.2.2)
reconstruction of Kosovo (pillar IV) which meant being responsible for Kosovo’s customs services and market related reforms; in this regard the Union had wide ranging regulatory powers. Furthermore, Kosovo is the only country outside the Eurozone to adopt the Euro (Papadimtriou et al, 2007: 220). In addition to its role within UNMIK, the Union has developed an extensive presence in Kosovo. The EAR had been the first EU agency to open an office in Kosovo in early 2000. The EAR dispersed humanitarian aid, financing projects and institution building, economic recovery and political reform in Kosovo (Papadimitriou et al, 2007: 230). From 2000 onwards Community assistance, which was delivered through CARDS and by 2007 the EU had contributed €1.8 billion (European Commission, 2007b: 8). In addition to the EAR, an EU Monitoring Mission (EUMM) had been present in Kosovo since 2000 and had reported back to Brussels on issues of inter-ethnic violence and refugee returns. This mission had been necessary due to the fact that Kosovo’s legal limbo meant that they were not, until 2004, a recipient of any independent Council or Commission presence (Papadimitriou et al, 2007: 230). The riots in March 2004 catalysed the EU’s presence in Kosovo. In April 2004 the HR-CFSP appointed a Personal Representative with a new CFSP office in Pristina (known colloquially as the Solana Office) (Papadimitriou et al, 2007: 230). Soon after, in September 2004 the European Commission opened a Liaison Office in Pristina (European Commission, 2005g).

From 2005 onwards the European Commission reports have made repeated reference to Kosovo’s battle with organised crime, and the threat this posed to the EU (and their inability to combat it) highlighting both drug and human trafficking as being the most problematic. In terms of drug trafficking, Kosovo is on the Southern Balkans heroin route; whereby heroin shipments from Turkey enter via the border between Macedonia and Kosovo. These shipments then continue towards Serbia and Hungary. Kosovo is also an
origin, transit and destination for victims of trafficking in human beings (European Commission, 2005: 52-53; European Commission, 2007: 44-48; European Commission, 2008: 52-53; see also Judah, 2008: 95-98; Glenny, 2008). EUROPOL OCTA reports have confirmed Kosovo’s problem with organised crime describing it as a ‘criminal hub’ (EUROPOL, 2007: 23; EUROPOL, 2008: 38). By the 2009 OCTA report South East criminal hub had been broken down into a North (consisting of Ukraine and Moldova) and South (consisting of Turkey) with South East Europe representing the centre. This includes Kosovo (and the wider Western Balkans) feeding crime directly into the EU (EUROPOL, 2009: 14; EUROPOL, 2011: 6).

As a consequence of these concerns Kosovo’s contractual arrangement, the European Partnerships (from 2004, 2006 and 2008), have had significant JHA components (although in the parlance of Commission documentation Justice, Freedom and Security) (European Commission, 2005h: 51-54; 2006h; 2007b: 44-48; 2008a). For example, in the 2007-2009 Multi Annual Indicative Planning Document stated that a main priority is *inter alia*:

enhancing Kosovo’s capacities in areas related to home affairs, in particular in relation to policies related to civil registration, visa, border control, asylum and migration, money laundering, drug trafficking and the fight against organised crime and terrorism (European Commission, 2007b: 20-21)

5.3 Enter EULEX: Constructing a Integrated Mission

This section will detail the planning of EULEX Kosovo. In doing so it seeks to explore how actors interact and seeks to ascertain which actors drive and set the policy agenda.

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138 These include contributions from FRONTEX, EUROJUST and OLAF, although EUROPOL is the principal player (Interview, 53)
This links back to the *Steering* component of security governance, as outlined in the thesis conceptual apparatus, in Chapter One (section 1.3.2).

### 5.3.1 Initiating EULEX: the Solana-Rehn Papers

The genesis of what became EULEX Kosovo can be traced back to February 2005. The European Council mandated Javier Solana (HR-CFSP) and Olli Rehn (EU Commissioner for Enlargement) to explore what contribution the EU could make in the implementation of the UN Security Council Resolution 1244. As a consequence four reports were produced between 2005-2007 on the various options available to Member States. The first on 14 June 2005 and the second on the 9 December 2005.

The first two (June and December 2005) defined the parameters of what the EU could contribute. The first report included the:

- Continuation of the EU’s role in the framework of the SAP;

- Strengthening and streamlining of the EU presence on the ground – office of the Personal Representatives of the HR and the office of the European Commission in Pristina;

- The future international civilian presence could take the form of an international office with an important EU component but cannot be UNMIK (Council of the European Union, 2005d);

The 9 December report made two additional points:

- EU responsibilities after status is settled will depend largely on the outcome of the Status Process. However, preparations will proceed in parallel with the Status Process;

- the EU could take responsibilities in the police and rule of law and certain residual economic area. On the EU side, both Community instruments and ESDP measures would be required to deal with this challenge. Contingency planning for a possible
As a consequence the Council agreed to initiate the planning process for EULEX Kosovo, launching a Joint Commission – Council Secretariat Fact Find Mission between 19 and 27 February 2006. Reporting back on 8 March, the mission recommended that the EU establish a Planning Team (EUPT) at the earliest possible opportunity, to ensure that EU decision making *vis-à-vis* the final status of Kosovo be based on the most in-depth analysis possible, and synchronised with the final status process (Council of the European Union, 2006g: 5). CIVCOM gave its advice on the 15 March 2006, largely agreeing with the Fact Finding Mission Report (Interview, 11, 31 & 52).

The Fact Finding Mission noted that the Commission would probably only play an indirect role in relation to the police sector, mainly via technical assistance to the Ministries of Interior and Justice: it would be the ESDP mission who would conduct the bulk of the police work (Helly & Pirozzi, 2006: 3; Interview, 4 & 18). Following the Fact Find Mission the European Commission sent its own TAIEX expert assessment mission in order to assess where it could add value (Helly & Pirozzi, 2006: 3; Interview, 11). This move also ensured the Commission had access to detailed information of its own during the planning process (Interview, 11 & 42).

The establishment of EUPT Kosovo (‘regarding a possible EU crisis management operation in the field of rule of law and possible other areas in Kosovo’) was done on the 5 April 2006 – with a renewable six month mandate, or until the full ESDP mission would

139 Technical Assistance and Information Exchange Instrument (TAIEX) is aimed to provide to the new Member States, Candidate Countries and the administration of the Western Balkans with short-term technical assistance in relation to the application and enforcement of EU legislation.
takeover (Council of the European Union, 2006g: 2). EUPT was mandated to initiate work “on identifying elements for mandates, objectives\textsuperscript{140}, specific tasks programmes and personal strength” (Council of the European Council, 2006g: 7). Divided between a justice team, a police team and an administration team, EUPT became an unprecedented planning mission, in terms of size, scope and time (Interview, 3 & 17; Council of the European Union, 2006g: 9-10). EUPT Kosovo ended two years later, having up with 80 international and 55 local staff (Interviews, 40). While the 2006-2007 Joint Action for EUPT alone provided a budget of €80 million (European Commission, 2007b: 6).

After some early input from the EUPT, the third and fourth ‘Solana-Rehn papers’(July 2006 & March 2007) stated the imperative of the EU becoming the driving force behind the international presence in Kosovo by deploying two missions: a civilian mission, directed by an ICR who would also double as the EUSR; and an ESDP mission on the Rule of Law focusing on police, judicial and custom service reform, led by its own Head of Mission (Council of the European Union, 2007a). In this formulation the ICR and the Head of the Rule of Law mission would support local authorities in upholding the rule of law and implementing the Ahtisaari proposals. As a result, a joint EUSR-International Civilian Mission\textsuperscript{141} Preparation Team was deployed in Kosovo parallel to EUPT, from the 9 October 2006 (Council of the European Union, 2006h). This was comprised of international staff seconded by Member States and EU institutions (two officials from the Council Secretariat, one from the Commission and six seconded experts from Member

\textsuperscript{140}With special attention being given to the fight against organised crime, criminal intelligence, riot/major public disorder, border police, handling of inter-ethnic/serious crime in the overall justice system, property rights and disputes, appointment of judges and prosecutors (Council of the European Union, 2006g: 2).

\textsuperscript{141}At this stage (2006) the Joint Action working title for the future structure was ‘International Civilian Mission’. However, after consultations with local political leader the name; international Civilian Office (ICO) was preferred and it is this name that is used from 2007 onwards by the preparation team (Interview, 3)
States) and had funding through 2006-2007 to the tune of €5 million (European Commission, 2008: 6). They were mandated to: work with the international community and UNMIK to establish an international mission and ensure that in line with EC competences and EUPT’s mandate, the EU has an integrated and coherence presence in Kosovo (Council of the European Union, 2006h: 3). However, despite the strong links between the EUSR/ICO and ESDP, the missions were to be understood as “separate institutions” (Council of the European Union, 2006h: 7).

The fourth ‘Solana-Rehn paper’ – based on the assumption that the UNSC would endorse the Ahitsaari proposals, which envisaged the resolution of Kosovo’s status by late 2006 or early 2007 - saw the EU feeding into the process of ‘supervised independence’ for Kosovo. At this stage EUPT Kosovo was based around two operational planning assumptions regarding Kosovo’s future status. First, following a final status decision, the mission will be endorsed by a new UNSC resolution and hence completely takeover the UNMIK functions; UNMIK would cease to exist. Second, EULEX would take over the equipment and facilitates used by the UN, saving time and money (Interview, 10). Based on these assumptions EU member states saw EULEX as a mission with ‘political’ substance, entailing not just technical advice but the building of momentum in the implementation of the Ahitisaari proposals. By indicating that the ICR was also going to serve as the EUSR, the EU was demonstrating its political commitment to Kosovo’s future (Papadimitriou & Petrov; 2012; Interview, 3 & 42).

5.3.2 Cross Pillar Coordination and the Overarching Role of the Commission

The planning phase of EULEX was witness to effective cross-pillar coordination between the Commission and Council services. There were two reasons for this. The first was what can be referred to as the ‘great expectations’ or credibility argument, namely that there was
immense pressure on officials inside the Commission and Council to avoid the bureaucratic squabbling of previous ESDP missions in the region (Interview, 2 & 17). In this context, EULEX was to be a litmus test for the credibility of EU crisis management structures. Second, the central role ascribed, in a very public and strategic fashion to the Commission, as the beholder of Kosovo’s EU future, served to strengthen the Commission’s institutional position vis-à-vis the Council (Interview, 17 & 45). This second point is cognate to the fact that the European Commission Liaison Office were to take over the role of the EAR in 2008, which on a practical basis meant that the Commission were now to be fully responsible for the implementation of assistance under the programme management, including tendering for contracts. This coincided with the end of the CARDS funding stream, which was transferred to the IPA in 2007. Commission officials argued that this strengthened their hand when it came to asserting themselves in the planning (and management) phases (Interview, 11, 17 & 18; European Commission, 2007b: 6; European Commission, 2008b: 11).

For example, the Commission was not actually part of the ‘official’ planning group for EULEX (Interview, 10). Therefore the Commission’s “good and regular coordination” (Interview, 10) with ESDP personnel was conducted on a largely informal basis, as a matter of necessity (Interview, 9, 10, 11 & 42). As part of this informal coordination, the Commission secured the right to comment on every report that the EUPT would produce for the ESDP hierarchy, such as the PSC (Helly & Pirozzi, 2006: 2; Interviews, 11& 18). As a senior figure in the Council Secretariat’s Western Balkan Unit stated, “the need to work in the grey zone normally fails” (Interview, 17; for the same sentiment see Interviews, 9, 10 & 11). However, EULEX came with a lot more political pressure (Interview, 17).
The Commission were able to maintain a good deal of leverage through the fact that it was providing the bulk of the budget, which it had to ‘sign off’ as part of the CFSP budget regulations (Interview, 9 & 18). This acted in concert with the very prominent role of the Commission as an anchor of reform (Interview, 9, 10, 11 & 18). For instance, publicly disseminated information went to great lengths to stress the Commission’s focus on institution building in Kosovo, in the context of Kosovo’s EU accession ambition. The perception of the Commission connoting the long term future for Kosovo was actively promoted in EU press releases as the actor with access to “all the enlargement tools” (EU Press Release, 2007; Interview, 17 & 40). Whilst the EUSR/ICM preparation team repeatedly emphasised the expectation that the Commission will play a “leading role” and that “Kosovo’s involvement in the SAP will be instrumental in keeping Kosovo on a firm reform track” (Council of the European Union, 2006h: 7). All of which was later reinforced in the EULEX information strategy and the CONOPS (see section 5.3.3).

5.3.3 Getting Ready to Launch: Joint Actions and New Actors

In September 2006, EUPT Kosovo presented ‘light’, ‘medium’ and ‘robust’ options for the size and scope of the mission. The eventual decision to choose the ‘robust’ option not only provided a large number of experts, 1,800 (1,400 of which were officers or expert advisers) but also provided executive powers for dealing with civil unrest. A decision informed by the fact that was becoming likely that the Ahtisaari-led talks would not find agreement (Interview, 3 & 17; Papadimitriou & Petrov, 2012).

On the 31 January 2008, the EU presented three documents – the Joint Action for EULEX; the CONOPS and the Joint Action of the EUSR. The decision to issue these parallel

142 The light option envisaged as little as 850 experts (Interview, 4)
actions had been taken on 14 December 2007 at the European Council (Council of the European Union, 2008c: 26). As detailed in the earlier (see section 5.2.3) the Troika presented its report. While these preparations were being made for Security Council debate on the Troika, the spotlight returned to Brussels, and the December European Council. A number of EU Member States (Spain, Greece, Cyprus, Romania and Slovakia) were unequivocal, insisting they would not be prepared to support independence, without the explicit authorisation of the UN. However, given that the US had made it clear that it would recognise independence regardless, EU Member States were left with a stark choice: the EULEX mission or a Kosovo with no international oversight at all (Judah, 2008: 139; Ker-Lindsay, 2009: 98).

It must also be mentioned at this stage the entry on to the EU crisis management stage of a significant new actor, namely the CPCC. Its first official involvement with EULEX came in November 2007 with the amendment and extension of the Joint Action for EUPT. Although the CPCC had been created in August 2007, it was not to be fully operational until November 2008. However, it did take over the technical preparations for EULEX. It should be noted that the Command and Control functions do not change the responsibilities to the Commission for implementing the budget of EUPT Kosovo (Interview, 49; Council of the European Union, 2007b). Even though the CPCC only came into play relatively late in the planning phase for EULEX, and was untested in this regard, it worked well alongside the Police Unit (in what was still DG IX) to bring the final stages of planning together (Interview, 4 & 9). In particular the CPCC was able to start to fill the longstanding gap between Brussels and ‘the mission’ through the establishment of the Brussels support element. The Brussels support element is comprised of EUPT (and later EULEX) officers based in the CPCC (Interview, 9, 10 & 42) (see section 5.4.3).
The full mission statement supplied in the EULEX Joint Action read:

EULEX Kosovo shall assist Kosovo authorities, judicial authorities and law enforcement agencies in their progress towards sustainability and accountability and in further developing and strengthening an independent multi-ethnic justice system and multi-ethnic police and customs service, ensuring that these institutions are free from political interference and adhering to internationally recognised standards and European best practices. EULEX Kosovo, in full cooperation with the European Commission assistance programmes, shall implement its mandate through monitoring, mentoring and advising, while retaining certain executive responsibilities (Council of the European Union, 2008c: 28)

The Joint Action stated that EUPT would be responsible for planning and preparation (recruitment and deployment of staff, equipment and premises for EULEX). EUPT was also responsible for the construction of the OPLAN. This fitted in with the fact that the launch of EULEX would involve a transition phase during which the Head of Mission will direct EUPT in order for EULEX to be fully operational on the first day transfer (Council of the European Union, 2008c: paragraph 4 & 5).

The draft CONOPS for EULEX also made a detailed exposition of coordination and coherence issues. Interviews attest that these were much more detailed than had previously been the case with ESDP mission to the region (Interview, 9, 10 & 18). This includes specific references to activities being developed in full accord with the EU acquis, as part of the IPA and accompanying Annual Programmes (Interview, 45). The CONOPS also included a call for an information and communications strategy in order to underpin the coordination and coherence of the Union’s projection. One dimension of this was to focus on “enhancing the perception” of EULEX’s role within the “EU’s overall policy in Kosovo” (Council of the European Union, 2008: d). Interviews affirm that there was considerable effort put into “projecting EULEX’s as steeping stone to integration and
enlargement” (Interview, 10). In this context the strategy was directed at other EU entities at work in Kosovo (the ECLO and EUSR) and ensuring the “positive perception of the EU presence in Kosovo” (Council on the European Union, 2008d: 6) built around the promotion of “twin pillars of security and a new European future for Kosovo” (Council of the European Union, 2008d: 6).

