

Security and Defence in the European Space Policy

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The European Space Policy (ESP) is the first unanimously agreed policy throughout the European Union (EU) to link space activities with the European Security and Defence Policy (ESDP). It is a milestone for both fields of policy, space as well as security and defence. Not only it interconnects two emerging areas of EU responsibility but it has a major potential to drive the further process of unifying and deepening the EU. The drafting, and so will the upcoming implementation, has faced some serious challenges in recent years. The EU flagship programmes Galileo and GMES significantly suffer from political, economical and structural obstacles that won't be completely overcome by the new ESP. This Flash report reviews the ESDP aspects stated in the ESP, reveals some major barriers on the way ahead and gives first appraisal to resolve the slowdown coming from the allocation of competence between the EU and its Member States.

European Space Policy and ESDP

On May 22, 2007, the Space Council of the European Union (EU) and ESA (European Space Agency) adopted the European Space Policy (ESP). This document was jointly drafted by the ESA and the Commission in the High-level Space Policy Group (HSPG¹). For the first time the EU has shaped a political canon that takes into account the utterly complicated relation between European actors (ESA, EU and their Member States, respectively). Furthermore the ESP establishes a connection between space policy on the one hand and the European Security and Defence Policy (ESDP) on the other hand: "To tackle these constantly evolving threats requires a mixture of civilian and military solutions. Space assets provide a significant contribution to this."² ESDP is one of EU's most ambitious projects in the inter-governmental co-operation and strongly contributes to a European identity. ESDP is part of the Common Foreign and Security Policy (CSFP) that deals with

all aspects of external EU-relations. In contrast to NATO, ESDP relies on a mixture of civil and military instruments for crisis and conflict management. In its main policy document, the 2003 European Security Strategy (ESS), the EU presented an analysis that states "with the new threats, the first line of defence will often be abroad"³. Beside industrial-political and economical interests, the EU and ESA react to this threat analysis with a security and defence related part in the ESP. Space-based means are a reasonable extension to identify and monitor remote challenges the EU handles in the scope of ESDP.

Space-based means are a reasonable extension in the scope of ESDP

A closer look: defence and security in the ESP

The ESP in fact is represented by two documents, a Communication to the Parliament and Council⁴ and a Resolution⁵, approved by the Space Council. Both documents recognize the dual-use capability of space technology – the potential to serve for civil and military purposes: "Within the framework of existing EU principles and institutional competencies, Europe will substantially improve

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¹ The HSPG consists of representatives of key government stakeholders of the EU/ESA, member states, the European Defence Agency (EDA), the EU Satellite Center and Eumetsat (cp. ESPI Flash Report 1, N. Peter and S. Plattard: The European Space Policy: Europe's New Compass, accessible at <http://www.espi.or.at>).

² COM(2007) 212 final: Communication from the Commission to the Council and the European Parliament „European Space Policy“, April 27., 2007, accessible at http://ec.europa.eu/enterprise/space/doc_pdf/esp_comm7_0212_en.pdf

³ A Secure Europe in a Better World, European Security Strategy, Brussels, 12 December 2003, accessible at <http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>

⁴ COM(2007) 212 final: „European Space Policy“

⁵ Council of the European Union, Resolution on the European Space Policy, 10037/07, May 25., 2007

coordination between its defence and civilian space programmes, while retaining primary end-user responsibility for funding.⁶ The Resolution “affirms the need to set up a structured dialogue with the competent bodies of the Member States and within the EU Second and Third Pillars⁷ and the European Defence Agency for optimizing synergies between all aspects of the European Space Policy within the framework of the existing attribution of competences.⁸ The use of the civil systems (under civil control) Galileo and GMES for ESDP tasks emerges as notable issue. This has badged especially with Galileo in the past. In an alleviated form the United Kingdom asserted a wording⁹ that requires a consistency of military use with its civil founding principles. A compromise that finally neither debar from military use of Galileo and GMES nor defines a framework for a disposal of data for ESDP operations.

