



## OI Policy Compendium Note on the European Union's Role in Protecting Civilians

### Overview: Oxfam International's position on the European Union's role in protecting civilians in conflict

Oxfam International believes that the European Union (EU) has a vital role to play in helping to protect civilians, prevent conflict, and consolidate peace around the world. So far, it has not fulfilled its potential to do so.

Its future success depends on the EU's Member States and institutions coherently using all the EU's relevant external policies to help protect civilians.

In particular, the EU must demonstrate more clearly that it is willing and effective in upholding its 'responsibility to protect' (R2P) populations threatened by genocide, war crimes, ethnic cleansing, and crimes against humanity – the commitment made by all EU Member States at the UN World Summit in 2005. This will require taking measures to help prevent conflict and the gravest violations of humanitarian and human-rights law, as well as taking immediate steps where these violations occur, and helping to rebuild societies in the aftermath of violent conflict.

In particular, the EU should:

- Establish and consolidate mechanisms to monitor violations of humanitarian law, signs of state failure, and emerging conflict, in order to take timely action.
- Prioritise support for the successful negotiation of a robust international Arms Trade Treaty – with the high-level diplomacy required; tighten the regulation of arms transfers from the EU by making the EU Code of Conduct legally binding; and help control the transfer of arms through practical measures in regions where existing embargoes are consistently broken, or an extensive number of arms makes the control of their circulation difficult.
- Be prepared to use civil and military mechanisms for crisis response, or swift action in conflict to uphold the responsibility to protect.
- Use political and diplomatic mechanisms to help, and, where necessary, put pressure on states to fulfill their responsibility to protect their populations.

### 1. Background

The EU has much to offer in terms of protecting civilians in complex emergencies around the world. Despite disagreements between its members on Iraq and Lebanon, and delays in modernising its foreign-policy structures, it is gradually emerging as a significant diplomatic force. In future years, the EU is likely to be one of several important international actors, alongside the USA, China, and others.

The EU has increasingly affirmed its status as a *positive* force on the international stage; its rhetoric and (albeit patchy) action has given a prominence to human rights, the protection of civilians, and conflict prevention. But the EU has more to do in order to prevent it having a *negative* impact on conflicts around the world. The EU has had a Code of Conduct governing its members' arms transfers since 1998, but some irresponsible exports still continue. The EU's controls have failed to keep up with the increasingly globalised nature of the arms industry, in which EU-based companies license production of their weapons in other countries, or supply components that are assembled in countries with weaker export controls. In 2005, for example, *Jane's Defence Weekly* reported that the Italian/British company AugustaWestland had assisted in the development of China's new attack

helicopter, the Z-10. China had previously exported military helicopters to a number of countries, including Sudan.<sup>1</sup>

The promotion of peace, the rule of law, and human rights are among the overall treaty objectives of the EU, and various policies and mechanisms (listed below) have been designed to promote them. However, the protection of civilians is currently just one element of the EU's Common Foreign and Security Policy (CFSP), and has yet to become the primary principle in deciding it. And, in real crises, the EU's impact on protecting civilians is decidedly uneven.

In the 2006 Israel–Lebanon war, some EU Member States helped to bring about a ceasefire by calling for the immediate cessation of hostilities. But others did not. Javier Solana, the Council's High Representative for its CFSP, took a strong line for a ceasefire throughout. By the time there was one, over one thousand civilians had died. Altogether, the EU's influence on the crisis seems to have been small. After the war however, EU Member States acknowledged their collective responsibility to support the Lebanese state, by contributing high numbers of troops to UNIFIL, the improved UN mission in Lebanon. More broadly, the EU has had little impact on Israeli and US policy in the region.

In Africa, EU Member States, and in particular the European Commission, have pledged significant support to the African Union Mission in Sudan (AMIS). But the support has been too little to allow AMIS to succeed in its mission to stabilise Darfur.

The EU's most successful military action outside Europe was the *Artemis* mission in the Democratic Republic of Congo (DRC) in 2003. *Artemis* stabilised the violence at the time, and protected camps for internally displaced people in the town of Bunia. Since 2003, significant numbers of EU military police, troops, experts in security-sector reform, and election observers have been deployed in DRC. Like *Artemis*, the latest military mission in DRC, EUFOR RD Congo (designed to deter violence in Kinshasa during the 2006 election period) had as a key objective the protection of civilians under imminent threat of physical violence.