Finally, the EUSR Council Joint Action tasked with the promoting the overall coordination of the EU’s policy objectives in Kosovo. The EUSR shall provide local political guidance to the Head of EULEX including on issues relating to executive responsibilities. In addition, the EUSR and the Civilian Operations Commander will consult as required (Council of the European Union, 2008d: 20). The EUSR Joint Action also reinforces the role of the Commission led SAP as the ‘strategic framework’ to work within (Council of the European Union, 2008d: 20).

5.3.4 Linking EU Internal Security Concerns to EULEX

Policy papers from March 2006 to November 2006 reveal, unequivocally, that all relevant actors – CIVCOM, JAI, Article 36 Committee, PSC, COWEB, the Council Secretariat - had plenty of advance warning, or ‘policy awareness’ of the demands involved and opportunities available to synchronise JHA and ESDP action. In other words the opportunity to cement the ‘internal security’ component of the external dimension JHA agenda (Interview, 4, 12, 24 & 47). Despite this, links at the ESDP-JHA interface remained unfulfilled during the planning phase of EULEX, only impacting after the launch of EULEX.

The advice that CIVCOM gave on the Fact Finding mission report of 15 March 2006, was widely circulated. This included political working parties (COWEB) and internal working
parties (CATS and JAI). In fact the distribution of these documents to CATS and JAI was to continue throughout the construction and management of EULEX. However, although this seemed to represent a real improvement from Proxima (see Chapter Three, section 3.4.5), its impact was constrained. This was because the act of being placed on the distribution list did not automatically translate into joint meetings or action between internal focused actors (such as CATS or JAI) and the foreign and political bodies (PSC, CIVCOM or COWEB). Rather the CIVCOM advice seems to expose the structure and process of ‘awareness raising’ failing to translate into concrete action during the planning phase of EULEX.

Evidence of this claim can be found on the 12 May 2006 in a conceptual paper produced entitled ‘The State of Play in Implementing the Strategy for the External Dimension of JHA’. The report referred to trying to ‘build upon the actions and endeavours carried out by the ESDP civilian missions in support of the fight for organised crime, in Bosnia and in FYROM (Macedonia) and soon in Kosovo’ (Council of the European Union, 2006i: 3). It also reiterated previous calls for greater efforts in the conclusion of the operational agreements between ‘JHA agencies’, namely EUROPOL and FRONTEX with the Western Balkans (Council of the European Union, 2006i: 8 & 10). Second, further momentum was created on the 15 May in which CIVCOM discussed a Council Secretariat DG IX ‘Information note on the role of civilian crisis management operations in fight against organised crime in the Western Balkans’. This was circulated to COWEB, CATS, JAI and CFSP Counsellors. The document was clear that where a ‘related mandate exists ESDP contributions are critical” (Council of the European Union, 2006j). Moreover, in regard to Kosovo this is of “specific importance in light of the current work setting up a possible

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143 The sub-title ‘Action Oriented Paper on improving Cooperation on Organised Crime, Corruption, Illegal Immigration and Counter-Terrorism, between the EU’s Western Balkans and relevant ENP countries’
ESDP mission in Kosovo in the field of Police and Rule of Law” (Council of the European Union, 2006j: 2). CIVCOM welcomed the point made in this report stating the further opportunities were available, especially *vis-à-vis* planning:

CIVCOM would encourage EUROPOL’s and EUROJUST involvement during the planning process of future crisis management missions as appropriate (Council of the European Union, 2006j: 5)

In the light of the forthcoming ESDP mission to Kosovo, the PSC requested on 26 July 2006 that the Council Secretariat DG IX brief the Article 36 Committee on the current and future options for ESDP’s contribution to the Union’s internal security. This third instance of seeking synergies took place on 20 October 2006, and is highly significant as it is the first briefing between these two actors on this issue (Council of the European Union, 2006k; Interview, 12, 28, 47 & 52). The meeting formed part of the capacity building measures component of the Civilian Headline Goal 2008\(^\text{144}\), and as such featured in the final report on November 2007 as an example of active co-ordination between ESDP and the “most important JHA Council Committee” (Council of the European Union, 2007c: 22). Its other focus was on providing a specific briefing for the Article 36 Committee on the ESDP mission being constructed toward Kosovo – with related requirements for Police and the Rule of Law (Council of the European Union, 2006k: 2). However, interviews and documentation reveal that this was not an especially operational, or policy specific discussion. For example, key recommendations, such as the one quoted below, reveal both how general and how early in the process of coordination internal and external security actors still were:

More efforts should be made to raise awareness among competent sectors of national administrations as well as among European bodies such as

\(^{144}\) This was discussed in Chapter Two (section 2.3.1) as an example of the drive to improve capabilities in the realm of ESDP structures.
EUROPOL and EUROJUST, that fight against transnational crime must be tackled by internal and external policies (including ESDP Rule of Law missions)(Council of the European Union, 2006e: 6)

Some interviewees pointed out that the ad hoc process this followed in line with the guidelines of the ‘2005 Strategy’ (Interviews, 11, 24 & 28).\(^{145}\) This observation reveals the limitations of this approach. Namely, that it proved very hard to translate ad hoc institutional bridge building into concrete policies in the JHA external dimension (Interview, 47).

Concrete evidence of this difficulty can be witnessed in the ‘policy silence’ (Interview, 4) which descended on this issue between November 2006 and January 2008 (the issuing of the CONOPS). The draft CONOPS for EULEX was circulated to PSC, CIVCOM, COWEB and JAI and made reference to the 2004 Friends of the Presidency Report on Organised Crime (discussed in the Chapter Three, section 3.5.6) as an example of policy practice to avoid (Interview, 49). Finally, there was a detailed section included on the information exchange which states that the mission will have to actively swap information with EUROPOL, FRONTEX and EUROJUST (Council of the European Union, 2008d: 34). The significant point here is that by having to take account of the missions impact on JHA matters written into the CONOPS, was itself a new step (Interview, 4 & 42).

Although as JHA Counsellors, from two prominent and active Member States\(^{146}\) in the realm of JHA pointed out, this was “too little, too late” for the notions of integrated planning that CIVCOM itself has proffered in May 2006 (Interview, 24, 35 & 47).

\(^{145}\) As seen in Chapter Two, the “geographical and functional working groups and committees which cover JHA and external relations….will continue between themselves, if appropriate meetings jointly on an hoc basis to cover important issues” (Council of the European Union, 2005a)

\(^{146}\) These two Member States are the United Kingdom and Sweden.
5.4 Managing EULEX: What Qualifies as an Integrated Mission?

This section concentrates on the operational aspects of EULEX. In doing so it takes forward the themes raised in the previous section. By concentrating on the ‘operational’ aspects of EULEX, this section links back to the thesis conceptual apparatus outlined in Chapter One, and in particular the Management component of governance. In other words it seeks to ascertain how the deployment of EULEX was administered, carried out and controlled.
5.4.1 An Overview of the EULEX Mission

The EU mission to Kosovo was agreed by all EU member states in relation to the existing UN Security Council Resolution 1244, just two days before the declaration of independence. In order to preserve EU unity as possible an unusual system of consent for EULEX was arranged which involved setting a deadline (of midnight on the 15 February) by which Member States needed to dissent (opt out) rather than a vote for; the logic behind this tactic was to avoid face-to-face confrontation at the EU level and more public disunity than absolutely necessary (Gow, 2009: 241).

On the 7 February 2008 Yves de Kermabon, previously a special adviser to HR-CFSP Javier Solana was appointed as Head of Mission for EULEX; whilst Pieter Feith was appointed as the EUSR/ICO on the 28 February (although neither Serbia or Russia recognised the ICO). The transition from EUPT to EULEX was to be mediated by a 120 day transition programme, with an accompanying €205 million to cover the initial 16 months. In this sense EUPT was amended and extended on the 17 March 2008, in order to start the final recruitment and deployment of staff as well as the procurement of equipment, services and premises (Council Joint Action 2008). The relationship between EUPT and EULEX was designed so that EULEX did not just supplant EUPT, but rather they would gradually merge into one entity. Upon the launch of EULEX the Head of EUPT would act under the direction of the Head of EULEX (Interview, 40). This also reinforced the continuity factor; which was partly ensured by having the Head of EUPT, Roy Reeve stay on, becoming the Deputy Head of Mission for EULEX (Interviews, 9).

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147 Pieter Feith terms as EUSR came to an end in May 2011, but continues to act as the ICR. He was replaced by the Italian diplomat Fernando Gentilini (Interview, 42).

148 Roy Reeve replaced Casper Klynge as Head of EUPT in December 2007 (Interview, 41).
EULEX’s start up was far from smooth. Three months after Kosovo declared independence neither EULEX nor ICO were fully operational (Weller, 2008: 1237; Judah, 2008: 147; ICG, 2008: 1), rather EULEX had effectively entered a period of “operational hibernation” (Grevi, 2009: 359). The central problem here was politico-legal one: Russia argued that EULEX was not authorized by Resolution 1244 (because it was inextricably linked to the illegal, from Russia’s perspective, declaration of independence), while EU Member States and the US took the position that EULEX was authorised by 1244 (de Wet, 2009: 85; Tansey & Zaum, 2009: 15; ICG, 2008: 1). The dispute on the existence and transfer of responsibilities from UNMIK to EULEX could not be reconciled by 15 June 2008 (the date that a new constitution for Kosovo was scheduled to come into effect). The new Kosovo constitution effectively supplanted UNMIK’s civil administration with EULEX, but on the ground Serb controlled territories would only work through UNMIK (refusing to accept the authority of EULEX) (Pond, 2008: 100-102; de Wet, 2009: 85). This left both sides (Kosovo Serbs and Kosovo Albanians) directly opposed. In June 2008, EULEX’s adopted a status neutral position regarding Kosovo’s status, while the Secretary-General reconfigured UNMIK. This served to place EULEX under the overall authority of the UN Special Representative, thereby conforming to the structures of 1244 (de Wet, 2009: 86; Pond, 2008: 102; ICG, 2008: 15; Grevi, 2009: 359). The assumption was that the EU would gradually assume greater responsibilities through EULEX, while UNMIK shrinks down to a legal shell (ICH, 2008: 15; ICG, 2011: 2; Grevi, 2009: 359). In August 2008, the EULEX Head of Mission made efforts to publicly emphasise the ‘technical’ non political character of the mission in order to placate the Serbs living in the North (ICG, 2008: 9). The difficulties in reconciling these issues slowed down the full deployment of EULEX from June until December 2008 (Pond, 2008: 102; Weller, 2008: 1237).\footnote{For a comprehensive record of legal machinations between the spring of 2008 and autumn 2008, see ICG}
legal wrangling had a logistical impact also, as EULEX was scheduled to take over the UN assets on the ground, such as vehicles and offices, however the lack of UN cooperation prevented this, impacting heavily on EULEX’s operational credibility (ICG, 2008: 31; Grevi, 2009: 358 & 362). EULEX finally became operational on 9 December 2008, in the North and South of Kosovo with full operational capacity achieved by reached by 6 April 2009 (Council of the European Union, 2009a: 1).

5.4.2 What does the EULEX Mission actually look like?

The mission was broken down into a police component, co-located with the Kosovo Police Service, including at border crossing points. A justice component, co-located in the relevant ministries (the Kosovo judiciary, the Kosovo property agency, and the Kosovo Correctional service). Finally, a customs component, co-located where appropriate within the Kosovo customs service. Operationally speaking, EULEX conducted ‘PHASE 1’ of EULEX’s Programmatic Approach between December 2008 and June 2009 (Interview, 59).

This entailed documenting the Kosovo authorities and ‘taking stock’ of the current performance of Kosovo’s Rule of Law institutions. These findings are outlined in the EULEX Programme report of July 2009. EULEX instigated a ‘Programmatic Approach’ based upon EULEX aims\(^{150}\) and strategic\(^{151}\) objectives. These objectives were to be

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\(^{150}\) (1) Help the Kosovo Rule of Law institutions to achieve progress toward sustainability; (2) Help the Kosovo Rue of Law institutions to achieve progress toward accountability; (3) Help develop the Kosovo Rule of Law institutions as multi-ethnic organisations; (4) Help ensure that the Kosovo Rule of Law institutions are free from political interference; (5) Help ensure that the Kosovo Rule of Law institutions adhere to internationally recognised standards; (6) Help ensure that the Kosovo Rule of Law institutions adhere to European best practices (original emphasis) (EULEX Programme Strategy, 2009)

\(^{151}\) (1) Monitor, mentor and advise competent Kosovo institutions on all area related to the wider Rule of Law; (2) Ensure the maintenance and promotion of the rule of law, public order and security; (3) Help ensure that all Kosovo Rule of Law services are free from political interference; (4) Ensure that cases of war crimes, terrorism, organised crime, corruption, inter-ethnic crimes, financial/economic crimes and other serious crimes, as well as property related issues, are properly investigated, prosecuted adjudicated and enforced

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achieved by *Mentoring, Monitoring* and *Advising* (MMA). This was engaged for each component of EULEX: judiciary, police and customs (EULEX Programme Strategy, 2009). ‘PHASE II’ of the Programmatic Approach commenced in July 2009. This took forward the large number of recommendations for change indentified in ‘PHASE I’ and started implementing the MMA Actions (EULEX Programme Report, 2010); ‘PHASE II’ continued through 2010 and 2011 (EULEX Programme Report, 2011).

EULEX was to be deployed as a “unified mission across Kosovo” (Council of the European Union, 2008d: 30), which proved to be a contentious issue (Interview, 2). Initially the mission was unable to be deployed across Kosovo due to the domination of the North by the Serbs. By late 2009, the persistent diplomatic impasse over the future of the Serb municipalities in Kosovo forced the EU to reconsider its strategy in the North. As a result, in October 2009, the EU appointed Italian diplomat Michael Giffoni, as its special envoy in North Kosovo and announced plans for the opening of an ‘EU House’ in North Mitrovica with the aim of communicating its message to the Serb community more effectively (Papadimitriou & Petrov, 2012). By 2010 the EU House had permanent staff from EULEX, EUSR and the Commission (Interview, 9 & 10).

The compromises according to the applicable law; (5) Contribute to strengthening co-operation and coordination throughout the whole judicial process, particularly in the area of organised crime; (6) Contribute to the fight against corruption, fraud and financial crime; (7) Contribution to the implementation of the Kosovo Anti-Corruption Strategy and Anti Corruption Action Plan; (8) Ensure that all its activities respect international standards concerning human rights and gender mainstreaming (EULEX Programme Strategy, 2009).

152 Given that the Treaty of Lisbon was passed in November 2009 there were questions about its impact on the EU’s work in Kosovo. The EU issues a press release in 2009: “Catherine Ashton was appointed to this post in November 2009. All EU led missions outside the EU, including Kosovo, report to her. The European Commission steers the enlargement process and Enlargement Commissioner Stefan Fule attached a great importance to the Western Balkans, including Kosovo. Ms Ashton has the responsibility to establish the External Action Service which will help the HR to ensure the consistency and coordination of the Union’s external action as well as prepare policy proposals and implement them after their approval by the Council. The High Representative will present in spring 2010 a plan for this new service. Until future reforms are agreed, the current EU presences in Kosovo will remain in place” (EULEX Factsheet, 2009).
surrounding the deployment of EULEX in the absence of a new UNSC resolution had a major impact on the constellation of EU’s presence ‘on the ground’. The contradiction in this regard was the role of Pieter Feith whose ‘double-hatted’ appointment involved both the upholding of Resolution 1244 (in his capacity as the EUSR) and the active promotion of Kosovo’s independence (in his capacity as the ICR). In operational terms, this represents a schizophrenic position which blurred the lines of communication and undermined cooperation between the ICR and EULEX. Aspects of this conflict were not simply personal; such as the incompatible characters of Pieter Fieth and Yves de Kermabon (the Head of EULEX until July 2010). Some commentators have argued that this revealed a more systematic shortcoming in the design of the EU’s deployment in Kosovo which shifted from the rather hierarchical outlook of the initial configuration of EULEX (the Head of EULEX reporting to the ICR who, in turn, reported to the UNSC) to de facto parallel chain of command (the Head of EULEX reporting to the Council of the EU; and the ICR reporting to the Council of the EU and the International Steering Group) as demanded by the diplomatic impasse over Kosovo’s contested statehood (Papadimitriou & Petrov, 2012)

5.4.3 Cross Pillar Coordination in Action: the Buck Stops with the Commission

The MIPD Annual Programme Projects which operationalised the Instrument for Pre Accession (IPA) 2007-2010 were the mechanism by which SAP was operationalised. These had been outlined in the Enlargement Progress Reports and were designed between DG Enlargement and the European Commission Liaison Office - with the EC Office managing the procurement, implementation, quality control, reporting and coordination tasks ‘on the ground’. Therefore, the manner in which these programmes were
synchronised with EULEX activities would be critical to the overall coordination effort (Interview, 17 & 44).