The ESP is the last in a series of space policy documents released in recent years. Its direct relation to the ESDP has been established in the 2004 Council documents “ESDP and space”¹⁰ and the 2005 follow-up roadmap¹¹ for the first time. The other way round ESDP application for space technology have been repeatedly mentioned in various ESA or EU space reports like the 2005 SPASEC¹². The ESP with regard to ESDP aspects tracks these predecessor documents. But looking at the allocation of competence in the EU, it does not set a new course. It is still the exclusive responsibility of EU Member States within the EU Council to drive the ESDP part of the ESP. On the other hand, the Commission carries on accounting for policy drafts and is permitted to manage programmes like Galileo (Europe's global satellite navigation system) and GMES (Global Monitoring for Environment and Security). As a matter of fact, the EU merely allows for the actual political situation within its Member States. Accordingly the intended synergy effects between national and EU/ESA programmes on the one hand and civil and military capacities on the other hand, stated in the ESP may

⁶ COM(2007) 212 final: „European Space Policy“

⁷ The EU consists of three so-called pillars, structured by the remits to be accountable for. In the first pillar, EU member states have already decided to pool their sovereignty and delegate decision-making powers to the EU institutions, basically to the Commission. The second and third pillars are covered by intergovernmental co-operation, mainly dealt with in the Council.

⁸ Council of the European Union, Resolution on the European Space Policy, 10037/07, May 25., 2007

⁹ Council of the European Union, Resolution on the European Space Policy, 10037/07, May 25., 2007: „RECOGNISES that the uses made by any military users of GALILEO or GMES must be consistent with the principle that GALILEO and GMES are civil systems under civil control, and consequently that any change to this principle would require examination in the framework of Title V/TEU and in particular Articles 17 and 23 thereof, as well as in the framework of the ESA Convention“.

¹⁰ Council of the European Union, November 16., 2004: “ESDP and Space” (11616/3/04)

¹¹ Council of the European Union, May 30., 2005: „Draft initial road map for achieving the steps specified in the European Space Policy: “ESDP and Space”“ (9505/05)

¹² Report of the Panel of Experts on Space and Security, March 2005, accessible at http://ec.europa.eu/enterprise/space/news/article_2262.pdf

The EU Member States forgo the “collectivization” of parts of its space policy

not completely unfold. This particularly will turn out to be an obstacle with regard to the EU/ESA driven programmes that are or will be handled by the Commission in the field of ESDP. The Member States forgo the “collectivization” of parts of its space policy and structural modification within the pillar architecture is missing.

Mainly by organising EU flagship programmes in space, Galileo and GMES, however, for the first time the Commission achieves an indirect right to a say in the field of ESDP. Unlike in space issues, it represents not necessarily a sphere of influence for ESDP. Up to now, ESDP related topics have remained exclusively with the EU Council and its subordinated boards. Consequentially it is a task of the European Defence Agency (EDA), an organizational unit of the Council created in 2004, to facilitate the ESDP-ESP relation on a technical basis.

Space Policy addresses global security and defence challenges

Looking at the “front-end” of the ESP, it is evident, that the use of space technology shall facilitate the accomplishment of ESDP tasks and operations because space-based means are capable of gathering remote information (mainly optical, infrared and radar images) globally. It can be seen as one of many instruments in the toolbox of ESDP. With their inherent dual-use capability, space-based means perfectly fit to contribute to the 1999 Petersburg tasks, a mixture ranging from civil to military missions of crisis and conflict management, too. Not only does the ESP address global defence and security challenges, it also represents an EU-internal and global issue itself at the same time. To some extent the political set of problems between EU Member States is based on the inherent dual-use capability of space technology.