The EU's continuing engagement in DRC is arguably its most comprehensive response to violent conflict outside Europe. It seeks to improve not only the protection of civilians from ongoing violence, but also the prevention of resumed violence, and the transition to a sustainable peace. Most of the EU's specific actions, such as the security-sector advisory programme, EUSEC, or the chain of payment programme for the Congolese army, remain small scale. It has been widely acknowledged that the EU has made a useful contribution to prevent further conflict in DRC. But, in such a vast country, it has also lacked the necessary resources to move beyond small projects, and some concerns persist as to the sustainability of the EU's military interventions.

The EU engagement in DRC made up only one set of interventions undertaken by the EU on three continents in the course of 2006. There were five EU missions operating in Europe, three in the Middle East, four in Africa, and one in southern Asia. But globally, beyond Lebanon, no EU Member State is a major contributor to UN peacekeeping.

The challenge for the EU is to act more consistently to uphold its obligations to protect civilians around the world, in particular its recognition of the specific responsibilities to protect civilians from war crimes, crimes against humanity, ethnic cleansing, and genocide, and to use its different mechanisms to do so in a coherent manner.

These mechanisms include:

- (i) **Council Conclusions:** The General Affairs and External Relations Council (GAERC), adopts conclusions once a month on the most acute foreign-policy issues. As policy guidelines adopted unanimously by all Foreign Ministers, they are the EU's prime decision-making forum for action on external affairs. The Council's conclusions can include the following mechanisms:

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<sup>1</sup> *Jane's Defence Weekly*, 'How may Europe strengthen China's military?', 15 January 2005, [http://www.strategycentre.net/research/pubID.61/pb\\_detail.asp](http://www.strategycentre.net/research/pubID.61/pb_detail.asp)

- (ii) **Common Positions:** Can be used in international organisations as negotiating positions, representing all EU Member States; to impose sanctions/restrictive measures on third states; as an instrument that binds Member States to implement a certain policy.
- (iii) **Joint Actions:** Can establish Common Foreign and Security Missions (military or advisory) and/or appoint a special envoy of the EU. Pledges made within the framework of a Joint Action are binding on Member States.
- (iv) **EU Military and Civilian Assets:** The Council's Joint Actions can be implemented through Member States' military and civil assets. Member States can undertake tasks ranging from peacekeeping, and monitoring implementation of a peace process, to advising and assisting in military, police, border- and election-monitoring, and building the rule of law. Most military and civilian assets are pledged by Member States *ad hoc*, and the financial obligations are carried by the Member States that send them. The EU is in the process of building its own capacity, with contingents of military, police, and standby 'battle groups' offered by Member States, though their deployment is ultimately the decision of their Member States.
- (v) **ECHO:** The European Commission Humanitarian Office provides substantial funding to the UN High Commissioner for Refugees and others (including Oxfam) for protection programming in many countries. It has designated staff advising on how ECHO's humanitarian funding, in each region of the world, can support the protection of civilians. When humanitarian operations take place alongside international military deployments, ECHO is also called upon to play an important role in advising on the appropriate interaction between humanitarian and military activities.
- (vi) **Civilian Assets to Help Control the Flow of Arms:** Competencies for EU programmes on arms control are shared between the European Commission and Council. Both implement programmes to help third countries control the circulation of large surpluses of arms in post-conflict scenarios, and have an important role in preventing a return to violence.

However, in spite of the multitude of policy tools established to reduce insecurity and violence against civilians, EU Policy Statements and Joint Actions rarely make explicit mention of the pivotal need for the protection of civilians.<sup>2</sup> In 2005 and 2006, the need for the protection of civilians in three of the world's worst crises – DRC, Northern Uganda, and Darfur – was raised five times. The responsibility to protect has so far been referred to three times, and only in its dimension as an obligation upon a national government. Although EU Member States were among the most outspoken supporters of R2P at the 2005 UN World Summit, only one recent EU Presidency declaration has made explicit reference to R2P. In short, the EU has not used all the political pressure it could to implement its responsibility to protect civilians, and to help to prevent conflicts.