EC activities managed between the DG Enlargement and the European Commission Liaison Office provided a significant presence in the area of JHA in Kosovo. The IPA Centralised Programme for 2008 was funded up to €25 million; the IPA for 2009, €12 million; while for 2010 the allocation was €15 million (IPA Central Programme, 2008, 2009 & 2010). During the construction and deployment of EULEX Kosovo, the Commission launched several capacity building measures linked to JHA, overlapping with the scope of EULEX’s mandate. These measures included:

- (2009-2011) TWINNING with the Ministry of Justice: €2.4 million;
- (2009-2011) TWINNING with Asylum/Migration/Readmission: €1 million;
- (2008-2010) TWINNING (through UK and Polish contributions) with the Kosovo Border and Boundary Police: €2.6 million
- (2009-2011) Equipment for Border and Boundary Police: €3 million
- The 2007 Centralised Annual Programme allocated €7 million toward strengthening the Rule of Law, and also outlined the substantial, previous EC led assistance in the realm of JHA, in relation to each of the four targeted Rule of Law sectors (police\textsuperscript{153}, corruption\textsuperscript{154}, justice\textsuperscript{155} and prisons\textsuperscript{156}), that EULEX will be

\textsuperscript{153} June 2006- April 2009, Ministry of Internal Affairs and Police Service (€4.4 million); June 2006-May 2007, Training of the Kosovo Police Service to combat transnational crime (€1.1 million); March 2006-September 2007, Building a modern border management system compatible with EU standards (€1.5 million);
building upon. This work was funded under the CARDS funding scheme going all the way back to October 2001 (IPA Centralised Programme, 2007b: 12-13).

The coordination and coherence of goals in EULEX Kosovo and were considerably enhanced by changes made to the way, both, DG Enlargement (through IPA Programming) and ESDP (programmatic approach) compiled and administered their respective programmatic strategies. A fresh installed ‘in-built’ flexibility for the Multi Indicative Planning Document (MIPD), established from 2007 onwards, instilled a new propensity to synergise into the programming process, which had previously been lacking (Interview, 6 & 45). On the EC side, the instigation of the rolling MIPD enabled the opportunity for “updating and adding development priorities every year” (European Commission, 2007: 5). This process of updating MIPD created opportunities for more effective coordination with other EU actors. For example, the MIPD has been the subject of wide consultation during its preparation from the 2007 onwards. The Kosovo authorities were consulted as well as


154 May 2007-November 2008, Assisting the Financial Information Centre to combat economic crime (€1.3 million); September 2004-June2007, Combating Fraud and Financial Crime in Kosovo (€3.4 million (IPA Centralised Programme, 2007: 13),

155 May 2006-April 2009, Ministry of Justice, Office of the Public Prosecutor and the Kosovo Judicial Council (€3 million); April 2005-April 2008, Kosovo Special Prosecutor’s Office (€1.0 million); February 2007-February 2009, Reform of the Juvenile Justice System in cooperation with UNICEF (€1.2 million); October, 2001- June 2007, Modernisation of the Courts (€2.9 million) (IPA Centralised Programme, 2007: 13)

the EULEX mission and the EUSR (Interview, 6 & 45; MIPD, 2009: 5). A main priority of the MIPD 2007-2010 among others focuses on:

consolidating the rule of law through strengthening the wider judicial system police reform supporting the fight against corruption – in close cooperation with the future ESDP mission to ensure a well coordinated and mutually reinforcing approach (my emphasis) (European Commission, 2007: 10)

In turn, EULEX Kosovo would also ‘coordinate’ and ‘reinforce’ with all the components of JHA, and work of the EC in line with ‘European standards’ and acquis, as laid down by the IPA Programme (IPA Centralised Programme, 2007: 2).

The need to ensure compatibility was the central concern from interviews with leading officials in DG Enlargement and DG Home Affairs. By trying to dovetail the programmatic dimension of EU efforts, at the earliest possible stage, between the IPA and ESDP, minimum levels of compatibility were to be embedded (Interview, 10, 44 & 45). Over time this would streamline EU efforts considerably (Interview, 45). In other words, this comes back to the long-standing tension between short-term (ESDP) and long-term (EC) instruments and the mixing of a development agenda and security led agenda (Interview, 17 & 45; Quille, 2009). This tension is particularly salient in Kosovo due to the unambiguously broad, capacity-building focus of EULEX’s mandate (Interview, 9, 10, 42 & 49). Interviews with DG Enlargement officials and CPCC officials reveal that it did take some time for DG Enlargement and the European Commission Liaison Office to convince EULEX and the CPCC that they needed to ‘sign off’ on the compatibility of capacity-building measures to ensure that they are aligned with the JHA acquis (Interview, 44 & 45).

In this sense DG Enlargement pressed the need to “have the last say” (Interviews, 44 & 45).

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157 The other main priorities are: advancing the reform of local self government; promoting human and minority rights; and contributing to consolidation of civil society and public media sector (European Commission, 2007b: 14)
The logic being that given EULEX’s broad ‘capacity-building’ mandate, undertaking work that was incompatible or “unaligned” (Interview, 17) with the JHA *acquis* would be hugely damaging, if not counterproductive, to the EU’s long term efforts in Kosovo. Let us not forget, EULEX were suppose to be laying down building blocks which would be later embellished by DG Enlargement (Interview, 17, 44 & 45).

In this regard we can point to three examples of effective cross-pillar coordination between the Council and the Commission often lacking in previous missions. First, work in ‘Support of the implementation of intelligence-led policing in the Kosovo Police’ detailed in the 2010 IPA Annual Programme was based on assessments by EULEX staff on the Kosovo Police services, and draws quite heavily from analysis contained in the European Commission Progress Reports *vis-à-vis* police capacity. EULEX staff used this data to develop an action plan as part of its programmatic approach (Interview, 59). Then in order to implement the action plan, EULEX and EC services combined to create *A* and *B* components (IPA Centralised Programme, 2010: 6-7). Operationally speaking, this saw an efficacious division of labour combining Council and Commission resources. *Component A* was managed by EULEX whom ‘mentored and advised on the implementation of intelligence-led policing’\(^{158}\), while in a synchronised fashion *Component B* was undertaken by the European Commission Liaison Office, who provided ‘Kosovo Police with IT

\(^{158}\) This took a five aspects: (1) Intelligence-led policing methodology implemented by the Kosovo Police; (2) Improved intelligence gathering vulture among Kosovo Police; (3) Increased ability of the Kosovo Police to plan proactive strategies and operations on the basis of the analysed intelligence data; (4) Better resource planning and more cost-effective policing; (5) Improved analytical capacities of Kosovo Police officers strengthened and Coordination Group and place at local, regional and central level (IPA Centralised Programme, 2010: 12)
equipment to support the implementation of intelligence led-policing’ (IPA Centralised Programme, 2010: 12-13; Interview, 45 & 59).

Second, the EULEX reports themselves give further credence to the argument that a higher degree of synchronicity had developed, especially with regard to relations between the Council and Commission services (Interview, 10 & 59). Evidence of which can be see in relation to the Customs component. EULEX linked up with the EC organised TWINNING project, ‘Strengthening the Rule of Law’, to the Kosovo Border Police, whose training inputs reinforce the MMA process by installing intelligence led policing principles (EULEX 2010: 11). Further indication of ‘policy awareness’ between EULEX and the ECLO is contained in the EULEX Programmatic Reports, again in relation to the Customs component. The excerpt reveals a constructive attitude toward coordination when stating that:

While the 2009 Programme Report have led to the development of targeted EULEX MMA Actions not all of them have seen EULEX in the lead. In order to avoid the overlapping of activities, EULEX closely coordinated with other actors, in particular with the European Commission funded ‘EU Support to Customs and Taxation Administrations’ (EU-CTA) programme which started at the end of 2009. As a result several EULEX recommendations were included in the EU-CTA plan of operations. In some case action in line with recommendations have been taken by Kosovo Customs itself, and where EULEX Customs Component lacked specific skill sets of expertise, Kosovo Customs could count on short-term assistance by the Technical Assistance and Information Exchange of the European Commission (EC TAIEX) (my emphasis) (EULEX Programmatic Report, 2010: 55).

159 This took a five aspects: (1) An effective and reliable single system in place within the Kosovo Police for collating, analysing and distributing intelligence data; (2) Retrievable data available in a timely manner; (3) Kosovo Police Information System and Criminal Intelligence System are in line with international standards; (4) Kosovo Police Information System and Criminal Intelligence System access system is secured and in line with EU data protection standards (IPA Centralised Programme, 2010: 12)
The third example can be seen in the SAP Dialogue sub-committee on Justice, Freedom and Security. Taking place on the 8-10 February 2011 in Pristina, and was the second such meeting, covering the completed and planned activities between October 2010 – October 2011 (Interview, 44, 45 & 50). Present at the two day sub-committee were various dimensions of the Government of Kosovo, the European Commission (in the shape of the Rule of Law Desk Officer from DG Enlargement, DG Home Desk Officer for Kosovo, DG Justice Desk Officer, as well as the European Commission Liaison Office officials) the EUSR and EULEX (Interviews, 6, 44 & 45; European Commission, 2011). EU actors coordinated well in an iterative manner for several weeks leading up to the event, and then for two intense days immediately prior to the sub-committee (Interview, 44 & 45). All EU actors took part in this sharing of information and agreeing common positions to ensure that one, unified message was conveyed to the Kosovo authorities. DG Enlargement’s Rule of Law Desk Officer was in charge of the process, as befitted the overarching role of the Commission, but received excellent support from EULEX in particular (Interview, 6 & 45).

The positive coordination levels revealed in these three examples largely emanated from the institutionalised weekly coordination meeting in Brussels. This weekly meeting reflected a “gear change” (Interview, 17) from previous civilian crisis management missions. These meetings involve actors such as CPCC (including the Brussels Support Element), DG Home, DG Enlargement, officials from the EUSR office, and video links to the mission and European Commission Liaison Office as appropriate. All interviews felt that these meetings had made a significant contribution to the EU presence in Kosovo.

More specifically, the meetings had allowed the actors to lay down common positions on

160 In October 2009 the Commission took the opportunity to mark a new stage in EU-Kosovo relations and accordingly issued another ‘state of play’ document entitled ‘Kosovo Fulfilling its Perspective’. As part of this process the Commission decided to rename the SAP Tracking Mechanism, the SAP Dialogue (European Commission, 2009b: 12).
issues, especially where activities and goals overlapped. Commission officials stated that it
was this forum that allowed them to reinforce the alignment of *acquis* ensured that the
Kosovo authorities were presented with a single voice, as much as humanly possible
(Interview, 6, 9, 10, 42, 44 & 45).

Of particular note here is the importance of the CPCC. Officials from the Commission and
CIVCOM accepted that CPCC had made a significant contribution to these weekly
meetings. CPCC emerged as an institutionalised “arena of exchange” (Interview, 6) where
relevant actors in Brussels could coordinate. Moreover, it engendered an attitudinal shift to
coordination which many interviewees put down to its explicit focus as an actor charged
with the planning, deployment, conduct and review of civilian missions (Interview, 42 &
49). On a practical basis the CPCC’s EULEX Kosovo section has three desk officers
dedicated to the mission. In addition there are four desk officers in the EULEX Brussels
Support Element who belong to the mission itself, but are based in the CPCC, providing a
bridge between Brussels and Kosovo and often serving to pre-empt any difficulties or
tensions (Interview: 9, 10, 42 & 49). The Brussels Support Element do not attend meetings
which deal with the strategic direction of the mission, i.e. meetings which may be critical
of EULEX leadership or the strategic direction of the mission (Interview, 42).

This section has depicted cross-pillar coordination in positive terms, however, this should
not obscure the fact some longstanding problems persisted. For example, staff in EULEX
expressed frustration at the restrictive stipulations of the CFSP budget, administered by the
Commission, citing in particular the creation (and equipping) of the EU House in North
Mitrovica. Given that EULEX does not have a budget of its own, the mission were
required to wait for the CFSP Unit in the Commission supply basic IT facilitates. This took
several weeks and reflected badly on notions of ‘crisis management’, for what was a high priority issue (Interview, 10).

5.4.4 EULEX the Commission and Intra-Institutional Coordination

The role of the EUSR proved to be a largely an unimportant component in terms coordinating the EU’s projection. The Commission, CPCC and EULEX actors stated that on a day-to-day basis the EUSR was absent from their considerations (Interviews, 6, 9, 10, 42, 44, 45 & 59). This was despite the fact that the double-hatted EUSR/ICR was designed to be the main agent of coordination included the fact that the European Commission Liaison Office and EULEX had very good relations with one another (Interview, 10, 44, 45 & 59). This was in contradistinction to the costly inter-institutional conflict which resulted from a personality clash between the EUSR and Head of Mission for EULEX (Interview, 55; Papadimitriou & Petrov, 2012). Finally, the Kosovo authorities themselves preferred to work with the Head of Mission for EULEX and especially with the Commission Liaison Office. As a political adviser to Kosovo put it: “we know our priorities and when we need direct help we address the Commission Liaison Office, who can finance us through the IPA” (Interview, 55).

Intra-institutional coordination within the Commission was close. For example, the weekly Kosovo meetings often witnessed that the relevant DG Enlargement official works so closely with their counterpart in DG Home Affairs, that they would go to the meetings in place of one another, so aligned was their thinking (Interview, 44 & 45). Although the DG Justice\(^\text{161}\) desk officer dealing with Kosovo operated more at arms length, with far less day

\(^{161}\) DG Justice separated from DG Home during the summer of 2010.
to day contacts with both Brussels based actors and staff in the Commission Liaison Office (Interview, 50).

5.4.5 Managing the Link of EU Internal Security to EULEX

The conclusions of the JHA Council in June 2008 signified the biggest development in making EULEX ‘internally relevant’ to the EU space (Council of the European Union, 2008e: 1-2). These conclusions requested that the Council Secretariat and EUROPOL work together and make proposals to Member States by the end of 2008 to seek “further possible ways of setting up cooperation mechanism between EUROPOL and the relevant ESDP mission to exchange personal data via EUROPOL National Units of Member States” (Council of the European Union, 2008e: paragraph 5). The JHA Council was cognisant of the forthcoming administrative arrangement to exchange non-personal data\(^\text{162}\) between EUROPOL and civilian ESDP, which was signed on the 25 August 2008. This was achieved via the exchange of letters between EUROPOL Chief Max – Peter Ratzel and Javier Solana (Council of the European Union, 2008e).

The direction from the JHA Council provided political cover for the relevant actors to initiate this process (Interview, 42). The CPCC and EUROPOL wrote a ‘joint reflection paper’ with two objectives. First, to explore the potential solutions for the exchange of personal data. Second, a specific solution for Kosovo (Council of the European Union, 2008f: 2). This should take on board the unique circumstances: namely, the legal situation, and second, the fact that it is the only mission with an executive mandate with the capacity to conduct its own investigations (Interview, 4 & 53).

\(^{162}\) Non-personal data or ‘strategic information’ means information not containing any data related to an identified or which could in anyway lead to the identification of an individual (Interview, 4 & 53)
The principal obstacle to the exchange of personal data was the fact that ESDP missions do not have legal personality (i.e. to be considered a ‘body’ under the EU law, like EUROPOL). For EUROPOL to be able to exchange personal data it needs to have signed an agreement with the third party in question – in this case the ESDP mission. The lack of legal personality invested in a ESDP mission would mean that EUROPOL could still receive data from a mission; however, it could not reciprocate (Council of the European Union, 2008f: 7). Such ‘one-way traffic’ would dramatically undermine the purpose of the exercise (Interview, 4, 47 & 53). The ‘joint reflection paper’ offered a creative solution which involved using EUROPOL National Units, which would have legal cover. These units are actually mere liaison officers that link EUROPOL and national authorities. The solution was to use the units as ‘go betweens’, between the ESDP and EUROPOL (Council of the European Union, 2008f; Interview, 4 & 53).

In practice the interchange between EUROPOL and ESDP missions involves EUROPOL sharing the analytical results of specific Analysis Work Files, with the designated participants in the Analysis Work Files of the Member States (Council of the European Union, 2008f: 5). Member States competent authorities can access the information provided by EUROPOL. Information can also be transmitted to seconded experts to relevant ESDP missions – these experts would remain under the operational control of the Head of Mission at theatre level while at the same time being in a position to receive information from respective EUROPOL National Units (Council of the European Union, 2008f: 5). The information provided by the Member States or their respective experts seconded in relevant ESDP missions can be used to support ongoing investigations in line with the mission mandate, and possibility presented as evidence in front of Kosovo courts (Council of the European Union, 2008f: 5-6). On the flip side, EUROPOL National Units
can release information to EUROPOL for Analysis Work Files, possibly to be used in domestic EU courts (Council of the European Union, 2008f: 6).

The Council approved that in close cooperation with EUROPOL the CPCC’s should implement an information exchange via the EUROPOL’s National Units without delay. Also the CPCC and EUROPOL should conduct a joint evaluation of the implementation mechanism before June 2009. 163 This report was presented in person to the Article 36 Committee but not to CIVCOM. An oversight such as this was indicative of the problems in institutionalising cooperation between internally and externally focused bodies (Interview, 4, 11, 32 & 51).