The political problems are based on the inherent dual-use capability of space technology

It is not the question which space technology the EU aspires to, but how it will be used and by whom. Galileo, for example, has the inherent capability to serve as a military system for global timing, guidance and navigation. But it is according to its founding principal a “civil system under civil control”. This is where the global impact of space-based means comes into play. Europe's efforts in space may appear as an attempt of economical and military competition to the United States and others. Even if military programmes are in the hand of single EU or ESA Member States only, there are jointly driven initiatives for intelligence and surveillance satellites like Cosmo-Skymed (France, Italy), Helios II (France, Spain, Italy, Greece, Belgium, Germany) or

SAR-Lupe (Germany). These shared endeavours are unlikely to be extended to EU programmes, but an EU-wide surveillance network (BOC¹³, E-SGA¹⁴) integrating these systems is under development. With its “civil” systems, in fact the EU is willing to use similar means to address similar global challenges, such as environmental disaster, ocean monitoring or migration movements with GMES. But similar instruments, i.e. space-based remote sensing do not automatically correspond to similar space or data policy. However, neither EU Member States nor external observers can possibly identify a difference in the ESP. Further clarification is required to make the ESP more transparent in terms of defence and security policy.

The EU is somehow reluctant to take responsibility in the framework of international and global security

ESP: answers to global challenges?

How are ESP and its instruments perceived in and outside of the EU? And how does the EU react to activities of other players in the space segment, governmental or non-governmental actors? As the 2006 US national space doctrine explicitly refers to some external challenges, the EU is somehow reluctant to take responsibility in the framework of international and global security¹⁵. In the ESP no answers are given concerning the implicit challenges arising from the new U.S. space doctrine or the Chinese anti-satellite (ASAT) test of January 2007. Again no comments are given on the growing need for space security and surveillance and the danger of an arms race in outer space. Compared to the ESS, a lack of differentiation in terms of its policy, aims and means is obvious in the ESP. By deliberately ignoring the global context of space issues, civil or military, the EU misses an opportunity to become a vanguard in space policy. Initiating a process of negotiating an international “code of conduct”, e.g., might have the potential to inwardly unify the EU. At the same time it outwardly grows transparency and confidence for other actors, especially with regard to the newly industrializing countries.

ESP is a step-stone for both fields of EU policies, ESP and ESDP

GMES for security and defence: the Commission is in charge

Despite the lack of addressing the global context of space, the ESP is a step-stone for both fields of EU policies, ESP and ESDP, if the connection between them will be further developed and specified. It is

¹³ BOC: “Besoin Operationel Commun”, an initiative of France, Germany, Belgium, Italy, Spain and Greece to integrate information and data from national military imagery systems with other European Union member states.

¹⁴ E-SGA: “Europäisierung der satellitengestützten Aufklärung”, Europeanisation of satellite-based reconnaissance. See http://www.ohb-system.de/News/presse/0112_06.html

¹⁵ It is obvious, that it has indeed an security and defence, as well as an space policy but no (military) doctrines yet.

certain GMES that has the biggest potential to do so. GMES unifies various players (Commission, Council, ESA, EDA and Member States) with its wide-spread field of services. For this reason GMES challenges not only the EU-wide coordination but also the process of defining, opening and restricting (data) applications, especially for ESDP tasks. This is now in the hands of the Commission that manages jointly with ESA the project. For economical reasons they are intentionally a symbiosis of civil and military usage. Hence control over space-based means for ESDP tasks comes closer to the Commission that is supposed to be a “service unit” to the Member States only. Let’s put aside the Member States’ concerns about a sell-out of national sovereignty for a moment: the Commissions involvement gives opportunity to sound new ways within clearly defined political and technical areas without sidelining existing regulations¹⁶.

