

Operation Sophia

Tackling the refugee crisis with military means

by Thierry Tardy

The EU anti-migrant smuggling operation in the Mediterranean sea – known as ‘EUNAVFOR Med’ or ‘Operation *Sophia*’ – is now entering its operational phase, aimed at boarding and seizing on the high seas vessels suspected of being used for human smuggling and trafficking. This follows a first phase of intelligence gathering on smuggling networks and is intended to precede operations due to take place within the territorial waters of Libya as well as coercive actions against the smugglers – including on Libyan soil.

This military component of the EU response to the migrant and refugee crisis is innovative in different ways. Following the anti-piracy operation in the Gulf of Aden (*Atalanta*), EUNAVFOR Med confirms the maritime dimension of CSDP in the management of new types of security threats. The operation also brings CSDP closer to the EU internal security portfolio and its Freedom, Security and Justice (FSJ) agenda.

Finally, EUNAVFOR Med is the first CSDP operation with a potential openly coercive mandate which, if implemented, would lead the EU to engage in ‘peace enforcement’-type activities. This said, just like all other CSDP operations, EUNAVFOR Med needs to be seen as one element of a broader multidimensional response, as

one component of the Comprehensive Approach towards both the refugee crisis and restoring stability in Libya.

A phased mandate

Operation *Sophia* was established by the EU Council on 18 May 2015 to respond to the surge of migrants crossing the Mediterranean Sea from Libya. It came after a series of mass drownings and the ‘strong commitment to act’ pledged by the Council following the death of 800 migrants after a boat capsized off the Libyan coast on 19 April. The operation’s mandate is to contribute to the ‘disruption of the business model of human smuggling and trafficking networks in the Southern Central Mediterranean’ by ‘efforts to identify, capture and dispose of vessels used or suspected of being used by smugglers.’ The operation focuses on smugglers rather than on the rescue of the migrants themselves, even though actions to prevent further loss of life at sea are a visible part of the mandate.

The objective is less to stop migration flows than to disrupt smuggling routes and capabilities and, hence, reduce the flows originating from the Libyan coast, which has been (together with the eastern route) the main point of departure

of migrants coming to Europe. During the first half of 2015, according to the International Organisation for Migration (IOM), 67,600 migrants took the Central Mediterranean route to Italy. Tragically, this itinerary has been the deadliest one, with at least 1,820 fatalities in the same period.

The Crisis Management Concept for the operation draws on the analysis provided by the EEAS planning document called the Political Framework for Crisis Approach (PFCA) that was carried out for Libya in April 2015 and which deals with the broader Libyan challenges. In this sense it is supposed to be part of the EU Comprehensive Approach towards the Southern Mediterranean but also part of a broader reaction to the migrant crisis.

EUNAVFOR Med reached its full operational capability on 27 July 2015 but the operation will be conducted in three sequential phases. The first phase consisted of gathering information on the human trafficking networks; the second phase involves conducting boarding, search, seizure and diversion on the high seas of vessels used for human smuggling, and then doing the same in the territorial and internal waters of Libya, provided that the EU obtains a mandate from the UN Security Council or the consent of the Libyan authorities (the Council decision does not explicitly mention Libya but refers to the ‘coastal State concerned’). According to the EU, the information collected during the first phase has shown that on about twenty occasions in the past few weeks, traffickers could have been arrested.

In the third phase, still under a UNSC resolution or conditional on Libyan consent, the operation can take ‘all necessary measures against a vessel and related assets, including through disposing of them or rendering them inoperable’ in the territory of Libya. Transition between phases is to be decided by the Political and Security Committee following a request by the Operation Commander.

The Operational Headquarters – in charge of both planning and command – are located in Rome, under the lead of Italian Rear Admiral Enrico Credendino. The operation is supposed

to last one year after having reached its full operational capability, i.e. until July 2016, and is composed of less than ten vessels, together with air and intelligence gathering assets. The coercive phase of the mandate will also require ‘boarding teams’ with special force units.