In January 2009 a Standard Operating Procedure had been established between the CPCC and EUROPOL. In February 2009 the non-personal administrative arrangement for non-personal data was implemented, after the CPCC Civilian Operations Commander (Mr Klees Klompenhouwer) issued instruction to Head of Mission for EULEX (and EUPM). 164 It was decided that for the European Union Office for Criminal Intelligence (EUCOI) would be the appropriate office to manage the exchange of data with supporting EUROPOL National Units. 165 Three Member States came forward to facilitate this process: Finland, Sweden and the UK (Council of the European Union, 2009b: 8).

163 It also asked that Member States should in light of the outcome of the joint evaluation consider whether the mechanism be amended or extended to other civilian ESDP mission (Council of the European Union, 2008f: 4).

164 See Chapter Two (figure 2.4) for a list of previous and ongoing ESDP missions.

165 In order for data to find its way into the Analysis Work Files - which is where the genuine added value of the process lies – volunteering EUROPOL National Units need to be a member of the Analysis Work Files and have staff resident within the European Union Office for Criminal Intelligence, to pass the information to (Interview, 53 & 57).
The CPCC became a prominent actor in facilitating the smooth management of this process, having a direct contact, in the form of a desk officer, with EUROPOL to oversee this process and ensure that EUROPOL National Units have the support and advice required (Interview, 42 & 53). If you combine this role with the CPCC’s position as ‘arena of exchange’ for the weekly meeting in Brussels meetings then a picture emerges of a powerful ‘gatekeeper’ role for the CPCC, whereby the CPCC deals with the Commission with its left hand, and EUROPOL with its right (Interview, 4 & 42). In large part this occurred due to the reluctance to have the actor based in the first pillar (in this case DG Enlargement) dealing directly with the third pillar. This in turn was reflective of a mindset that did not want to appear to be mixing development and security agendas (Interview: 4, 6, 28, 30 & 31). The DG Enlargement desk officer would acquire general information on Kosovo held by EUROPOL, through colleagues in the International Unit of DG Home Affairs who dealt directly with EUROPOL (Interview, 44 & 57). Similarly, a senior DG Enlargement official for the rule of law started to meet with an International Officer for EUROPOL, a process smoothed by the DG Home. Interviews revealed that the concerns over the political-criminal nexus in Kosovo made this necessary and signifies a notable development (Interview, 45 & 53).166

More substantive progress can be witnessed in November 2010. The European Union Office for Criminal Intelligence, the body responsible for holding the information from the EUROPOL-CPCC data exchange circulated a ‘EULEX Strategic Threat Assessment – Organised Crime in Kosovo’ (Council of the European Union, 2010a). CIVCOM

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166 For example, 2010 and 2011 EULEX mounted investigations, indictments and convictions were achieved in organised crime case – this included operations that targeted government officials and premises (European Commission, 2011: 57-58). In addition wide spread allegations of criminality filled the media during 2010 and 2011 regarding senior political figures in Kosovo, including the Prime Minister of Kosovo Hasim Thaci (Guardian, 2011)
interviews revealed that the close, intra pillar, relationship with the CPCC ensured this was
done and can be considered as congruent with the focus on information sharing (Interview,
30, 31 & 52). It also meant that when they received OPLANS, to revise, they were better
informed (Interview, 11).

5.4.6 EULEX and other JHA actors: FRONTEX and JAIEX

In terms of the other JHA agencies, FRONTEX has played rather a restricted role to date.
However, this started to change in 2011 with FRONTEX being encouraged to participate
much more by the both the Commission and Council (Interview, 44, 48 & 54). As the
2011 Work Programme outlines, “it is time to explore how to enhance cooperation with
certain ESDP operations of missions, e.g. EULEX” (FRONTEX, 2011:120-123).

Interviews with FRONTEX revealed that EUROPOL were seen as the lead actor although
the push toward greater inter agency cooperation has brought them more into to the fore.
FRONTEX were consulted on issues in a timely fashion, which has manifested itself
through threat assessment reports, but has made little operational contribution (Interview,
54). In this respect, the move in June 2011 to allow FRONTEX to deal with personal data
marks a significant development (Interview, 53 & 54).

Finally, JAIEX – the ad hoc support group concerning the external dimension of JHA
questions which was created in September 2008 - made no discernable impact on EULEX
(Interview, 9, 10 & 15). This was despite being up and running throughout the duration of
EULEX Kosovo. JAIEX held monthly meeting for the first two years of the mission
(Interview, 15), however, these meeting were too infrequent to make any impact (Interview,
4). For example, COWEB, the Western Balkans working group held twice weekly

167 See the Conclusion of the thesis for a discussion on COSI and the post Treaty of Lisbon arrangements
meetings, while the CPCC convened the weekly meeting for EULEX (Interview, 26 & 27). Furthermore, JAIEX had no input at with the JHA subcommittees (Interview, 6 & 45). Therefore, JAIEX was commonly thought to be just a “talking shop” at this stage (Interview, 35).

Figure 5.3: Operational Coordination for the EU in Kosovo

Source: my construction
5.5 Regulating the External Dimension of JHA and EULEX

This section is concerned with the notion policy outcomes and their monitoring. This is best conceived as goal attainment and is not to be confused with an ‘impact assessment’ of developments ‘on the ground’. Rather, the notion of outcomes collates the EU’s available self assessment exercises in order to reveal how outcomes are established at the EU level; all of which links back to the thesis conceptual apparatus in Chapter One.

5.5.1 CPCC and ESDP Analytical Documents: Reviewing Success Differently

Significant changes in the way ESDP missions are monitored and reviewed by the Council Secretariat which served to impact on the regulation of EULEX Kosovo. The CPCC’s Head of Planning and Methodology said that the CPCC had been created to “tighten the grip on the missions” (Interview, 49), and as part of process Member States, via CIVCOM, had requested that they develop a “mission implementation programme” (Interview, 49). Member States were now beginning to ask serious questions such as, how effective are these missions? And, how do we define success for these Missions? (Interview, 28 & 49). This process started in October 2008 (just after the launch of EULEX Kosovo) by changing approaches to regulating the ESDP through analytical documents and the EU’s self assessment cycle. The ‘Guidelines for identification and implementation of lessons learned and best practices in civilian ESDP missions’ (Council of the European, 2008g) summarises the new system as a:

Cycle of lessons and best practices start which with the identification of lessons and continues with their analysis, endorsement, implementation and dissemination. To ensure that the learning cycle is complete a further step is to transform the lessons learnt into new or revised policies working methods and best practices and to disseminate (Council of the European Union, 2008g: 2)
This was to be a four-step process. First, through the identification of lessons and reporting, \(^{168}\) led by the CPCC through Internal Support Reviews. \(^{169}\) Second, via the analysis of lessons which will be based on reports taking place at the end of the planning phase; at the end of the missions; through the introduction of a lessons identified in six monthly reports; through the introduction (such as a change in mandate) of lessons learnt for ongoing missions and through reports on horizontal issues such as SSR or organised crime (Council of the European Union, 2008g: 3). Third, through the implementation of lessons and then, latterly, through their dissemination. The implementation of lessons is now to ensure that the learning cycle is completed, i.e. through revised policies. The dissemination of which must work across Brussels, through concepts or manuals (Council of the European Union, 2008g: 3; Interview, 28).

Many of these changes were institutionalised straight away, as dictated in a note \(^{170}\) from the CPCC to CIVCOM on the 27 October 2008, and in doing so immediately impacted upon EULEX Kosovo (Council of the European Union, 2008h). These changes included a lessons learnt paper identified in six monthly mission reports; yearly reports for ESDP by October 2009; as well as the identification and agreement of lessons from the planning phase for EULEX (Council of the European Union, 2009e). \(^{171}\) For instance, on the 11

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\(^{168}\) This covers the collation of observations and experiences from the political, strategic and tactical levels of planning and conduct of civilian ESDP missions (Council of the European Union, 2008g: 3; Interview, 49).

\(^{169}\) These Internal Support Reviews were created hand in hand with the lessons learnt process. They were designed to focus on the continuous improvement of the effectiveness of planning and conduct of operations. They are aimed at assisting the missions in meeting objectives as defined in its mandate, and to assist the CPCC in managing the overall performance of ESDP missions. This process includes visits to the Mission and interviews with Mission staff and host nation interlocutors (Interview, 49).

\(^{170}\) This was entitled an ‘Analytical note from the Council Secretariat (CPCC) concerning implementation of the guidance of lessons learnt and best practices’ – in response to the instigation of the new learning cycle (Council of the European Union, 2009c).

\(^{171}\) This also included the EUMM Georgia and EUSSR Guinea Bissau (Council of the European Union, 2008). See Chapter Two (figure 2.4) for an overview of all ESDP missions.
December 2009, a ‘Lessons and recommendations report on the planning phase of EULEX Kosovo’ was compiled and distributed. CIVCOM them discussed the report in two meetings on 14 and 29 January 2010. They then discussed EULEX in light of this (lessons learnt) report and the six month report adjusting their advice accordingly (Council of the European Union, 2010; Interviews, 49 & 52).

In this context EULEX Kosovo developed a Programmatic Approach. This is managed by the EULEX Programme Office in Pristina. They monitor and assess performance by defining field monitoring of activities and setting performance measures or indicators. This is done in close liaison with the CPCC who spend a lot of time and energy ensuring that the mission has the performance indicators as a priority (Interview, 59; EULEX Programmatic Report Strategy, 2009; EULEX Programmatic Report, 2010; EULEX Programmatic Report, 2011). Developing a programmatic approach has been seen as essential for the success of missions as it provides a tool with which to review the achievement of missions’ objectives (Interview, 49 & 59). As was documented later in October 2009 a new ‘Comprehensive ESDP Concept for Police Missions’, three stages should characterise the process: the development of the programme; the implementation and mentoring of the projects; and the review of the programme and evaluation of its impact (Council of the European Union, 2009c; Interview, 4 & 49). Although most officials accepted that reviewing process had improved the quality of evaluation, many argued that the reports were still very politicised and were not especially good at effectuating reflective approaches. Of note here is the fact that similar sentiments were offered by CIVCOM representatives who thought that OPLANS, CONOPS and the review documents, measuring effectiveness and defining success, were generally unreflective.
Rather they tend to be very technocratic and a times is still too quantitative (Interview, 30, 31, 49 & 52).

5.5.2 Cross Pillar Coordination: The Give and Take of the Monitoring Process

The EULEX Programme Office devises and monitors performance in close coordination with the European Commission Liaison Office (Grevi, 2009: 365). Interviews suggested that “assessing impact depends on good coordination” (Interview, 59). However, just like the management phase, this is a two way process whereby both rely on each others evaluation efforts. Interviews confirm that the introduction of programming activities as a ‘continuous exercise’ involving six-month cycles of formal reassessment made a significant impact on monitoring progress. This process which entails the analysis of data, outputs and performance indicators which then guide EULEX in modifying, adapting, reorienting and redesigning programme activities as well as adapting or introducing new performance indicators (Interview, 49 & 59; EULEX Programmatic Report, 2010).

The cycle of regulation is reinforced by the work of the European Commission Liaison Office and DG Enlargement in the production of the Progress Reports, published annually (in November). The constant flow of these public reports amounts to a constant monitoring exercise, which in and of itself, applies pressure to the authorities of Kosovo to reform (Interview, 6 & 17). Prior to both the EULEX and DG Enlargement Reports intensive preparatory consultation takes part; this includes an option for the EUSR to comment (see European Commission, 2009c: 12; European Commission, 2010: 4; Interviews, 44, 45 & 59). For example, EULEX will defer to the relevant experts in the European Commission Liaison Office and vice versa (Interview, 46 & 59). This institutionalised collaboration marks a significant departure from previous efforts at reporting ‘success’. Moreover, EULEX have requested certain issues to be given more emphasis in Kosovo’s Annual
Progress reports in order to apply pressure. This logic here was that pressure is more effective when it is linked to notions of enlargement and future funding streams (Interview, 44, 45 & 59).

5.5.3 How well was EULEX linked to the Internal Security of the EU?

The policy outcome of the data exchange between EULEX and EUROPOL was seen as being very successful across the Brussels based actors and at the Hague (i.e. EUROPOL Head Quarters). The successful institutionalisation of the process revealed itself in November 2010 when CIVCOM was briefed on the value of data in a ‘European Union Rule of Law in Kosovo Strategic Threat Assessment – Organised Crime in Kosovo’ (Council of the European Union, 2010a). As a CIVCOM representative stated, this is the next step, whereby the information is shared across the EU system and is indicative of the exchange becoming embedded: CIVCOM will expect this information from now on (Interview, 52). Interviews with those privy to the details of the data exchange state that the quality of this information is high, amounting to genuine added value (Interview, 42, 48 & 53).

Having done a joint CPCC-EUROPOL reflection paper, after on year into the exchange. This information included: trend reports on serious and organised crime; situation reports; threat assessments and capacity building measures (Council of the European Union, 2009b: 5-6). In relation to information exchanged between EUROPOL and the mission, this concerned illegal immigration, drug and weapons trafficking. At this stage only a handful of exchanges of information for both, non-personal and personal data, had taken

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172 EUROPOL have received 1 request for information from EULEX, and made 1 request in return. On request EUROPOL forwarded 2 internal assessment reports on organised crime and responded to a specific request of assessment (Council of the European Union, 2009: 6).
place, however, this rose considerably after the first year of use as more actors became familiar with the opportunities (Council of the European Union, 2009b: 6 & 11).

A new date of autumn 2011 was set for a thorough, classified, evaluation. Interviews also confirmed that the decision to expand the process as much as possible, with the scope of the mandates, had been taken by CIVCOM in July 2011 after a briefing from DG Home Affairs stating how well the process had been (Interview, 52, 55 & 56).

This following section will conclude the chapter by briefly linking its findings to the thesis’s research questions and corresponding hypothesis; it will also identify some themes that can be carried forward into the thesis Conclusion where the research questions and hypothesis will be considered in detail.

5.6 Conclusion

This chapter has covered the planning, management and assessment of EULEX Kosovo and its relationship to the external dimension of JHA. In doing so it has detailed EULEX’s relationship with other EU based actors, such as the European Commission the EUSR and JHA Agencies.

The **Steering** section has covered the construction of EULEX and in doing so has shed some light on the first of our research questions (What has been the impact of the external dimension of the JHA agenda on the construction and outlook of civilian crisis management missions?) and Hypothesis A. \(^{173}\) Here we found that a prolonged planning phase, dictated to the EU by the complicated final status process, had positive and negative consequences. The construction of EULEX witnessed effective coordination between the

\(^{173}\) Hypothesis A: The narrower the scope of the civilian crisis management mission mandate the easier it was to design and construct a mission that accommodated the JHA agenda in a coordinated and coherent fashion
Council and the Commission. This was a product of two dynamics. Namely, the recognition that an ESDP mission in Kosovo was to be a ‘litmus test’ for the credibility of EU crisis management and thus necessitated an avoidance of public bureaucratic ‘turf wars’. Buttressing this dynamic was the improved strategic position (in institutional and policy terms) of the Commission (and more specifically DG Enlargement) vis-à-vis the ESDP structures, in comparison to previous crisis management missions in the region.

On the issue of ensuring that the mission was linked to the internal security of the EU, we discovered that the EU failed during the construction of EULEX to establish operational links between ESDP and JHA Agencies despite ample institutional opportunities. This failure was achieved in spite of manifest evidence demonstrating that relevant actors had ‘policy awareness’ (from March 2006 onwards) of the forthcoming ESDP mission to Kosovo and were cognizant of the calls to make operational links at the ESDP-JHA interface. This chapter detailed how it took until June 2008 and an intervention from the JHA Council for substantive policy change to occur. This act of entrepreneurship (which the Conclusion to this thesis will argue can also be seen as an instance of ‘lessons learnt’) provided the lower level actors with the necessary political cover for legal restrictions to be overcome. As a result a EUROPOL-CPCC agreement was arranged for both non-personal (i.e. strategic data) and personal data. The personal data arrangement was implemented for EULEX through an elaborate scheme utilising EUROPOL National Units: the operation was up and running by January 2009. This development is especially pertinent for research question three (To what extent has the governance of the three missions been improved by a learning process based on accumulated experience?) and Hypothesis C.174

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174 Hypothesis C: The governance of the mission have been shaped by a ‘learning by doing process’ rather than individual acts of institutional and policy entrepreneurship
As we shifted our focus onto the deployment and Management of EULEX we gained insights pertinent to the thesis second research question (What has been the impact of the external dimension of the JHA agenda on the construction and outlook of civilian crisis management missions?) and Hypothesis B. The most significant observations from the management phase in matters pertaining to JHA, was the effective relationship between the European Commission Liaison Office and EULEX. This went beyond informal coordination to something more akin to a ‘coordination reflex’ with programming, through both the EULEX Programmatic Strategy and the MIPD, and their respective implementation. Moreover, this process saw the Commission establish itself as the more dominant actor due to the need to align EULEX’s work with the JHA acquis. This process was aided by the institutionalised weekly meetings in Brussels, overseen by the CPCC who filled a policy space long lacking regarding direct control of ESDP missions. The incorporation of the Brussels Support Element also represented a novel policy solution. In relation to intra-institutional coordination (i.e. internal coherence) the extremely close relationship between DG Enlargement and the International Affairs Unit in DG Home Affairs proved important at expediting information and coordination between EUROPOL and DG Enlargement. Of note here was the conspicuous absence of JAIEX from any substantive role with EULEX or other aspects of JHA in relation to Kosovo.