## 2. Oxfam International's position on the EU's role in protecting civilians in conflict

**Oxfam International welcomes the EU's engagement in the protection of civilians, which is vital for their future safety in violent conflicts. But it is crucially important that the EU promotes protection more coherently and consistently in countries threatened by or already experiencing violent conflict.**

Oxfam believes that the EU could maximise its current impact by focusing its efforts under the framework of R2P. This would make the protection of populations from crimes against humanity, war crimes, and genocide the overarching aim of preventive and reactive measures in third countries liable to the worst effects of violent conflicts.

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<sup>2</sup> cf. 'EU security strategy – A secure Europe in a better world', agreed in 2004. In fact, the two headline goals of the EU's security strategy are the promotion of human rights and good governance, manifestly leaving a gap, where state failure or abusive governments threaten civilians.

Such an approach will include devoting existing resources to supporting third countries in their obligation to fulfill R2P, and, as a last resort, using these resources for coercive measures under authorisation of the UN Security Council, which serve the top-line objective of protecting civilians.<sup>3</sup>

In particular:

- (i) **The EU should ensure that it has in place efficient monitoring mechanisms and early warning systems to identify and record violations of humanitarian law/signs of state failure as well as human-rights violations, in order to be able to address tensions at the right time, and in the right manner.**
- Member States and/or EC Delegations should continuously monitor whether any violations of international humanitarian law take place in a country, in the same way as they do for violations of human rights. The aim of this would be to enable assessments to be made against agreed indicators, with the result that EU Member States can be alerted to developments before war crimes, crimes against humanity, or genocide can occur.<sup>4</sup>
- (ii) **The EU should take a strong stance to help control international arms transfers to prevent the escalation of future conflicts.**
- Ensure that discussions for an international Arms Trade Treaty fully reflect existing standards of international human rights and humanitarian law;
  - Regulate transfers originating from the EU by making the Code of Conduct a legally binding document;
  - Streamline Council/Commission activities on the control of small arms in post-conflict scenarios, favouring those mechanisms which provide for reliable longer-term resources over those which make funding subject to individual decisions on every component of activity.<sup>5</sup>
- (iii) **The EU should be prepared to use civil and military mechanisms for crisis response, or swift action in conflict to uphold its responsibility to protect.**
- Support the UN in its efforts to protect civilians through the provision of troops under UN command to appropriate UN missions.
  - Formulate clear-cut assessment criteria for the employment of the EU's own military and civilian assets in order to ensure that operations serve the top-line objective of contributing to the protection of civilians.
  - Continue to support UN and NGO programmes around the world that improve the protection of civilians.
- (iv) **The EU should use all measures to help, or put pressure on states, to fulfill their responsibility to protect.**
- If monitoring mechanisms or other information sources show that there is a risk of atrocities such as genocide, war crimes, or crimes against humanity taking place in any country, the EU should use all diplomatic leverage to clearly impress on the national governments their responsibility to protect civilians

<sup>3</sup> In order to mitigate the risk of misusing the responsibility to protect to justify aggressive military action, any use of force must meet the five principles Kofi Annan proposed as a threshold for military action and be conducted under UN authority.

<sup>4</sup> Country Strategy Papers to programme development aid from 2009 onwards will take up a review on the humanitarian situation. As a rule, however, the principle of incorporating such a section does not yet ensure that it will address the need to monitor the development of the situation continuously.

<sup>5</sup> United Nations Disarmament Research, 'Pilot Project: European Action on Small Arms and Light Weapons and Explosive Remnants of War, an executive summary', <http://www.unidir.org/pdf/UNIDIR%20executive%20summary%20European%20Action%20on%20SALW%20and%20ERW.pdf>, last visited 25 July 2006.

consistently. This could be done through the EU's own mechanisms and institutions (High Representative for CFSP, Special Envoys, Council of Ministers and Commission) and through pressing the UN Security Council to continuously and actively engage with the issue.

- The EU should use financial and in-kind support to sustain efforts for the protection of civilians and support institution-building measures in fragile states, in particular in the area of security-sector reform.