Twenty-one countries have participated in the first phase of the operation, and Belgium, Germany, France, Spain and the United Kingdom have each committed a frigate for the second one. As the lead nation, Italy has provided its aircraft-carrier *Cavour* as well as a submarine and other maritime assets. Maritime patrol aircraft are provided by Spain, Luxembourg and France. The common costs of the operation, financed by the *Athena* mechanism, amount to €11.82 million for the one-year mandate.

The internal/external security nexus

CSDP was initially designed as a tool for crisis management outside of the EU. As such it was conceptually and operationally distinct from the range of policy responses that aim at tackling internal security issues such as terrorism, organised crime or illegal migration. The Lisbon Treaty stated that CSDP ‘may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories’ (art.43.1), and a few

‘Twenty-one countries have participated in the first phase of the operation, and Belgium, Germany, France, Spain and the United Kingdom have each committed a frigate for the second one.’

operations – especially in the Balkans – have indeed implicitly established a bridge between external and internal security. Efforts have also been made to strengthen ties between CSDP and FSJ affairs (the ‘CSDP-FSJ Roadmap’), but the

two domains have remained operationally distinct.

Operation *Sophia* is the first operation that explicitly brings together the internal and external security agendas, in the sense that an internal security and societal challenge is partly handled – in terms of prevention and mitigation – through an action that takes place outside of the EU. Practically, this nexus also implies closer cooperation between the military operation and FSJ agencies such as EUROPOL or FRONTEX (including the latter’s own operation *Triton* which is active off the Italian coast). In other words, the internal/external security nexus also generates civilian-military interaction.

What peace enforcement?

One potentially innovative feature of EUNAVFOR Med is its option to apply coercion. The operation's mandate provides for the possibility of resorting to force against 'spoilers' in a way that had never been contemplated in previous CSDP military operations. More precisely, the authorisation to 'take all necessary measures' against a vessel and related assets, including through 'disposing of them or rendering them inoperable', and this after a phase of intelligence gathering, implies that the operation will proactively chase the smugglers and possibly resort to force against them in cases other than self-defence.

Other military operations, like *Atalanta* or EUFOR RCA, contain a coercive dimension – to defeat pirates in the case of *Atalanta* and as part of the civilian protection mandate in the case of EUFOR RCA. Yet these operations do (or did) not proactively target groups that do not constitute threats to local actors or the operation itself. Also, EUNAVFOR Med's mandate envisions deploying assets on the territory of a sovereign state without its consent (if the UN Security Council so allows), which has never been the case in previous military operations.

In other words, while the EU had so far adhered to the crisis management principles of consent, limited coercion and relative impartiality for its own CSDP operations, EUNAVFOR Med's mandate contains the possibility of the EU going beyond these principles and coming close to a peace enforcement situation. In and by itself, this constitutes a qualitative shift in the EU's security and defence posture.

As a matter of fact, the 'peace enforcement' dimension of EUNAVFOR Med helps explain the difficulty in securing a UN Security Council (UNSC) resolution authorising the mission, and more specifically Russia's opposition to the EU plan. In the past, existing tensions within the UNSC never prevented the EU from obtaining a resolution endorsing its various military operations. Indeed the remit of EU crisis management operations has traditionally been the object of a broad consensus among the

'...the remit of EU crisis management operations has traditionally been the object of a broad consensus among the main international powers, within the Security Council and beyond. This could be challenged were EU operations to shift to more coercive activities.'

main international powers, within the Security Council and beyond. This could be challenged were EU operations to shift to more coercive activities.

What legal basis?

CSDP military operations are legally launched on the basis of a combination of an EU Council decision and either an invitation by the host state or a UNSC resolution under Chapter VII of the UN Charter. Ongoing operations *Althea* in Bosnia and

Atalanta in the Gulf of Aden as well as in the past EUFOR RCA, the two operations in the DRC (2003 and 2006) and the one in Chad (2008-09) were created on the basis of a Chapter VII UNSC resolution.

The two EUTMs in Somalia and Mali and EUMAM RCA were established at the request of the host states. In all these cases, however, the host government has consented to the EU deployment – not a *sine qua non* condition in the case of EUNAVFOR Med, since a UNSC Resolution is said to be legally sufficient for the most robust phase of the operation. Politically, though, the combination of Libya's consent and UNSC backing is still sought.