The Regulation section reinforced observations made in the Management section regarding cross-pillar cooperation which spilled over into the monitoring process. The EULEX Programme Office worked closely with the European Commission Liaison Office in a

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Hypothesis B: The clearer the institutional leadership behind a civilian crisis management mission, the better the prospects of that mission having and maintaining the highest levels of coordination with other EU actors
mutually dependent and reinforcing relationship. Meanwhile the analytical documents regulating civilian ESDP became more reflective, although still faced substantial shortcomings. Policy feedback became more systematised with lessons learnt and six-monthly reports becoming institutionalised. Finally, in relation to the need to link EU activities to the internal security EU, DG Home Affairs put in place detailed monitoring process for the exchange of data betweenEUROPOL and EULEX.

As a consequence a number of themes can be selected to take forward to the thesis Conclusion where they will be unpacked in more detail. First, an attitudinal and procedural shift in relations between the Council and the Commission services on programming, implementation and monitoring which had knock-on effects for horizontal and strategic coherence. Second, the establishment of an ad hoc arrangement whereby personal data was exchanged between EUROPOL and EULEX and signifies a major step forward. Third, the emergence of the CPCC as a new and important actor in its own right offering a ‘problem solving’ arena and mediating force for horizontal coherence.

The next section will be a substantial Conclusion that addresses the research questions and hypotheses in light of three case-studies.
The main research question of the study is: *To what extent has the multidimensionality of the external dimension of JHA affected the EU’s scope to act as an exporter of Europeanisation to its periphery?* The rationale behind the question was, as Chapter One outlined, that the more coherent the EU is in mobilising its capabilities, the more effective it will be in exporting its goals to its periphery; the ‘goal’ to be mobilised here is the Europeanisation of JHA related structures in third countries (in this case Macedonia, Moldova & Kosovo). The assumption of this thesis analytical frame is that coherence begets effectiveness. In this sense the coherent governance of the external dimension of JHA establishes itself as a precondition of EU ‘actorliness’. The analytical framework distinguishes between three categorisations of coherence, which can be used to measure the governance of the external dimension of JHA. These categorisations of coherence are: horizontal (covering cross-pillar relations), internal (covering intra-pillar relations) and strategic (covering the relations between design and implementation, and the tactics of goal mobilisation).

The multidimensionality of JHA and the contested nature of civilian crisis management were revealed in Chapter Two, as was the ambiguity about exactly how the EU would operationalise the interface between the two domains. This ambiguity emanates from the complex character of the decision-making process and the multiple actors present in both domains. The argument made in Chapter Two is that this complexity serves to put extremely high demands on the coordination process and problematises the cultivation of coherence, be it horizontal, institutional or strategic. Put differently, Chapter Two

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176 The definition of the Europeanisation use in this thesis, outlined in Chapter One, is as the ‘influence of the EU’ or the ‘domestic impact of the EU’ (see section 1.4.3).
establishes that it was unclear how the EU’s *structure* (institutionalised forms of behaviour) and *process* (the interaction of relevant actors) could generate coherent outcomes in the external dimension of JHA.

In order to test the performance of the EU in governing these two domains this thesis engaged in an in-depth analysis of three case studies, in which civilian crisis management missions with JHA relevant mandates were projected into the EU’s milieu. These three case-studies are used to shed light on thesis’s main research question (see Chapters 3, 4 and 5). This main question was supported by three subjacent research questions, detailed below, with corresponding hypotheses. This concluding section of the thesis will return to each question and hypothesis in turn, and summarise the findings in the context of the three categorisations of coherence mentioned above.

The main argument of the study proceeds as follows. Firstly, this thesis found that where coordination was simplified (i.e. clarification and streamlining of institutional roles and responsibilities) *coherence* improved. Second, that *strategic coherence* was dependant on reasonably high levels of *horizontal* and *internal* coherence. Furthermore, *horizontal coherence* was needed for *internal coherence* to be meaningful. In this sense this thesis argues for some degree of hierarchy of coherence: *horizontal* – *internal* – strategic.¹⁷⁷ Third, none of the categorisations of coherence were especially insightful in capturing the difficulties that existed, and persisted, over the relationship between the ‘internal’ and ‘external’ policies, beyond the fact that there was poor *horizontal coherence* between pillar III and other two pillars. In this sense the disconnection between internal and external policy was far more intractable, and therefore not irreducible, to *horizontal coherence* (cross-pillar relations) alone. Not surprisingly then, the problems of linking actors in the

¹⁷⁷ See Chapter One, section 1.5.2 for an exposition of the categorisations of coherence.
third pillar to actors in pillar II, were more structurally embedded and therefore more severe, than the problems of horizontal coherence between pillar I (EC) and II (ESDP). This problem was particularly salient in the planning phases and links to argument four, which is that the need to link the external dimension of JHA (with the civilian crisis management missions) to the internal security of the EU was largely sacrificed in favour of the coherence of the Union's external relations. This in turn links to argument five, which is that the longer the mission’s duration the better the chance that a link to the internal security of the Union (through JHA Agencies) could be operationalised. This is because these operational links depended on ad hoc (and therefore piecemeal) solutions that operated more as a ‘stop gaps’ than substantive policy and institutional solutions. In fact the link the JHA Agencies was the only way that a link to the EU’s internal security could be created beyond a de facto contribution. Sixth, the thesis found scant evidence that JHA had become a foreign policy into itself, rather as argument Five states, JHA was firmly embedded in existing EU foreign policies.

6.1 Returning to the Thesis’s Hypotheses

The first question this thesis asked was:

1. What has been the impact of the external dimension of JHA agenda on the design of civilian crisis management missions?

**Hypothesis A:**

The narrower the scope of the civilian crisis management mission mandate the easier it was to design and construct a mission that accommodated the JHA agenda in a coordinated and coherent fashion.
This question and hypothesis we addressed in the *Steering* sections of each of the three case-studies (see sections 3.4; 4.4 and 5.3).

The three case-studies did not confirm Hypothesis A. In fact the mission with the narrowest mandate (*Proxima*) performed the least well in accommodating the external dimension of JHA agenda within its design; whilst the mission with the broadest mandate (EULEX) fared much better. Perhaps the most significant insight from the design phase, was the fact the scope of the mandate was not the most important determinate of, whether or not, the design of a mission was able to accommodate the JHA agenda. Rather, factors more closely associated with the complex *structure* and *process* of EU policymaking dictated the relative success or failure of coordination efforts. In terms of coherence the design of the mission revealed poor levels of *horizontal coherence* (be it between or across pillars I, II or II). The planning phases also confirmed *horizontal coherence* as the main, but not the exclusive route to greater *strategic coherence*. The most lamentable performance, which was reasonably consistent across all three case-studies, was the inability of the EU to link JHA Agencies to the missions. In fact it was less the inability to overcome the legal and institutional complexities of EU policymaking, but more the paucity of effort to even try and make explicit the internal relevance these missions had to the internal security of the EU. This reflected extremely poorly on *horizontal and strategic coherence*, revealing a deep disconnect between internally focused and externally focused actors.

The case-study analysing the *Proxima* mission (the focus of Chapter 3) *Proxima* was the mission with the narrowest mandate (of the three case-studies selected), but struggled to accommodate the JHA agenda. This study found that the mission’s failure to incorporate the external dimension of JHA agenda into the design of the mission was essentially a
story of missed opportunities which were, on the whole, distinct from the scope of the mandate. These missed opportunities were a product of the *structure* and *process* of the EU’s institutional organisation, which served to reveal weak levels of *horizontal* and *strategic coherence*.

*Proxima*’s draft CONOPS (12 September) reveals that (the mission launched on the 15 December 2003) reasonable efforts were made to accommodate the ‘cross-pillar’ dimension of the JHA agenda, as well as the privileged role of the contractual framework. For instance, the draft CONOPS recognised previous and ongoing EC led assistance (within the framework of the contractual framework SAP and SAA) in the JHA realm (see section 3.4.1) and, as a result, a ‘two pronged’ approach was envisaged. In this design the Commission would undertake development/capacity building work within the Ministry of Interior /Police Reform and integrated border management; while *Proxima* was to deal with the ‘urgent needs’ of the Macedonian police (i.e. a short term-long term division of labour was envisaged). Advice from the Council’s supporting actors CIVCOM and COWEB (both given on the 18 September 2003) explicitly called for further work to be done to distinguish between *Proxima* and the Commission led assistance (see 3.4.2) because, as currently envisaged, it lacked clarity *vis-à-vis* precise roles and responsibilities. The fact that this advice to refine the scope and function of the mandate was not incorporated, demonstrates that good institutional and policy opportunities were passed up to improve *horizontal* and *strategic coherence*. A refined mandate could have managed the cross-pillar dimension more effectively and helped resolve outstanding tactical questions linked to *strategic coherence*. Such as, how a ‘two pronged’ approach could be characterised by complementarity rather than a competitive ethos once ‘on the ground’. In other words, it could have clarified better how the efforts of *Proxima* were actually
designed to strategically support, or reinforce, Macedonia’s existing contractual agreement, the SAA, itself designed for the longer-term Europeanisation of Macedonia’s security sector.

It is a similar story (i.e. missed opportunities) on the need for Proxima to contribute to the internal security of the EU. A major way in which the civilian crisis management missions tried to ensure this facet of the agenda was fulfilled, was by linking ‘JHA Agencies’ (be it EUROPOL or FRONTEX), in an operational manner, to civilian crisis management missions. The first reference, in connection to the Proxima mission and the involvement of JHA agencies (in this case EUROPOL) appears in the COWEB report commenting on the draft CONOPS (of 18 September), in which an exploration of the possibilities for EUROPOL was proffered. This is the only reference from an externally focused actor in the planning phase but serves to demonstrate that actors were at least aware, in a strategic sense, of this option. Meanwhile, between the 27 October and 28 November 2003 there were a series of policy initiatives regarding JHA in the Western Balkans, including Macedonia and Proxima. However, all of these initiatives remain disconnected from externally focused actors and are instead organised, for example, by the Article 36 Committee and the Multi-Disciplinary Group on Organised Crime (i.e. internally focused actors based in the third pillar). Some of these exchanges were very detailed. For instance, the 11 November 2003 report from the Multi-Disciplinary Group on Organised Crime to the Article 36 Committee spells out both the forthcoming Proxima mission and ongoing EC assistance (funded through CARDS), and recommends that EUROPOL should start up an information exchange between itself and the mission by its start date (15 December 2003) (see 3.4.5). No briefings were arranged between internal and external EU actors and no mention of these initiatives were found in strategic documentation reflecting these
opportunities, prior to the launch of the mission. This reveals extremely low level of *horizontal coherence*, which sees policy initiatives in the third pillar concerned with internal security operating in parallel rather in synchronisation. Poor *horizontal coherence* prevents the emergence of *strategic coherence*.

The design of EUBAM’s mandate accommodated the JHA agenda in a more coordinated fashion than *Proxima* managed. However, the reasons for this are far from straightforward. This confusion is a product of the tense cross-pillar dynamics that marked the construction phase, which we can say cultivated relatively low levels of *horizontal coherence* (see section 4.4.1; 4.4.2 and 4.4.3). Such *horizontal coherence* was characterised by a defensive posture from the Council over, what they perceived to be, the Commission’s institutional ambition to reclaim the domain of civilian crisis management (these tensions were discussed in Chapter Two, section 2.3.1 and 2.4). The result was a Brussels based institutional wrestle over ownership and control of EUBAM. The eventual outcome of which was an EC led mission overseen by the Council, via the EUSR. Crucially, the mission obviated the normal retinue of civilian ESDP bureaucracy and chain of command (i.e. CIVCOM and Council Secretariat DG IX) (see section 4.4.2 and 4.4.3). This left a degree of confusion as to where and how strategic control would manifest itself. Of particular interest is the impact that making this an EC led mission actually had on the degrees and relationships between *horizontal, internal* and *strategic coherence*. The first thing to observe is that *internal coherence* in the EC pillar was especially good. The Commission demonstrated its capacity to design a mission by drawing on its internal expertise through geographic desks and sectoral DG’s. The way the scope of the missions’ initial mandate was elaborated saw the emergence of a dual mandate. This dualism was a first focus on JHA and border management, and second, contributions to conflict resolution.
in Transnistria through ‘wider efforts’ (see section 4.5.1). This refining of EUBAM’s mandate served to narrow the scope of the mission, and from the EC’s perspective, move the emphasis away from the ‘political’ conflict resolution dimension, to the technical, Europeanisation of JHA.

One of the consequences of the EC design of the mission was an improvement in horizontal coherence, by virtue of the fact that there was less need to manage relations at every stage with the Council. In this sense it simplified coordination efforts and reduced the need for a meditating ‘task force’ with Proxima, through which they could, manage cross-pillar relations. In addition, there was an immediate improvement in strategic coherence due to the fact that many of the relevant services were now ‘in house’ (within the EC pillar). In this sense, greater internal coherence de facto fostered greater strategic coherence. For instance, it was a natural reflex for the Commission actors to embed EUBAM within the ENP process, a synchronising move that may not have been achieved if the Council had designed the mission under an exclusive ESDP label.

Despite these changes, the need to make the mission relevant to the internal security of the Union still proved extremely difficult to achieve. This issue was beset by similarly poor levels of horizontal and strategic coherence that characterised the Proxima mission. For instance, there was no policy activity within the third pillar in connection with the mission (i.e. the Article 36 Committee) whatsoever. In addition, despite the JHA agencies being included in the ENP Strategy Paper of May 2004 (see section 4.4.4); no links were made to EUBAM despite the mission being embedded within the ENP framework. In this sense, the design of EUBAM seemed to pass the third pillar by, where as with Proxima, there were actually initiatives from pillar III actors. The failure to link EUBAM’s design to pillar III,
or JHA Agencies, was not just a problem of structure and process, but a complete failure of strategic imagination.

The EULEX case study did in fact accommodate the JHA agenda in a coordinated and coherent fashion despite having the broadest mandate. The reasons for this included the size and scope of the mission but also several other contributing factors, not always directly linked to the scope of the mandate. The design was characterised by relatively high levels of horizontal and strategic coherence, although a number of significant shortfalls still persisted, most notably being the inability link to actors in pillar III (and operational links with JHA Agencies) to the mission in the planning phase.

The long planning phase for EULEX, which amounted to three years (from 2005-2008), helped the design of the mission accommodate the JHA agenda and smoothed horizontal and strategic coherence. This long planning phase has to be seen in the context of Kosovo’s final status debacle, which was largely out of EU-level actors’ hands. Improved levels of horizontal coherence manifested themselves in the early period of the planning phase, despite it must be said, no substantive institutional change occurring. Where informal cross-pillar coordination had simply broken-down in the case of Proxima, it blossomed here, with planning documents being swapped as and when required (see 5.3.1 & 5.3.2). This was later cemented with institutional change when the CPCC became involved in active planning, from November 2007 (see 5.3.2) (see research question two and Hypothesis B for more on this). The international attention lavished upon Kosovo’s status predicament fostered a ‘weight of expectations’ on EU crisis management structures, with the mission regularly described as a litmus test for the ESDP’s international credibility (see 5.3.2). The impact of this was the development of a functional unity between the Council and Commission. In this context the broadness of the mandate played
a role by virtue of the fact that as the biggest most ambitious ESDP mission to date, the potential for incoherence between the Council and Commission was substantial. Therefore, actors in both pillars I and II appeared to make greater efforts to avoid the mistakes of the past, such as *Proxima* and the confusion over the institutional ownership of EUBAM.

The central role of the contractual framework managed by the Commission (an aspect of the JHA agenda) was a persistent theme in all relevant documentation from 2005 onwards (5.3.1 & 5.3.2). This came with the acknowledgment that any police and rule of law mission in Kosovo, regardless of size, would need the strength of both the EC and ESDP, given the urgent needs of Kosovo and their long term ambitions for enlargement to the EU. Indeed it is noteworthy that the Commission were mentioned in the official opening mission statement of the mandate (5.3.3), and detailed accounts of previous and ongoing EC led assistance was provided for in the CONOPS. In this sense, the high degree of *horizontal coherence* had a direct impact of fostering high levels of *strategic coherence*.