In the appendix of the Communication¹⁷ a series of actions to be taken for more efficient combination of ESP and ESDP are listed. Beyond the capabilities of EU Member States national assets, “the EU Council will identify the requirements within the ESDP framework relevant to GMES services dedicated to security users”¹⁸. EDA will be part of this process to streamline procurement and system integration. With involvement of the Commission as organizational unit to GMES this concept is likely to be unproblematic. In the actual framework of GMES, it only governs capacities of national programmes or ESA cooperation in terms of services. A conflict is pre-assigned with the future creation of ESA satellite capabilities, so called Sentinel¹⁹ satellites, managed by the Commission and mainly for GMES services. Because ESA was founded to serve “exclusively peaceful purposes”, its role as technical operator for GMES might have to be redefined with regard to ESDP applications²⁰. Additionally the Commission gains further competence beyond providing and administering external services.

A general, graded agreement between the competent EU bodies on GMES is needed

Creating synergy effects: an agreement between Council and Commission for GMES services

The EU has to further develop the ESP to escape the struggle for competence that is on the horizon. One can suggest a general, graded agreement

¹⁶ Especially the founding document of ESDP: The Treaty on European Union (Consolidated version of the Treaty on European Union, Official Journal C 325 of 24.12.2002), accessible at <http://bookshop.europa.eu>

¹⁷ COM(2007) 212 final: „European Space Policy“

¹⁸ COM(2007) 212, Appendix 1(5), page 15, accessible at http://ec.europa.eu/enterprise/space/doc_pdf/esp_comm7_0212_de.pdf

¹⁹ See

http://www.esa.int/esaLP/SEMZHMODU8E_LPgmes_0.htm

²⁰ Another interpretation of „exclusive peaceful purposes“ is “non-aggressive”. But there has been no agreement on that so far.

between the competent EU Council, EDA and Commission on the use of GMES services for civil and military operations within the scope of the ESDP. It shall be adopted by the Council, the Commission and, if applicable, by the Parliament by the end of the French Council Presidency 2008. One can assume that the agreement should not take place without concessions to the Commission in terms of shift of competence. But the advantages are obvious: (a) Area of interest is restricted, only GMES related, only data policy will be governed but not general competence in order to provide a coherent data base for specific ESDP tasks. (b) As a start the competition of Galileo with the U.S. System GPS can be neglected²¹. (c) Competences can be clearly defined and limited. (d) It is possible to differentiate between civil, mixed and pure military operations and (e) it is not necessary to continuously negotiate with the Member States, which originally possess or handle the appropriate systems. In addition to the declaration, the Commission is able to independently agree by contract with its national operators the coordination and financial terms of services afterwards.

The EU will obtain an instrument that offers a gain of knowledge.

Both sides to seize a chance: space and security & defence

Being of bigger significance than the practical advantages, the effects of the declaration's political announcement can not be overestimated. It signals the competitiveness of European space engagement, as well as a further development of ESDP. The ESP proves its capacity to act, partly defines its aims in security and defence and illustrates the instruments it is willing to adopt for it. Simultaneously the balance of civil and military

²¹ The Galileo case is to some extent more complicated anyway, because it is in the competence of the EU Council for transport, telecommunications and energy while the ESP is in competence of the EU council for competitiveness or jointly with ESA in the Space Council.

means can be specified²². The EU, its ESDP decision makers, will obtain an instrument that offers a gain of knowledge with coherence of the underlying data base. It can be achieved beyond further endeavours on the level of a "European Constitution" and without foiling the allocation of competence stated in the Treaty on European Union (TEU) and its amendments in the Treaty of Nice. This is essential for a successful implementation of crisis prevention and conflict resolution as it is stated in the ESS.

There is a price to pay: Firstly, the EU limitations to specific instruments and its usage concerning ESDP and space. But it can be interpreted as a sign of confidence building measure or preventive arms control on the floor of international diplomacy. Secondly, from Member States view the Commission not only gains access to data in the sensitive field of security policy, but is also able to shape actively data policy and restriction. That has been exclusively in the responsibility of EU Member States so far. But it needs a strong signal now: The EU steps forward in both fields of policy, ESP and ESDP. It represents a chance for the ongoing unifying and deepening process of the European Union and the competitiveness of its space segment.

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²² In the case of ESDP, it has been already identified to some extent in the European Security Strategy (ESS).

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