As of late September 2015, neither the consent of a still unformed Libyan government of national unity nor a UNSC resolution had been obtained. Libya's internationally recognised government (based in Tobruk) has so far refused the deployment of the EU operation in its internal waters and, *a fortiori*, on land.

At the UN Security Council, EU member states have faced the opposition of Russia, so far still hiding behind Libya's position but also unwilling to repeat the 'blank cheque' experience resulting from the March 2011 UNSC Resolution, which authorised 'all necessary measures' to protect civilians under threat of attack by the Libyan armed forces but which was, from Russia's perspective, abused by Western countries intent on overthrowing Qaddafi. Discussions in Europe have partly focused on the most strategically opportune moment to approach the Russians and on the price that securing their support could entail.



In the event that UN-led negotiations on the formation of a government of national unity were to be successful, a broad agreement between Libya and the EU on various cooperation programmes could well include the deployment of EUNAVFOR Med in all its dimensions. In such circumstances, it is likely that the consent of Libya would trump Russia's opposition and therefore allow for the adoption of a well-drafted UNSC resolution.

Risks, challenges and achievements

Operation *Sophia* has so far benefited from broad support from EU member states. This will be all the more important as the operation is likely to face a series of challenges that could call into question its very relevance. First, there is real uncertainty on whether the operation will ever be able – for either legal or political reasons – to get to the core of its mandate, i.e. neutralising the smuggling networks through deterrence or open coercion, both off the Libyan coast and onshore.

The non-consent of Libya's authorities, the absence of an UNSC Resolution, the non-permissive nature of the environment and the general reluctance to engage in coercive action on the part of most EU member states are all reasons that – individually or collectively – would make the full implementation of the operation's mandate difficult or simply impossible.

Even with the consent of the Libyan authorities and the backing of the Security Council, however, the mission would still be operationally challenging: only a very few EU member states are likely to have the skills and experience for such missions, let alone the will. Furthermore, the operation could face threats well beyond the smugglers alone, especially if its remit is extended onshore. For member states to militarily confront those actors – with the related risks of incurring casualties and provoking collateral damage – would require solid determination and present a significant risk of mission creep, as the smugglers could adapt to the new situation and/or retaliate.

Second, the narrowness of the operation's mandate – i.e. only targeting the traffickers – leaves open the question of the migrants, the itineraries they take, and how the disruption of the smugglers' networks can shape their choices to migrate.

In and by itself, the operation cannot be a solution to the migrant crisis, and no one in Brussels

is contending that it could. If the mission is successful, networks would be disrupted and their ability to bring refugees into international waters severely curtailed, at least from the Libyan coast and for a certain period. Yet this does not mean that the migrants would disappear or that all smugglers would be neutralised. A successful operation may result in a reduction in the flows but also lead to a shift in the routes of migrants.

Indeed the developments of the past few weeks have shown how migration itineraries can change and adapt over time depending on a series of more or less rational factors, including weather, safety conditions or the policy responses that are put in place. Insofar as the objective of the operation is to 'prevent further loss of life at sea' rather than to stop the migration flows, however, it is arguable that a shift from southern Mediterranean to continental routes can at least make the journey relatively safer. The operation is already said to have 'contributed to saving some 1,500 lives at sea.'

But what then is the envisaged end-state for the operation and how does it relate to longer-term transition strategies? This is where the resolution of the internal situation of Libya comes into play as a prerequisite for the eventual success of EUNAVFOR Med. The UN-facilitated political dialogue aims to put an end to the civil war and to allow for the establishment of a national unity government.

This could then lead to the deployment of a series of EU-led programmes and operations aimed at backing the intra-Libyan agreement. The potential coercive phase of Operation *Sophia* could only be considered in light of this new situation and of its possible impact on other future EU activities. Needless to say, it would be far better if the traffickers' networks were disrupted by the Libyans themselves – although even this would not offer a durable solution to the refugee crisis.

Finally, the increasingly prominent nexus between EU internal and external security potentially brings the scope of the Comprehensive Approach to a new level – no longer only external action-focused but even more wide-ranging. How central this will be in the forthcoming EU Global Strategy remains to be seen.

Thierry Tardy is a Senior Analyst at the EUISS.