This became apparent in the relationship between EULEX’s planned activities and the EC managed Multi-Indicative Planning Documents, which were more much closely synchronised then had been the case with *Proxima*. The shift in 2007 to rolling planning documents also helped *horizontal* and *strategic coherence* flourish (see research question two). A change in the relationship with *internal coherence* also impacted on *horizontal* and *strategic coherence*. The fact that the EAR were not to be involved after 2008 meant that programming (and its implementation) was to be done by DG Enlargement and the EC Delegation (5.3.2). This made the challenge of *horizontal coherence* less complicated than it would have otherwise been, serving to streamline the process of designing activities that strategically reinforced each other (EULEX and EC led activities).
Attempts to link the ‘JHA Agencies’ however, were beset by similar problems to EUBAM and more specifically Proxima. In this sense poor levels of horizontal and strategic coherence were observed. For instance, despite all the relevant actors having plenty of advance warning of the opportunities forthcoming in Kosovo, to improve coordination at the JHA and ESDP interface, little was achieved (see 5.4.3). This incoherence is all the more galling when one considers how specific much of the awareness raising was during the planning phase (again, see 5.3.4). Two substantive moves forward were observed. The first was the Council Secretariat DG IX briefing to the Article 36 Committee in October 2006, a significant meeting in its own right, between internally focused and external focused actors operating in different pillars. However, the fact that two years later little had been improved or developed on the back of this meeting makes it a minimal act (and therefore degree) of horizontal coherence. The second move forward, a reference to improving links with ‘JHA Agencies’, such as FRONTEX and EUROPOL did find its way into the CONOPS (see 5.3.4). Once again, a horizontal and strategic improvement on what had gone before, but too little too late for notions of integrated planning. It is worth considering the very small amount of progress was made between 2003 (Proxima) to 2008 (EULEX).

2. To what extent has the external dimension of JHA agenda affected the coordination and coherence of civilian crisis management missions?

**Hypothesis B:**

The clearer the institutional leadership behind a civilian crisis management mission, the better the prospects of that mission having and maintaining high levels of coordination with other EU actors.
This question and hypothesis was addressed in the management and regulation sections of each of the cases-studies.

These three case-studies confirmed Hypothesis B. Where we could identify clear institutional leadership, behind a civilian crisis management mission, coordination and coherence was manifestly better and sustained. Of particular interest was the fact that what passed for institutional leadership was in practice, the clarification of roles and responsibilities. Put differently, the more effective the division of labour between the pillars (predominately pillar I and II), the more of the JHA agenda was incorporated in coherent fashion. The answer to this question reaffirms the finding from research question one, namely that horizontal coherence was the main but not the exclusive route to strategic coherence. This was because without a minimum level of horizontal coherence, such as a clear division of labour, internal coherence did not matter. While, without some basic degree of horizontal coherence, strategic coherence was out of the equation. For instance, without an understanding between pillars I and II, over their respective roles and responsibilities (i.e. not competing), then internal coherence operates in a vacuum – it has nothing to build upon. In this sense internal coherence is dependant on some minimum level of horizontal coherence. This is not to say that internal coherence is unimportant, far from it. In answering research question two and addressing Hypothesis B, this study found that where a minimum level of horizontal coherence could be established, internal coherence mattered greatly to whether high levels of strategic coherence could be generated. For instance, high levels of internal coherence within pillar I contributed significantly to strategic coherence in the EUBAM and EULEX studies. The outlier remained the link to JHA Agencies, although a combination of good horizontal and
developing *internal coherence* (especially in pillar I) saw improvements for EUBAM and EULEX at least.

In the case of Macedonia this study found that clear institutional leadership was compromised as a result of the overlapping and, at times, competing mandates of *Proxima* and EC-led projects, which served to have a negative impact on coordination. For instance, the *Management* section (3.4) of the study revealed that *Proxima* clashed with EC led reform projects in what can only be thought of as a breakdown in cross-pillar relations and as a result extremely low levels of *horizontal coherence* were fostered. The failure of the Council Secretariat DG IX and the Commission to create the envisaged ‘task force’ (promised in the 13 October 2003 ‘Coordination Aspects of Proxima’ document, see section 3.4.4) meant that there was no recourse to a unit or actor in Brussels to mediate on issues of coordination. This failure had little to do with the narrowness or otherwise of the mandate. This meant that when the first difficulty arose it derailed the coordination of *Proxima* and EC led projects. For example, the delay in the follow-up to ECJHAT, the ECPRP, damaged relations and pitched the two missions as competitors, rather than collaborators seeking complementarity. The Commission’s refusal to share its expertise (see section 3.5.3) was symptomatic of the institutional and bureaucratic tensions (between the Council and Commission over civilian missions) which were extremely prevalent at this period, detailed in Chapter Two (see section 2.4.1).

It had been envisaged that the EUSR would coordinate the overall EU effort in Macedonia. In practice the EUSR struggled to do this and at times contributed to the lack of clear institutional leadership. The weekly meeting in Skopje which the principal forum for the coordination of EU actors was unable to generate especially high degrees of *horizontal or strategic coherence*. The fact that little was done to ameliorate the fallout, from the delay in
the ECPRP, attests to the fact that the weekly meetings were not an arena suitable for problem solving, for either horizontal or strategic coherence. In addition, the central coordinating role of the EUSR raised tricky issues regarding internal coherence (given that both the EUSR and Proxima were pillar II instruments). For instance, the first six months of the mandate of Proxima the EUSR sought to control Proxima, meditating in minute detail contact between Brussels and Proxima. This served to cloud rather than clarify the mission’s leadership. A problem only exacerbated by the fact that Proxima shared an office with the EUSR, diluting Proxima’s identity.

Issues of internal coherence within the first pillar (between the EAR and the EC Delegation/DG Enlargement) also impacted upon the coordination of Proxima, and as a result horizontal coherence too (this is revealed in both the Management and Regulation sections of the study). The fact that the EAR were the implementing agency for EC and CARDS assistance served to marginalise the Commission Delegation and DG Enlargement in Brussels, from day to day monitoring of reform. This was problematic because the Commission designed the activities (via Country Strategy Papers from which the Multi-Indicative Programming derived) which were then turned into Annual Action Plans by the EAR, and implemented by the EAR. In other words it added another layer of coordination further clouding institutional leadership and accountability; for example, Proxima now had two EC actors to coordinate with. This hindered the cultivation of horizontal and strategic coherence due to the fact that it further complicated the tactical synchronisation of the programming process. A process not helped by the rigid and slow procedures in multi-indicative programming. These issues, and the low levels of horizontal and strategic coherence, are also germane to notions of goal attainment found in the Regulation section of the Chapter (see 3.6.1). For example, poor coordination in the management phase
spilled over into the writing of reports (such as the annual SAP reports) where there was no provision for joint assessment of Macedonia’s progress in implementing JHA reforms.

The narrative of poor horizontal coherence and missed opportunities continued over efforts to have Proxima make more of a contribution to the internal security of the EU. Despite an extremely critical report commissioned by the Article 36 Committee into EU action, in the realm of JHA, in the Western Balkans published in October, 2004, which argued that there was no overarching strategy for JHA between the Council and Commission, no substantive improvements were made (see section 3.5.6). This missed opportunity is made worse when one considers that the mission undertook a Mid-Term Review in May 2004 (see section 3.5.2) and what became Proxima II was not agreed until November 2004 (see section 3.5.5). This meant that on a strategic level this would have been an opportune time to alter the status quo by linking internal security in a concrete manner.

In the case of the EUBAM study there existed at the start of the mission a lack of clarity over where control and exactly institutional leadership resided, largely as a result of the planning phase. These factors generate the question: was this a Council mission implemented by the EC, or an EC mission with mere Council oversight? What was clear was the fact that this institutionally hybrid mission did have the potential to produce poor levels of horizontal coherence. The fact that the relationship between the EUSR and EUBAM did not generate incoherence can be put down to the evolution of the mission. For example, the nature of the seizures at the border (less weapons, and more frozen chicken see section 4.5.1) during the bedding down period of the mission ensured that the Council relaxed its control, and overtime provided the Commission with the autonomy to develop the mission and extend its links. The impact of this was (as the last section revealed) that the EUSR focused almost exclusively on conflict resolution, while EUBAM sought to
institutionalise ‘order at the border’. This provided clear institutional leadership, as from the Commission’s perspective, all the necessary coordination would be of an *internal* nature (see 4.5.2); this clear division of tasks makes EUBAM distinct from the cross-pillar problems of *Proxima* and EULEX. It also meant that the two (EUSR and EUBAM) were not competing which simplified coordination efforts. In this sense, *horizontal coherence* was good if unspectacular. By providing the political cover, the EUSR created the political and policy space in which EUBAM and the EC Delegation could do their technical work, emphasising its depoliticised role. This ‘policy mix’ allows the EC to embed longer term Europeanisation on a more sustainable basis. In this sense, *horizontal coherence* did not foster spectacular levels of *strategic coherence*, but neither did it undermine it. There was a tactical simplicity to the division of labour, but it was a tactic nevertheless.

This also relates to the notion of *internal coherence* and the clear institutional leadership developed by the EC. High levels of *internal coherence* generated a high degree of *strategic coherence*. For example, the Commission managed to draw upon its own resources (within the EC pillar), through so called sectoral DG’s such as DG JLS, DG TAXUD and DG Trade when compiling policies, advising or monitoring success. This ‘in house’ expertise was an extremely smooth process characterised by very few bureaucratic tensions. Crucially, all of this ‘in house’ expertise was embedded within the ENP process. In this sense *internal coherence* paved the way for very good *strategic coherence*, as it later provided the wherewithal for EUBAM to make tactical inter-linkages with the ENP Action Plan. For example, one of the major accomplishments of EUBAM was the fact that overtime the mission expanded its remit from the border itself, to training and advising the Moldovans and other aspects of border management, including the training of customs and relevant aspects of the security sector beyond the border with Ukraine. The fact that
EUBAM’s influence has spread into other aspects of JHA within the Action Plan is, on a tactical level, impressive. It also leads to the conclusion that this was achieved, in part, because of the absence of horizontal considerations. In this sense strategic coordination were less complex. This meant that the overarching contractual framework was given supremacy. However, internal coherence was not an institutional panacea in the JHA domain. For example, it still proved difficult to link actors in pillar III to the mission. For example, there is no evidence to demonstrate that the Article 36 Committee or any other pillar III actor engaged, to any degree, with EUBAM. However, despite this failure EUBAM, unlike Proxima, did become operationally linked with ‘JHA agencies’.

FRONTEX signed a working agreement with Moldova Border Guard Service in August 2008, becoming involved in training activities and cross border operations. While EUROPOL became operationally involved through the innovative use of mobile units in cross border operations from 2010 onwards. Both of these developments were helped by the active involvement of EUBAM’s Head of Mission (see next section, addressing research question three).

Therefore, what we find is that in the absence of high levels of horizontal coherence (in relation to pillar I and III), internal coherence took up the slack, helping to foster better strategic coherence than would otherwise have been established. For example, the emergence of an International Affairs Unit in JLS, where there was a close and collegial relationship with the geographic desk, served to lubricate the process of linking JHA agencies operationally to EUBAM. Therefore, JHA Agencies became linked to the mission because of good internal coherence, not good horizontal coherence. However, basic levels of horizontal coherence were needed (for instance over the division of labour) for internal coherence to flourish. These patterns of quiescent horizontal coherence spilled over into
the monitoring of success and writing of reports. Both the ENP sub-committees and progress reports saw the Commission as the principal actor drawing on its ‘in house’ expertise, with the Council adopting a ‘light touch’ oversight role.

In the case of the Kosovo study clear institutional leadership did provide the mission with better prospects of being well coordinated. However, it was not so much clear institutional leadership ‘behind’ the mission, but rather the relevant institutions (and associated actors) being clear about what their respective roles and functions were. In this sense clear institutional leadership translates into a clear division of labour. This was the case for notions of **horizontal coherence**, at least between EULEX and the Commission. Despite, the EUSR being the actor tasked with coordinating the rest, the EUSR was largely obviated by the mission and the Commission where possible. EULEX and the Commission had a clear divisor of labour and therefore coordinated well, this served to foster extremely high levels of **strategic coherence** between EULEX and EC led activities in the JHA area (see 5.4.3). For instance, the rolling planning documents used after 2007 engendered a greater sense of flexibility, enabling the Commission to synergise with EULEX activities much more easily in a reflexive fashion not previously witnessed. This synchronisation extended to working off each others recommendations and working jointly on projects. A significant element of this high quality **horizontal** and **strategic coherence** was the fact that special efforts were made to align EULEX’s work with the EU **acquis**, and therefore reinforcing, in a sustainable fashion, the Europeanisation of JHA in Kosovo (i.e. supporting the contractual framework) (see 5.4.3). This crossed over into the monitoring of progress with the EULEX Programme Office working closely with the Commission to refine performance indicators. A crucial determining factor in this improvement was the instigation of weekly Brussels based meetings and the role of the CPCC. The CPCC and
the weekly meetings helped mediate cross-pillar relations and add value to strategic coherence (see 5.4.3). For instance, one of the minimum requirements for these weekly meetings was the fact that actors ‘left the room’ with a common position and an agreed line (i.e. to speak to the Kosovo authorities with one voice). Having an arena within which actors could resolve issues contrasts greatly with the Proxima mission. In addition to this the CPCC offered the added value of the Brussels Support Element, which helped mediate between the Brussels based actors and EULEX ‘on the ground’, to ensure a disconnect did not establish itself.

Internal coherence was somewhat of a ‘mixed bag’ with EC coordination working very well, while Council coordination fared less well. On the EC side internal coherence was high with especially close coordination between DG Enlargement desk officers and the desk officer in the International Affairs Unit DG JLS (established in 2008). Their relationship was so synchronised to the extent that one often replaced the other at weekly meetings (already mentioned above). On the Council side, the unique pressures of the international situation, in Kosovo impacted heavily on this internal and strategic coherence. For example, internal and strategic coherence was damaged by the compromises surrounding the deployment of EULEX in the absence of a new UNSC resolution. This served to change the initial design creating a parallel chain of command, with the Head of EULEX reporting to the Council of the EU; while the ICR/EUSR also reported to the Council of the EU and the International Steering Group. This unclear division of labour served to undermine communication and cooperation between the ICR/EUSR and EULEX and actively diminished the strategic coherence of the EU in Kosovo (see 5.4.4). As we have seen despite being the official agent of coordination for the EU’s presence in Kosovo, on a day to day basis, the Commission’s and EULEX’s personnel, both in Brussels and on
the ground coordinated between themselves. *Internal coherence* of the Council side did improve when it came to the lessons learnt process and review of ESDP missions where six month reports were installed with the potential to adapt OPLANS (see 5.6.1). This process was undertaken by the CPCC’s planning and methodology unit and discussed in CIVCOM.

As we have seen from *Proxima* and EUBAM studies, as well as the design of EULEX, the fact that there was not an existing actor with clear institutional responsibility to ensure that the mission make a contribution to the internal security of the Union had meant that actors struggled to coordinate themselves, missing a series of opportunities. Although set-up in 2008, JAIEX was only a fledgling actor, struggling to make an impact as an ad hoc working party and therefore unable to mediate between the pillars. All of this helps explain why it took for the JHA Council to step forward and direct leadership (and political cover) in June 2008, essentially telling the CPCC and EUROPOL to create synergies (see 5.4.5). As a result, *horizontal coherence* was created by the intervention of the JHA Council, with the CPCC and EUROPOL coming together to write a reflection paper (and committing to a joint evaluation a year later) on the novel solution to use EUROPOL National Units to exchange data with EULEX. The institutionalisation of this mechanism served to embed functional degrees of *horizontal* and *strategic coherence*. However, this change did still have limitations, both horizontally and strategically speaking. For example, in June 2009 the joint evaluation of the exchange was presented to the Article 36 Committee, but not CIVCOM, which reflected poorly on *horizontal coherence*. More encouraging was the November 2010 ‘EULEX Strategic Threat Assessment – Organised Crime in Kosovo’, a product of the CPCC – EUROPOL exchange, and used to refine the OPLAN in Kosovo. *Internal coherence* within the EC helped foster both greater *horizontal* and *strategic*
coherence as a consequence of the role of the International Affairs Unit in DG JLS. By using their close links with both ‘JHA Agencies’, and DG Enlargement, EUROPOL and DG Enlargement rule of law desk officers started to meet together (see section 5.4.5).

3. To what extent has the governance of the three missions been improved by a learning process based on accumulated experience?

**Hypothesis C**: The governance of the missions have been shaped by a ‘learning by doing process’ rather than individual acts of institutional and policy entrepreneurship.

The three case-studies have revealed that the difference between ‘learning by doing’ and individual acts of institutional and policy entrepreneurship were often very blurred, if not indistinguishable from one another. In this sense these case-studies can be said to partially confirm Hypothesis C. This is because institutional and policy frustrations would build until something had to change, which meant that entrepreneurship is only a by-product of ‘learning by doing’. The most illuminating aspect of this question is the reluctance, as well the inability, of actors to move into policy space opened up by the shortcomings in the governance of the external dimension JHA. The results of which, makes it extremely hard to capture and measure in terms of coherence, be it horizontal, internal and strategic. Perhaps the only exception to this is the introduction of the International Affairs Unit in JLS, which impacted on EUBAM and EULEX, and reflected synergies (via learning-by-doing and entrepreneurship) and high levels of Internal Coherence. This fostered better strategic coherence, serving, to an extent, to displace pillar III, and with it certain elements of horizontal coherence.
In the case of the Macedonia study the Mid-Term Review saw the mission recalibrate in the face of a stuttering start, streamlining the communications between Proxima and Brussels in what can be considered as a early ‘lesson learnt’ moment that reflected reasonably on internal and strategic coherence. Of course, these lessons learnt were relative to the earlier missed opportunities. Acts of entrepreneurship did occur but were restricted to last ditch efforts, too late to make a difference to the mission. The most substantive of these was the move to ‘double hat’ the EUSR and Head of EC Delegation during the EUPAT mission; this was an innovative attempt to improve horizontal coherence and strategic coherence. Although the limited time period left for the mission made it extremely difficult to evaluate in terms of horizontal and strategic coherence. The attempts from the Proxima Head of Mission to intercede and mediate between EUROPOL and the Macedonian authorities was a proactive attempt to integrate internal-external dimensions of security, but was clearly inconsequential in terms of Proxima’s capacity link to JHA Agencies. At other times however, we saw institutional and policy space open up, which actors failed to move into, especially regarding the need to have the mission think about its contribution to the internal security of the Union more clearly. Here the distinction between internal and externally focused actors was a major blind spot; and thus confirms a lamentable degree of strategic coherence.

In the case of the EUBAM study the fact that it was a hybrid mission, much of EUBAM was made up as it went along, and so coordination was refined as the mission developed. In this context the long time span of the mission (especially relative to Proxima) is significant. However, as already alluded to, the hypothesis is only partially confirmed due to the fact without acts of entrepreneurship, significant achievements would not have been made. As stated in the answering of research question two (and Hypothesis B), the
coordination of the mission took several months to acquire the simplified division of 
labour (EUSR on conflict resolution EUBAM on JHA and border management) and 
therefore the ‘policy space’ the Commission generated to develop technical aspects of 
border management within the ENP Action Plan was a gradual one. Note for example, that 
one of the principal achievements in this regard, the 2009-2011 development of border 
guard infrastructure jointly implemented by the EC Delegation and EUBAM, was only 
signed in 2008. In other words, three years into the mission. If we compare this to Proxima, 
which was only a two year mission (EUPAT was the third year), we reveal the luxury of 
time to build confidence, is an important dimension of creating sustainable 
Europeanisation. By having the mission under an EC umbrella and embedded within the 
ENP, sustainability and the export of Europeanisation was given a better opportunity to 
succeed

In relation to entrepreneurship, if it was not for the active mediation the Head of Mission 
undertook with FRONTEX and EUROPOL (meeting several times to try and find areas of 
cooperation, see section 4.5.6) then the operational links, that were established, may have 
proven intractable. By registering EUBAM’s keenness to have EUROPOL included, for 
instance, a special arrangement for the mobile units was conceived. The development of an 
International Affairs Unit within the JLS also registers as a more modest act of institutional 
and policy entrepreneurship, serving as a conduit to the mission and reducing the need for 
pillar III actors to be involved. A not insignificant achievement given the difficulties 
creating this kind of horizontal coherence had proved to date.

The governance of EULEX Kosovo has been marked by both the accumulation of lessons 
learnt (especially from previous failures), and the pressure of institutional and policy 
entrepreneurship. For instance, the establishment of the CPCC (and instigation of the
Brussels Support Element) was in and of itself and act of in institutional and, policy entrepreneurship. However, seen from another angle the creation of the CPCC was borne out of institutional frustration that had emerged over several years (including the Proxima mission). These frustrations which were concerned with the absence of an actor with expert control over civilian ESDP missions, as well as an actor able to mediate with the Commission and improve existing levels of horizontal coherence. So in this sense the advent of the CPCC is a lesson learnt process, which can not be reduced to EULEX’s experience alone but is part of a wider accumulation of learning by doing, scarred by poor horizontal coherence.

In many ways a similar argument can be made of the role of the JHA Council, in June 2008, when it directed the CPCC and EUROPOL to coordinate their efforts on the exchange of data, especially personal data. There is no doubt that a decisive policy intervention such as this ranks as an act of individual entrepreneurship, however, it can also be argued that the intervention came as a consequence of several years of missed opportunities to link EUROPOL with civilian crisis management missions. In fact, one could argue that coming in June of 2008 the intervention came just in time to save this opportunity, i.e. EULEX, as the mission was officially already launched. The decision to opt for the novel solution of the EUROPOL National Units can be considered an act of entrepreneurship, needing as it did three willing Member States to make the process work. What is extremely surprising is the fact that is took so long for an actor to move in the large institutional and policy space created by the previous calls and failures to link the mission (s) with JHA Agencies. JAIEX is the sort of actor that could have fulfilled a mediating role with substantial added value, if it had been committed to fully, from its inception.
Finally, the much improved *horizontal* and *strategic coherence* displayed by the Commission and EULEX, especially over synchronised programming activities reflects an accumulation of poor coordination experiences, and a recognition that things needed to improve in for an ambitious undertaking as EULEX was. The change to a more flexible programming system that allowed for more regular updating was a key part of the lessons learn process.

The next section will consider the future developments in this research area. In particular it will inspect the Treaty of Lisbon and the impact it is already having, and may well have in the future.

6.2 Where next? The Treaty of Lisbon and the External Dimension of JHA

This section will articulate the changes in the Treaty of Lisbon linked to the external dimension of JHA and civilian crisis management, highlighting as we proceed, the pertinence of these changes to the themes and issues raised in this thesis, as well as the limitations of these changes.

The Treaty of Lisbon became law on 1 December 2009; a tortuous eight years after a desire for the streamlining of the EU’s functioning had been issued at the EU’s 2001 Laekan summit.178 After the Laekan summit, a Convention on the future of Europe was convened (working between February 2002 and October 2004) creating a constitution to be ratified by the Member States. This constitution was subsequently rejected by the Dutch and French voters in 2005, burying the constitution, and sending the EU into a spiral of naval-gazing. By 2007 the EU was pedaling a new Treaty change, holding on to various

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178 See Piris (2010: 7-63) for a blow by blow account of the origins and birth of the Lisbon Treaty.
sections of the rejected constitution. A new draft treaty, the Treaty of Lisbon, was produced in October 2007. The Treaty of Lisbon was subsequently rejected by Irish voters in June 2008. The EU, which is nothing if not resilient, dusted off the Treaty and convinced\textsuperscript{179} the Irish into conducting another referendum; this time the Irish said ‘yes’.

The first thing to make clear is that the Treaty of Lisbon is not a replacement for the existing Treaties, as the Constitutional Treaty (mentioned above) would have been. The Treaty of Lisbon is to be regarded as a substantial amendment to the Treaty on the European Union (TEU) and the EC Treaty. In this process the EC Treaty becomes the Treaty on the Functioning on European Union (TFEU). The amendments to the EC Treaty and TEU results in a framework referred to as the ‘the treaties’ (Cremona, 2008b: 27). Therefore the EU keeps its dual structure, of the EU and EC, albeit in a rationalised form, i.e. it is replaced “with a single structure, a single legal order and a single legal personality (albeit spread over two treaties): the European Union” (Cremona, 2008a: 17). The implication for external policy, and categorisations of coherence, is that the split between the two treaties still necessitates coordination between the Council and the Commission (i.e. horizontal coherence). It is in this context that the role of the creation of the High Representative of the Union for Foreign Affairs and Security Policy (previously known as the ‘Union Minister for Foreign Affairs’) CFSP becomes a vital institutional bridge. In terms of JHA issues, Lisbon communitarises the third pillar, however, boundary issues still remain. For instance, the external dimension of what is now the AFSJ competence, is still found in several areas. At the same time, member states ensured that the Lisbon Treaty maintains ‘specific rules and procedures’ for CFSP meaning the relationship between AFSJ/CFSP still needs to be managed carefully (Cremona, 2008a: 18). If we were to be

\textsuperscript{179} This ‘convincing’ included the promise of one country, one commissioner (Piris, 2010: 235)
reductive for a moment, and reduce inter-institutional relations to ‘winners’ and ‘losers’,
then the Commission and EP can be seen as the institutional ‘winners’. This is because the
Commission gained pillar III, while the EP gained powers in all areas (Piris, 2010: 226 &
235). In terms of coherence, the innovations do have the potential to improve matters,
however, it is important to emphasise that not only will old boundary issues not disappear,
but that new ones will emerge. In this sense the structural complexity of the Union is
preserved.

One of the most high profile changes is the creation of a full time position of President of
the European Council. Herman van Rompuy was elected as President on the 19 November
2009. The President’s task includes:

- to chair the European Council and drive its work forward;

- to ensure the preparation and continuity of the European Council in co-operation
  with the President of the Commission;

- to ensure that at his level that the external representation of the Union on issues
  concerning its common foreign and security policy, without prejudice to the
  powers of the High Representative (HR) (see later in this section);

- to facilitate cohesion and consensus within the European Council (Piris, 2010: 207-
  208)

The changes to the Council and the Presidency system are important innovations. The six
month rotating Presidency no longer presides over all ten configurations of the Council.
For instance, the new HR will preside over the Foreign Affairs Council (FAC) which
replaces the external relations Council (see below). The remaining nine configuration,
including JHA, continue to be chaired by the system of the six monthly presidencies (Piris, 2010: 209-2010). In relation to the external dimension of JHA, the European Council could offer assistance in linking internal and external security policymaking at the highest political levels. This is because the roaming and variable interests of rotating presidencies ends, with the European Council now to “define the strategic guidelines for legislative and operational planning” (Article 68 TFEU) for the AFSJ (Monar, 2010: 30).

Another significant change is the role of the HR, alluded to earlier. Catherine Ashton was appointed to the role of HR on 1 December 2009. The role of the HR will impact very heavily on all aspects of the Union’s external relations, including the external dimension of JHA. The HR role, as we see below, is an extremely challenging one with Spanish MEP Indigo Mendez Vigo commenting that Ashton will have to be “superhuman”; while Missiroli has observed that such a “hybrid institutional figure” has an “intractable job description” (Missiroli, 2010: 6-7).

The HR tasks include:

- To conduct the Union’s CFSP (and ESDP now called CSDP) as the HR (Art.18 (2));

- As President of the Foreign Affairs Council, the HR oversees the dossiers of external relations in all sectors (Art. 18 (4)) with the explicit responsibility for the consistency of EU external action (Art. 18 (4) and 21 (3) TFEU);

- Be the Vice President of the Commission which, includes ensuring that the consistency of the EU’s external action. This means being responsible within the Commission, for the Commission’s responsibilities in external relations for coordinating other aspects of the EU’s external action (Art. 18 (4) TEU)
• The HR also has responsibility for the EEAS, with over 130 delegations. The Commission delegations became, as of 1 December 2009, EU delegations.

The EEAS, which the HR controls, brings about an important innovation in the EU’s organisational structures, by creating a functionally separate service from the Council and the Commission (see diagram below). Although the Lisbon Treaty was passed in 2009, concrete talks over the EEAS’s actual implementation and structure only started in 2010, with a final agreement approved by the EP on 8 July 2010. Referred to some as akin to the “28th diplomatic service of the Union” (Whitman, 2008: 4) the EEAS will be composed of geographical and thematic desks which would continue to perform under the authority of the HR, the tasks carried out by the relevant parts of the Commission and the Council Secretariat before the entry into force of the Lisbon Treaty.
The EEAS is staffed from the Council Secretariat, the Commission and Member States. The EEAS budget is separate from the EU Budget (which means avoiding the assent of the EP and review from the Court of Auditors) (Piris, 2010: 254). There is no doubt that the EEAS has most of the necessary tools under one roof to improve strategic planning and programming, especially between CSDP and other policies (Quille, 2010: 70). However, as Missiroli has commented the EEAS will take shape gradually rather than in a one off legislative procedure (Missiroli, 2010: 11). An important consideration for the EEAS will be the issue of inter-service consultation between geographical and thematic groups. For instance, how the ex Council Secretariat geographic units can create a working relationship...
with the ex Commission geographic units. Interviews with ex Council actors, be it, for example, the Western Balkans Unit (DG VI) or the CPCC, felt that they were merely ‘added on’ to the DG RELEX structure. This point has a degree of validity when one looks at the diagram (see figure and compare it to the DG RELEX structure in see 2.3.2). Currently it is hard to tell how internal coherence within the EEAS will work out, given the fact that in the short-term, actors were simply using many of the same desk contacts prior to the EEAS, i.e. utilising existing relationships. Most actors agreed the test will be when a) a turnover of staff occurs, meaning relationships should reflect actual institutional roles rather previous patterns of policymaking; and b) when the new financial framework from 2013 are agreed upon (Interviews, 43, 48 & 49). The EEAS machinery will need time to assimilate this new strategic input and link it, horizontally speaking, to other aspects of the Commission’s work. This involves linking CSDP, geographic and trade services (within the EEAS) with other Commission DG’s, such as Enlargement, Home, Justice, Development and Trade. For instance, although the creation of single geographical and thematic desks in the EEAS represents progress, the Commission will continue to be in charge of the financing and implementing of projects, and therefore it will hugely important to ensure that old rivalries do no give way to new ones. For example, the decision (by the Commission President Manuel Barroso) to move ENP to the portfolio of DG Enlargement (under Commissioner Stefan Fule) before the EEAS was up and running, was rightly perceived as a pre-emptive strike to defend Commission competences (Interviews, 43 & 45). Old habits die hard, as it were.

Linked to this is the fact that, DG Enlargement is separate from the EEAS (similarly the management of trade policy will also remain the responsibility of the Commission). One of the major complexities that will need to be ‘ironed out’ is the precise division of labour
in programming and development of the financial instruments (such as ENPI and the Instrument for Stability), although we know that the preparation and implementation policy will mostly remain the responsibly of the Commissioner involved. As Gebhard (2011: 123) has stated, over the long term, the most significant, impact of Lisbon will be on the lower bureaucratic levels in Brussels. While previous coordination efforts, and innovations, have been exclusively concerned with the highest levels of interaction between the pillars, the EEAS includes an organisational merger of the lower levels, and day-to-day administrative work in the governance of the EU’s external action. Over time, this could be the ‘arena of exchange’ where sustained synchronisation and strategic coherence can be developed much further.

In the realm of CFSP/ESDP the Treaty of Lisbon “revamps, rather than revolutionises the existing arrangements for the CFSP/ESDP” (Whitman, 2008: 5). In this sense what will now be known as CSDP, remains a “distinctive pillar” in that the roles of the Commission, and the European Court of Justice are “very heavily circumscribed” (Whitman, 2008: 3); in other words, it retains its intergovernmental character despite the formal abolition of the pillars. In this sense the ‘de-pillarisation’ of Lisbon is only partial, given the fact that CFSP is still subject to “specific rules and procedures” (Cremona, 2008b).

The TFEU holds a number of provisions and innovations in the realm of JHA. The two most high profile changes to JHA are the abolishment of pillar III and the creation of a new standing committee on internal security (COSI). Regarding the abolishment of pillar III the Treaty of Lisbon combines the former provision in Title IV TEC on ‘Visa’s, asylum, immigration and other policies related to the free movement of persons’, with the provisions in former Title VI TEU on ‘police and judicial cooperation in criminal matters’. This ‘communitarisation’ of the police and judicial cooperation meant that the AFSJ is
fully integrated within the community pillar. The result is Title V TFEU, which is actually labelled AFSJ (Wessel et al 2010: 296). As a result the AFSJ concept appears as the second Treaty objective in Article 3 TEU in which the Union:

shall offer its citizens an area of freedom, security and justice without frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention of combating crime.

There are some caveats to this ambitious paragraph. First, it is limited to specific aspects of public order, as held in Article 67 TFEU. Second, it relates to trans-border issues only, including the free movement of persons. Third, the mandate does not cover law enforcement. Regarding this final point, Lisbon does not provide any support to those wishing to see a European police force or something similar (Wessels et al, 2009: 275). By transferring to the ordinary legislative procedure, JHA moves from unanimity in the Council (with only a consultation with the EP), to Qualified Majority Voting (QMV) and full co-legislative powers of the EP (formerly co-decision). 180 This moved several areas into QMV, including, short stay visas and residence permits (Art.77 TFEU); Legal Immigration (Art. 79 TFEU); judicial cooperation in criminal matters (Art.82-86 TFEU); EUROJUST (Art.85 TFEU); Non-operational police cooperation (Art.87 TFEU); EUROPOL (Art.88 TFEU) and Civil Protection (Art.196 TFEU). 181 Three areas stay subject to unanimity in the Council with the EP only being consulted: Passports and identity cards (Art.77 TFEU); Family Law (Art.81.TFEU); Operational police cooperation (Art.87.TFEU). Also of interest is the fact that the right of initiative has changed slightly in three areas (judicial cooperation in criminal matters; police cooperation and administrative

180 For an exhaustive account of the legal details see Piris (2010: 177-192)

181 These were added to several JHA areas already operating under QMV/Co-decision: Asylum policy (Art.78 TFEU); Illegal immigration (Art.79.TFEU); Judicial cooperation in civil matters (except family law) (Art.81 TFEU) and some Visa issues (Art.77 TFEU).
cooperation). The Lisbon Treaty introduces the possibility that an initiative can come from the member states (a quarter needed) rather than just the Commission, as is traditional.\textsuperscript{182} Prior to the Treaty of Lisbon the EP involvement with pillar III has been marginal. Lisbon changes this by extending the co-decision procedure through the so-called ‘ordinary legislative procedure’\textsuperscript{183} this could strengthen the EU’s democratic accountability in the JHA area (Interview, 43).

One of the central arguments of this thesis has been that the most important impediment to coherence, between internal and external policies, was the lack of a senior coordinating committee linking ESDP and EC external actors (be it the PSC, CIVCOM or DG RELEX) and actors such as the Article 36 Committee. The lack of an actor or forum which could mediate this ‘institutional gap’ was hugely significant. The thesis noted how JAIEX was unable to intervene and help ‘plug this gap’ for the three case-studies discussed in this thesis. This however, is likely to change; the early period of the post-Lisbon reveals encouraging signs. As the TFEU states a standing committee shall be set-up within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union. COSI’s remit is especially pertinent to this thesis:

\begin{quote}
COSI’s main objective is to facilitate, promote and strengthen coordination of operational actions between EU member states in the field of internal security. This coordination role will concern, among other things, police and customs cooperation, external border protection and judicial cooperation in criminal matters relevant to operational cooperation in the field of internal security. The committee shall regularly report on its activities to the Council which, in return, shall keep the EP and national parliaments informed
\end{quote}

\textsuperscript{182} The UK, Ireland and Denmark secured themselves a generalised opt in/opt out from all the newly communitarised area of JHA

\textsuperscript{183} For detail on the co-decision procedure, see Wallace (2010: 83).
COSI will also be responsible for evaluating the general direction and efficiency of operational cooperation with the goal to identify possible shortcomings and adopt recommendations to address them. It can also invite representations from EUROJUST, EUROPOL, FRONTEX and other relevant bodies to its meetings and is supposed to help ensure consistency of action by these bodies (Art.71 TFEU).

Unlike the Article 36 Committee, COSI will not be responsible for preparing the legislative work of the Council. It will still be COREPER which remains responsible for preparing legislative acts with the help of the different Council workings, while the work of the Article 36 Committee and SCIFA will be re-evaluated during 2012. The difference post-Lisbon is that COSI and JAIEX may have the wherewithal to fill the abundant policy space available. Since COSI’s first meeting on 11 March 2010 efforts have been made to close the gap between internal and external policies. The development that shed the most light on how the ‘internal-external security nexus’ may be managed post-Lisbon is a dialogue between January and June 2011, entitled ‘working method for closer cooperation and coordination in the field of EU security’. This dialogue produced a series of ways in which inter-institutional relations can be best managed, a process completely lacking from the pre-Lisbon period. The proposals to mediate the internal and external dimensions of security include two inter-institutional developments. First, to convene a regular inter-institutional information meeting, either once per quarter or as needed. This would improve planning and flows of information in EU security. While this meeting would have no decision-making powers its participants would include Brussels based officials from the Presidency (representatives of COSI and other preparatory bodies in the JHA field) and the Council Secretariat, the EEAS (representatives of the PSC, CPCC and CMPD) and the Commission (DG Home, Justice and other relevant DG’s). Afterward the respective Chairs of the PSC and COSI would inform the committees of the issues discussed; moreover, meetings would be hosted on a rotating basis by the Presidency, the EEAS and
Commission. Second, actors should organise at least once per Presidency or as necessary, joint meetings between Council preparatory bodies with a shared interest in a particular aspects of EU security. The EEAS and the Commission would be invited to report on their activities in the area under discussion: this includes the creation of so called internal-external security ‘pairs’ (see figure 6.2) (Council of the European Union, 2011a: 3-4). This approach has already been fruitful with the first PSC-COSI meeting occurring in June 2011, preceded by a CIVCOM-COSI Support Group meeting on the 18 May 2011. This support group meeting was which was concerned with CSDP-JHA cooperation, and way to further integrate matters further (Interviews, 56 & 57). The significance of this should not be underplayed; this thesis has recorded the repeated failure of the Union to link CIVCOM with internally focused actors, and so the fact that this has now occurred signifies a cognitive change in the attitude of EU based actors on integrating internal-external policy at the Brussels level.
Source: based on (Council of the European Union, 2011a: 23)

JAIEX looks set to develop a larger role in relation to *horizontal* and *strategic coherence*, as articulated by the ‘JHA External Relations – Trio Programme’ in July 2011, as well as the Fourth External Dimension of JHA Report, also in July 2011. Regarding to JAIEX’s methodology:

In order to come up with satisfactory and timely answers, JAIEX needs to be more reactive and to ensure its capacity to react to proposals, either by establishing ‘Brussels based’ meetings or at the least a group of Brussels-based contact points, in case of necessity. This would give the JAIEX delegates an opportunity to discuss important matters within a few days, instead of having to wait for their monthly meetings, and to
cooperate more easily with other working groups, such as COEST or COWEB which meets twice a week. An increased reactivity by JAIEX seems necessary because joint meetings JHA Counsellors and geographic working groups have not proved very successful. In some case the JHA track was not in a position to discuss the substance of matters, certainly not in time. In other cases, such as JHA subcommittees, the JAIEX group was either not involved at all before hand or there was no line to take (Council of the European Union, 2011b: 11)

As JAIEX needs to increase its strategic role, the procedure for setting the agenda and the working methods should be further developed. JAIEX should be a group for discussion and exchanges rather than a group in which delegations only present their positions. Lively exchanges of views between delegations should be stimulated (Council of the European Union, 2011b: 12)

This report stresses the importance of the upcoming financial perspectives which will be negotiated and implemented by 2013. Opportunities will present themselves for the ensure evaluation procedures are synchronised (see also EEAS-Enlargement relationship) (Council of the European Union, 2011b: 13).

Perhaps the most significant continuity with the pre Lisbon arrangements is the fact there is still a dividing line demarcating the AFSJ (governed by the TFEU) from the CFSP (governed by the TEU). The CFSP now has its own Council formation, the FAC. This means that the Lisbon Treaty does not shift the external dimension of AFSJ into an autonomous external policy. Rather the situation is the same as before, in that competence is implied “the focus would be on using external powers to achieve (internal) AFSJ objective and on integrating an AFSJ dimension in other external policies” (Cremona, 2008a: 8). The only specific external competence is found in relation to immigration policy (Wessel et al, 2010: 296):

The Union may conclude agreements with third countries for the readmission to their countries or provenance of third country nationals who do not or who no longer fulfil the conditions for entry, presence or residence in the territory of one of the Member States (Art 79 (3))

As Cremona expands:
External action may also be taken within the framework of the AFSJ (including the conclusion of an international agreement) which further other external policy objectives. Furthermore, the general objectives for external action which the Lisbon Treaty introduces are also intended to shape the external dimension of the AFSJ; they are to be pursued not only in the Union’s specifically external policies (such as the CFSP, trade and development) but also in the implementation of ‘the external aspects of its other policies’, including AFSJ (Art 21 (3) TEU). In summary, then, there appears in the Lisbon Treaty greater scope to develop wider objectives for the external AFSJ or at least to take wider objectives into account (Cremona, 2008b: 8)

The risk being that:

The continued separation between CFSP and other external EU policies in particular may continue to result in a fragmented external policy. It is still far from clear who will be in charge of the external dimension of the AFSJ (Wessel et al, 2010: 298)

The High Representative’s remit is not limited to the realm of CFSP but to coordinate ‘other aspects of the Union’s external action’ (Articled 18 (4) TEU), while the EEAS covers most of the EU’s external relations. This raises the resilience of a theme that this thesis had been grappling with, namely, whether: “the strong link between internal and external aspects of the AFSJ may lead to a choice between coherence in external relation policies or coherence in AFSJ policies” (Wessel et al, 2010: 298). In this sense, the risk of fragmentation as the external AFSJ is refracted through a range of external policies is acute as it ever was. This puzzle and challenge has not gone away and will be a debate worth following closely.
The final comment of this thesis will be a wish, almost certain to be left unfulfilled. This wish is for the EU to do less, more judiciously. The EU needs to abandon its proclivity to declaim, via strategic documentation, grand ambitions; these paper connections are often lazily constructed and I would argue an example of injudicious policy making. Inevitably, the manner in which the EU creates policy from strategic documentation is piecemeal, itself a recipe for incoherence. Simply pushing policies together on paper is not the same as considered judgements vis-à-vis compatibility and prudence. The unintended consequences that result, sometimes unnoticed at the elite level, from this ill thought through policy in
the JHA-crisis management interface, creates outcomes that could well leave citizens, inside and outside, the EU with as much insecurity as security.
APPENDIX 1: List of Interviews

1. **Interview**: Martin Dawson, Deputy Head of Unit for DG Enlargement, Macedonia Unit 15 June 2010 (Brussels)

2. **Interview**: Lothar Jaschke, official in DG VI (Western Balkans Unit) Council General Secretariat, 16 June, 2010 (Brussels)

3. **Interview**: Jaroslaw Timofiejuk, CFSP Counsellor, 18 July, 2010 (Brussels)

4. **Interview**: Michel Savary, Police Expert in DG IX (Civilian Crisis Management Unit) now member of CMPD, Council General Secretariat, 22 June, 2010 (Brussels)

5. **Interview**: Madeleine Majorenko, Head of Unit for ENP Sectoral Coordination, 22 June, 2010 (Brussels)

6. **Interview**: Lukas Holub, Rule of Law Desk Officer dealing with JHA matters in DG Enlargement for Kosovo, 24 June, 2010 (Brussels)

7. **Interview**: Per Ibold, Justice Desk Officer in DG Enlargement for Kosovo, 24 June, 2010 (Brussels)

8. **Interview**: Eduard Kuka, MEP and Chairman of the EP Delegation to South and Eastern Europe, 24 June, 2010 (Brussels)

9. **Interview**: Juri Laas, Kosovo Officer in the Brussels Support Element in the CPCC, 26 June, 2010 (Brussels)

10. **Interview**: Alex Hupin, Kosovo Officer in the CPCC, 26 June, 2010 (Brussels)

11. **Interview**: Gabriele Viscentin, Commission Representative to the CIVCOM, 1 July, 2010 (Brussels)

12. **Interview**: Nils Hanniger, Swedish JHA Counsellor on Police Cooperation for Sweden, 1 July, 2010 (Brussels)

13. **Interview**: Remi Duflot, Desk Officer for Ukraine and Moldova (dealing with EUBAM), DG RELEX Directorate E Unit 2 ‘Ukraine, Belarus, Moldova and Southern Caucasus’, 6 July, 2010 (Brussels)

14. **Interview**: Calin Ungur, Desk Officer for ENP Action Plan in DG RELEX Directorate E, Unit 2 ‘Ukraine, Belarus, Moldova and Southern Caucasus’, 22 July, 2010 (Brussels)

15. **Interview**: Wouter van der Rijt, Desk Officer in DG H in the General Council Secretariat and Coordinator of JAIEX, 23 July, 2010 (Brussels)

16. **Interview**: Pirkki Tapiola, Senior Policy Adviser in the General Council Secretariat DG VI, 23 July, 2010 (Brussels)
17. **Interview:** Jonas Jonsson, Head of Unit for the Western Balkan Unit in DG VI in the General Council Secretariat, 25 July, 2010 (Brussels)

18. **Interview:** Brian Toll, Desk (Budget) Officer for CFSP/DG RELEX, 26 July, 2010 (Brussels)

19. **Interview:** John O’Rourke, Head of Unit for ENP Coordination, 26 July, 2010 (Brussels)


22. **Interview:** Hilde Hardeman, former Head of Unit for DG RELEX Directorate E, Unit 2 ‘Ukraine, Belarus, Moldova and Southern Caucasus’ (2002-2008) 28 July, 2010 (Brussels)

23. **Interview:** Jiri Pavlicek, CFSP/ESDP Counsellor for Czech Republic, 28 July, 2010 (Brussels)

24. **Interview:** Christophe Prince, Senior JHA Counsellor for the UK, 28 July, 2010, 29 July, 2010 (Brussels)

25. **Interview:** Tajana Zdanokva, MEP and Vice Chair of the European Parliament Moldovan Delegation, 29 July, 2010 (Brussels)

26. **Interview:** Kirsta Napola, Finnish Representative for COWEB, 29 July, 2010 (Brussels)

27. **Interview:** Anna Craenan, Swedish Counsellor for COWEB, 30 July, 2010 (Brussels)

28. **Interview:** Joel Schuyer, Civilian Crisis Management Expert in Council General Secretariat leading the Civilian Headline Goals initiate, now in CMPD, 30 July, 2010 (Brussels)

29. **Interview:** David Geer, Senior Official in the DG RELEX Directorate E, Unit 2 ‘Ukraine, Belarus, Moldova and Southern Caucasus’ 30 July, 2010 (Brussels)

30. **Interview:** Anne-Marie Bolin Pennegard, Swedish Representative to CIVCOM, 2 August, 2010 (Brussels)

31. **Interview:** Marc Bentenick, Netherlands Representative to CIVCOM, 2 August, 2010 (Brussels)
32. Interview: Kamila-Xenie Vetiskova, Czech Republic Representative to COWEB, 3 August, 2010 (Brussels)


34. Interview: Gabriella Save, Swedish CFSP Counsellor, 4 August, 2010 (Brussels)

35. Interview: John Derrick, JHA Counsellor to the UK, 4 August, 2010 (Brussels)

36. Interview: Tobias Flessenkemper, General Council Secretariat Official in the Proxima mission, 25 August (Telephone Interview)

37. Interview: Tobias Flessenkemper, General Council Secretariat Official in the Proxima mission, 5 September (Follow-up Telephone Interview)

38. Interview: Paola Pampaloni, Head of Unit for DG Enlargement for Macedonia, 7 September (Telephone Interview)

39. Interview: Giorgio Butini, Italian Police Expert and member of the Proxima mission, 25 September, 2010 (Telephone Interview)

40. Interview: Casper Klynge, Member of the Proxima mission and Head of the EUPT Kosovo team between 2006-2007, 28 September, 2010 (Telephone Interview)

41. Interview: Remi Duflot (follow up for Interview 13), 14 June, 2011 (Brussels)

42. Interview: Rolf Langren, Police Expert in the CPCC Kosovo section, 14 June, 2011 (Brussels)


44. Interview: Adrienn Kiraly, Desk Officer for Kosovo in DG Home, International Affairs Unit, 15 June, 2011 (Brussels)

45. Interview: Lukas Holub (follow up for Interview 6), 17 June, 2011 (Brussels)

46. Interview: Calin Ungur (follow up for Interview 14), 18 June, 2011 (Brussels)

47. Interview: Annika Oberg, Swedish JHA Counsellor, 18 June, 2011 (Brussels)

48. Interview: Isabelle Perignon, Desk Officer in the Police Cooperation in DG Home, 21 June, 2011 (Brussels)

49. Interview: Birgit Loeser, Head of Planning and Methodology in the CPCC, formerly of DG IX in the Council Secretariat DGE, 21 June, 2011 (Brussels)
50. **Interview**: Per Ibold, Desk Officer in DG Justice dealing with Kosovo, 21 June, 2011 (Brussels)

51. **Interview**: Oliver Luyckx, Head of Unit for Crisis Management in the International Affairs Unit in DG Home, 22 June, 2011

52. **Interview**: Tiina Larvala, Finnish CIVCOM Representative, 22 June, 2011 (Brussels)

53. **Interview**: Gregory Mounier, EUROPOL Desk Officer in the External Relations and Strategic Affairs Department, 24 June 2011 (Telephone Interview)

54. **Interview**: Isabella Cooper, FRONTEX spokesperson, 25 June 2011 (Telephone Interview)

55. **Interview**: Artan Duraku, Political Adviser to Ministry of Internal Affairs in Kosovo, 26 June 2011 (Telephone Interview)

56. **Interview**: Erik Teepe, Netherlands Representative to the PSC & Mieneke de Ruiter, Netherlands JHA/COSI Counsellor 27 June 2011 (Brussels)

57. **Interview**: Gianina Popescu, Desk Officer in DG Home International Affairs Unit dealing with ENP countries, 29 June, 2011 (Brussels)

58. **Interview**: Victoria Amici, DG Home Affairs Desk Officer for relations with EUROPOL, 29 June, 2011 (Brussels)

59. **Interview**: Alessio Zuccarini, Head of the Programme Office in EULEX Kosovo, 2 August, 2011 (Telephone Interview)
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